

**156-03-BZ**

**APPLICANT** – Steven M. Sinacori, Esq., of Akerman Senterfitt, for RKO Plaza LLC & Farrington Avenue Developers, LLC, owner.

**SUBJECT** – Application November 30, 2009 – Amendment to a variance (§72-21) for a proposed 17-story mixed-use development. The amendment seeks to increase the number of dwelling units from 200 to 357, accessory parking from 229 spaces to 360 spaces, and the amount of retail space. C2-2/R6 zoning district.

**PREMISES AFFECTED** – 135-35 Northern Boulevard, north side of Northern Boulevard, between Prince Street and Farrington Street, Block 4958, Lot 38 & 48, Borough of Queens.

**COMMUNITY BOARD #7Q**

**APPEARANCES** –

For Applicant: Howard Goldman.

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5

Negative:.....0

**THE RESOLUTION** –

WHEREAS, this is an application for a reopening and an amendment to a previously granted variance which permitted, in a C2-2 (R6) zoning district, the construction of a 17-story mixed-use residential/commercial/community facility building; and

WHEREAS, a public hearing was held on this application on May 17, 2011, after due notice by publication in The City Record, with a continued hearing on June 14, 2011, and then to decision on July 12, 2011; and

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

WHEREAS, Community Board 7, Queens, recommends approval of this application; and

WHEREAS, Queens Borough President Helen Marshall recommends approval of this application, with the condition that the applicant provide the senior center with all necessary facilities, as agreed to in the prior Board grant; and

WHEREAS, certain members of the community provided testimony in support of this application; and

WHEREAS, certain members of the community provided oral and written testimony in opposition to the applicant’s proposal, citing concerns with the potential impact on neighborhood character and traffic in the surrounding area; and

WHEREAS, the subject site is located on the north side of Northern Boulevard, between Prince Street and Farrington Street, within a C2-2 (R6) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the site since December 13, 2005 when, under the subject calendar number, the Board granted a variance to permit the proposed development of a 200-unit, 17-story mixed-use commercial/community facility/residential building, with ground level retail, second floor community facility space, and 229 accessory parking spaces in a three-level below-grade parking garage; and

WHEREAS, on May 29, 2007, the Board issued a letter of substantial compliance permitting the following changes to the proposal: (1) the elimination of one floor, reducing the building to 16 stories with an average floor to ceiling height of 10’-2” instead of 9’-4”; (2) the expansion of the footprint of floors seven through 16 to redistribute the floor area from the floor that has been eliminated; (3) the modification of the size of certain units; and (4) the redesign of the inner courts; and

WHEREAS, most recently, on January 12, 2010, the Board granted an extension of time to complete construction for a term of two years, to expire on January 12, 2012; and

WHEREAS, the applicant now proposes the following modifications to the previously approved plans: (1) an increase in the number of dwelling units from 200 to 357; (2) a reduction in the average unit size from 1,437 sq. ft. to 787 sq. ft.; (3) an increase in the number of accessory parking spaces from 229 to 385; (4) a 6,503 sq. ft. reduction in the residential floor area (from 287,313 sq. ft. to 280,810 sq. ft.) and a corresponding 6,503 sq. ft. increase in the commercial floor area (from 10,957 sq. ft. to 17,460 sq. ft.) through the addition of a retail mezzanine between the first and second floors; (5) the relocation of the community facility space from the second floor to the third floor; (6) a reduction in the depth of the rear yard from 31’-5” to 30’-0”; and (7) a reduction in the initial setback distance from 20’-0” to 15’-0”; and

WHEREAS, the applicant states that the proposed changes will not result in any new non-compliance nor increase the degree of any non-compliance from the previous approval; and

WHEREAS, the applicant represents that, since the time of the original grant, the approved project has become financially infeasible and that the proposed amendment will enable the owner to realize a reasonable return on the site; and

WHEREAS, the applicant further represents that the proposed amendment will allow for a greater mix of one-bedroom and studio apartments, a smaller average unit size, and a change from condominium units to rental apartments, which is necessary in order to increase the marketability of the units and receive a reasonable return on the site; and

WHEREAS, at hearing, the Board questioned whether the proposed number of units could be reduced

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and whether proposed apartment unit mix and sizes are typical; and

WHEREAS, the applicant represents that the proposed apartment unit mix and sizes are typical for a rental project of this size, and that a reduction in the number of units could jeopardize the project's financial viability; and

WHEREAS, specifically, the applicant states that the proposed residential unit mix will consist of 40 studio units, 166 one bedroom units, 71 one bedroom plus home office units, 74 two-bedroom units, and six three-bedroom units; and

WHEREAS, the applicant submitted a letter from its architect citing four current projects in Queens with average unit sizes comparable to the 787 sq. ft. average unit size of the proposed building; and

WHEREAS, the applicant also submitted an analysis from a residential marketing firm comparing the proposed unit mix and average unit size with that of five new rental buildings throughout the City, which concluded that market demand is stronger for smaller sized units and the mix and size of the units in the proposed projects is within the normal range for large rental projects; and

WHEREAS, at hearing, the Board directed the applicant to provide an analysis of the originally approved condominium development and an analysis of the originally approved development with rental apartments, updated with current income, expense and development cost assumptions; and

WHEREAS, in response, the applicant submitted a financial analysis reflecting that the originally approved development with rental apartments would not realize a reasonable return, while the originally approved condominium development would result in a minimal measure of financial feasibility; and

WHEREAS, however, the financial analysis states that the originally approved condominium project could not be successfully developed because construction financing for the 200-unit condominium project could not be obtained; and

WHEREAS, in support of the claim that financing for the originally-approved 200-unit condominium project would be difficult or impossible to obtain, the applicant submitted: (1) letters from independent experts discussing the limited availability of condominium and construction financing; (2) a monthly report from the New York City Office of Management and Budget stating that condominium prices and transaction have been falling in volume; (3) examples of stalled condominium projects throughout the City; and (4) articles discussing the depressed nature of the

condominium sales market; and

WHEREAS, the applicant provided an updated environmental analysis to show that the proposed changes do not alter the conclusions of the negative declaration issued by the Board in its 2005 approval; and

WHEREAS, at hearing, the Board raised concerns about the traffic impacts that would result from the increased number of units and parking spaces at the site; and

WHEREAS, in response, the applicant submitted a traffic and parking assessment which reflects that the proposed amendment would result in a maximum of 26 additional hourly vehicle trips during the PM and Saturday peak periods, which is approximately one-half of the 50-vehicle per hour threshold size that warrants further assessment pursuant to the CEQR Technical Manual, and is therefore not a significant increase; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may permit an amendment to an existing variance; and

WHEREAS, based upon its review of the evidence, the Board finds that the requested amendment does not alter the Board's findings made for the original variance; and

WHEREAS, accordingly, the Board finds that the proposed variance, as amended, continues to reflect the minimum variance and the Board has determined that it is appropriate, with certain conditions set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated December 13, 2005, so that as amended this portion of the resolution shall read: "to permit the noted modifications to the approved plans; *on condition* that all work shall substantially conform to drawings filed with this application and marked "Received April 11, 2011"- (15) sheets; and *on further condition*:

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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) and/or configuration(s) not related to the relief granted." (DOB Application No. 401622669)

Adopted by the Board of Standards and Appeals, July 12, 2011.

**A true copy of resolution adopted by the Board of Standards and Appeals, July 12, 2011.**

**Printed in Bulletin Nos. 27-29, Vol. 96.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**