

211-12-BZ**CEQR #13-BSA-008K**

APPLICANT – Rothkrug Rohkrug & Spector LLP, for Jessica and Matthew Sheehan, owners.

SUBJECT – Application July 27, 2012 – Variance (§72-21) to permit the proposed re-establishment of a residential building, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 164 Coffey Street, east side of Coffey Street, 100' northeast of intersection of Coffey Street and Conover Street, Block 585, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Commissioner Hinkson, Commissioner Ottley-Brown, and Commissioner Montanez3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated June 27, 2012, acting on Department of Buildings ("DOB") Application No. 320200117, reads in pertinent part:

Proposed two-family residence (UG-2) in manufacturing zone is contrary to Section 42-10;

Prior residential use was discontinued for more than two years and cannot be reestablished, per Section 52-61; and

WHEREAS, this is an application under ZR § 72-

21, to permit, on a site within an M1-1 zoning district, the legalization of an existing three-story, two-family residential building (Use Group 2), contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on February 4, 2014, after due notice by publication in the *City Record*, with a continued hearing on May 12, 2014, and then to decision on August 19, 2014; and

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

WHEREAS, Community Board 6, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the north side of Coffey Street, between Ferris Street and Conover Street, within an M1-1 zoning district; and

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

WHEREAS, the site is occupied by a three-story residential building with 3,750 sq. ft. of floor area (1.5 FAR) and two dwelling units; and

WHEREAS, the applicant notes that the building was constructed in approximately 1909 and was, as according to its only certificate of occupancy (No. 93555, issued September 13, 1939), previously occupied by six families; and

WHEREAS, the applicant states that the current owner purchased the property in January 2010 and, in January 2011, obtained permits to renovate the building and convert it to a two-family residence; and

WHEREAS, the applicant states that work proceeded under the permits in 2011 and was substantially completed by October 2011, when DOB determined that the permits were issued in error and that the residential use became non-conforming as of December 15, 1961, ceased in October 1977, and was not permitted to resume, per ZR § 52-61; and

WHEREAS, accordingly, the applicant now seeks a use variance to legalize the renovated two-family building; 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 history of residential use on the site; and (2) the size and narrowness of the site; and

WHEREAS, the applicant states that practical difficulties arise from the historic use of the site for residential purposes; and

WHEREAS, specifically, the applicant states that a residential building has occupied the site for more than 100 years and was recently renovated to reduce the number of dwelling units from six to two; and

WHEREAS, as a result of such renovation, the building is wholly unsuitable for a conforming use, in that it does not have a loading dock, an elevator or a sprinkler system, it has limited floor-to-ceiling heights, and its floors are incapable of carrying the loads imposed by a modern as-of-right (manufacturing or office) use; its mechanical and electrical systems would have to be upgraded as well; and

WHEREAS, the applicant states that, even if the site did not have a history of residential use and even if the building had not been recently redeveloped as a residence, the site's small size and narrowness makes it undesirable for a modern manufacturing use, which requires large, uniform floor plates and wide frontages to accommodate loading; and

WHEREAS, in support of this assertion, the applicant represents that all nearby manufacturing sites have between 65 and 200 feet of lot width compared to the site's width of only 25 feet; and

WHEREAS, as for the feasibility of a commercial use, the applicant states that the site has minimal vehicular and foot traffic and is not marketable for retail or office uses; and

WHEREAS, the Board finds that the site has a combination of unique physical conditions including its history of residential use and its small size and narrowness, 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), in addition to the proposal, the applicant examined the economic feasibility of a building with conforming office and retail uses, and concluded that only the proposal will result in a reasonable return; and

WHEREAS, based upon its review of the study, the Board agrees that because of the subject lot's unique

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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 residential use is predominant along the stretch of Coffey Street where the site is located, despite its M1-1 designation and that the only building without dwellings near the site is a one-story warehouse directly across the street; and

WHEREAS, the applicant notes that neighboring blocks include multiple dwellings, single-family homes, and an array of low- to mid-rise commercial and industrial buildings; and

WHEREAS, the applicant states that an R5 zoning district is only 150 feet from the site, and that most residential buildings along Coffey Street were constructed around the time of the subject building and many have remained occupied throughout the years; accordingly, the proposal, despite being a use variance, would be more consistent with the character of the neighborhood than a conforming use; and

WHEREAS, as to bulk, as noted above, the three-story building has been at the site since the early 1900s and, as such, is similar in appearance and size to the other nearby row houses of a similar vintage; 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 historic residential use, narrowness, and small lot size; 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 617.2; 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. 13-BSA-008K, dated July 26, 2012; 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; 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 legalization of an existing three-story, two-family residential building (Use Group 2), contrary to ZR § 42-10; *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 July 27, 2012" – four (4) sheets; and *on further condition*:

THAT the following are the bulk parameters of the building: a floor area of 3,750 sq. ft. of floor area (1.5 FAR); a maximum building wall height of 31'-6"; and two dwelling units, 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 DOB 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, August 19, 2014.

**A true copy of resolution adopted by the Board of Standards and Appeals, August 19, 2014.
Printed in Bulletin Nos. 32-34, Vol. 99.**

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

