

103-13-BZ

CEQR #13-BSA-032K

APPLICANT – Rothkrug Routhkrug & Spector LLP, for Blackstone New York LLC, owner.

SUBJECT – Application April 16, 2013 – Variance (§72-21) to permit the development of a cellar and four-story, eight-family residential building, contrary to §42-10 zoning resolution. M1-1 zoning district.

PREMISES AFFECTED – 81 Jefferson Street, north side of Jefferson Street, 256' west of intersection of Evergreen Avenue and Jefferson Street, Block 3162, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Otteley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 28, 2013, acting on Department of Buildings Application No. 320540866, reads in pertinent part:

Proposed use is not permitted in M1-1 zoning district, as per ZR 42-00; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-1 zoning district, the construction of a four-story multiple dwelling (Use Group 2), contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on December 17, 2013, after due notice by publication in the *City Record*, with continued hearings on February 4, 2014 and March 4, 2014, and then to decision on June 17, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Montanez, and Commissioner Otteley-Brown; and

WHEREAS, Community Board 4, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the north side of Jefferson Street, between Stanwix Street and Evergreen Avenue, within an M1-1 zoning district; and

WHEREAS, the site has 25 feet of frontage along Jefferson Street, a depth of 100 feet, and 2,500 sq. ft. of lot area; and

WHEREAS, the site is currently vacant; however, the applicant notes that, historically (since at least 1921, according to that year's Belcher Hyde Atlas Map), the site was occupied by a two-story multiple dwelling, which was fire-damaged in the 1990s and eventually demolished in 2001; and

WHEREAS, the applicant proposes to construct a four-story multiple dwelling in accordance with the bulk regulations applicable for a quality housing building in an

R6 district; specifically, the building will have approximately 5,490 sq. ft. of floor area (2.2 FAR) and, 60 percent lot coverage, eight dwelling units, a rear yard depth of 36'-0", no side yards or parking spaces, and a total building height of 43'-6"; and

WHEREAS, because residential use is not permitted in the subject M1-1 zoning district, the applicant requests the subject variance; and

WHEREAS, the applicant represents that, per ZR § 72-21(a), the following are unique physical conditions which create unnecessary hardship in developing the site in conformance with applicable regulations: (1) the site has a small lot size of 2,500 sq. ft., a narrow lot width of 25 feet and is vacant; (2) the site has a history of residential use and is adjacent to residential buildings on two sides, and across the street; and (3) the site is located just outside the nearby North Brooklyn Industrial Business Zone ("IBZ"); and

WHEREAS, the applicant represents that the site's narrowness and small lot size would result in a conforming manufacturing or commercial building with inefficient, narrow floor plates that would be inadequate space for providing a loading dock; further, the applicant states based on the small lot size, a conforming development would provide a maximum floor plate of 2,500 sq. ft., which the applicant represents is substandard for modern manufacturing uses; and

WHEREAS, in support of its claim that the site—with its narrow lot width and small lot size—is not feasible for modern manufacturing use, the applicant surveyed the surrounding manufacturing uses and found that all seven manufacturing uses on the subject block and the block across the street are located on wider lots with more lot area than the site; and

WHEREAS, the applicant also submitted a study of the vacant sites within the subject M1-1 district to support its assertions that such vacancy constitutes a unique hardship for the site; and

WHEREAS, based on the study, the applicant concludes that the site is the only vacant site within the study area that is not already used in conjunction with an adjacent site, in common ownership with one or more adjacent sites (which would allow for an assemblage that would be more conducive to the construction of a building for conforming uses), or located on a corner (corner lots are more conducive to a commercial or manufacturing use because of the increased visibility and street frontage access points); and

WHEREAS, in addition, the applicant states, as noted above, that for approximately 70 years, the site was occupied by a multiple dwelling; as such, the size and width of the site has historically been to accommodate residential uses; and

WHEREAS, the applicant further represents that the site is adjacent to residential uses on two sides and across the street, and that the existence of residential buildings on the nearby lots further devalues the site for a

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conforming use and would result in lower rental incomes and higher vacancy rates; and

WHEREAS, finally, the applicant states that the site is located just outside of an IBZ, which makes it ineligible for certain financial benefits associated with locating new businesses within an IBZ; as such, the applicant asserts that the site cannot compete with similar sites within the IBZ; and

WHEREAS, the applicant concludes that the site is uniquely unsuitable for conforming uses because of its width, size, vacancy, history of residential use, adjacency to residential uses, and location just outside the IBZ; and

WHEREAS, the Board agrees that the site has a combination of unique physical conditions including its lot width and size, vacancy, historic residential use, and adjacency to other residential uses, which, in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, to satisfy ZR § 72-21(b), the applicant submitted a feasibility study which analyzed the rate of return on an as-of-right industrial building at the site and the proposal; and

WHEREAS, according to the study, a one-story building with approximately 2,500 sq. ft. of floor area occupied by a conforming use would yield a negative rate of return; the proposed residential building, on the other hand, would realize a reasonable return; and

WHEREAS, based upon its review of the feasibility study, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict conformance with applicable use requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the subject block is primarily developed with residential buildings with some manufacturing/industrial uses; the applicant notes that directly across Jefferson Street is an R6 zoning district, where the proposed use would be as-of-right; and

WHEREAS, as to adjacent uses, as noted above, residential uses about two sides of the lot (the north and west sides), a vacant one-story manufacturing building is located directly east of the site and south, across Jefferson Street, are multiple dwellings; and

WHEREAS, the applicant also notes that the site was occupied by a residential building from at least 1921 until 2001; thus, the applicant asserts that the site and the subject stretch of Jefferson Street have a long-

standing residential character despite the site's M1-1 designation; and

WHEREAS, accordingly, the applicant contends that the proposal is more consistent with the neighborhood character than a conforming use would be; and

WHEREAS, as to bulk, the applicant states that the building complies in all respects with the bulk regulations for a quality housing building within an R6 zoning district; and

WHEREAS, at hearing, the Board expressed concerns regarding: (1) the compatibility of the proposed building height (43'-6") and number of stories (four) with the surrounding buildings; and (2) the compliance of the proposed interior court; and

WHEREAS, in response, the applicant provided a building height study and a streetscape, which reflects that 13 buildings along Jefferson Street between Stanwix Street and Evergreen Avenue have a height of at least 40'-0", five of which have a height of 45'-0"; and

WHEREAS, in addition, the applicant acknowledged that the originally-proposed court did not comply and revised the plans to eliminate the interior court; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the site's unique physical conditions; and

WHEREAS, finally, the Board finds that the proposal is the minimum variance necessary to afford relief, as set forth in ZR § 72-21(e); and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; and

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement ("EAS") CEQR No. 13BSA032K, dated April 12, 2013; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health;

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and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21, and grants a variance to permit, on a site within an M1-1 zoning district, the construction of a four-story multiple dwelling (Use Group 2), contrary to ZR § 42-00; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 16, 2014" – nine (9) sheets; and *on further condition*:

THAT the following are the bulk parameters of the building: a maximum floor area of 5,490 sq. ft. (2.2 FAR), maximum lot coverage of 60 percent, a minimum rear yard depth of 36'-0", no side yards or parking spaces, and a maximum building height of 43'-6", as indicated on the BSA-approved plans;

THAT substantial construction shall be completed in accordance with ZR § 72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 17, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, June 17, 2014.
Printed in Bulletin No. 25, Vol. 99.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

