

273-13-BZ

CEQR #14-BSA-044M

APPLICANT – Akerman Senterfitt, LLP, for 321-23 East 60th Street LLC, owner.

SUBJECT – Application September 26, 2013 – Variance (§72-21) to permit the development of an eight-story residential building containing 28 dwelling units, contrary to use regulations (§32-10). C8-4 zoning district.

PREMISES AFFECTED – 321 East 60th Street, Northeast corner of East 60th Street and the Ed Koch Queensboro Bridge Exit. Block 1435, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #8M

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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated September 20, 2013, acting on DOB Application No. 121331362, reads, in pertinent part:

Proposed residential use (UG2) within C8-4 zoning district is not permitted; contrary to ZR 32-11; and

WHEREAS, this is an application under ZR § 72-21, to permit, within a C8-4 zoning district, the construction of an eight-story residential building (Use Group 2), contrary to ZR § 32-11; and

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

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Vice-Chair Collins, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 8, Manhattan, recommends approval of the application; and

WHEREAS, the subject site is an irregularly-shaped interior located on the north side of East 62nd Street between Second Avenue and First Avenue, within a C8-4 zoning district; and

WHEREAS, the site has 8.15 feet of frontage along East 62nd Street and 3,749 sq. ft. of lot area; and

WHEREAS, the western boundary of the site has an arcing quality; it is formed by a tax lot that coincides with an exit from the Ed Koch Queensboro Bridge, giving the site a trapezoidal quality; as such, the lot narrows considerably from the rear lot line, which has a width of 48.33 feet, to the front lot line, which has a width of 8.15 feet; in addition, at ground level, the area

beneath the exit is a paved roadway, complete with curbs and sidewalks; thus, the site is bounded on only two sides by buildings and has the appearance of a corner lot; and

WHEREAS, the site is vacant; applicant states that the current and historic use of the site is for parking automobiles; and

WHEREAS, the applicant proposes to construction an eight-story residential building with 24,368.5 sq. ft. of floor area (6.5 FAR), 28 dwelling units, a total building height of 93’-0”, and nine accessory parking spaces; and

WHEREAS, because Use Group 2 is not permitted within the subject C8-4 zoning district, the applicant seeks a use variance; and

WHEREAS, the applicant states that, per ZR § 72-21(a), the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) trapezoidal shape and a narrow lot width; and (2) proximity to the exit of the Ed Koch Queensboro Bridge and the Roosevelt Island Tram; and

WHEREAS, the applicant states that the site has a trapezoidal shape, which narrows the lot width from 48.33 feet to 8.15 feet; and

WHEREAS, the applicant asserts that this unique condition—there are no remotely similar sites within 400 feet of the site—creates significant building inefficiencies and does not result in a marketable floorplate for a conforming use, which require two sets of stairs, elevators, and corridors; and

WHEREAS, likewise, the applicant states that, due to the site’s curved shape, a building that utilizes the available will have a curved façade, which is more expensive than a flat façade; and

WHEREAS, in addition, the site’s proximity to an exit of the Ed Koch Queensboro Bridge presents a unique burden in developing site, particularly with respect to cost; and

WHEREAS, specifically, the applicant represents that any development of the site will require higher site supervisory costs and insurance premiums (due to the risks associated with damaging a major thoroughfare), increased seismic monitoring, and a greater quantity of sidewalks, curbs, and plaza paving; and

WHEREAS, the applicant also states that a crane cannot be used during construction because of the location of the bridge and the exit, the narrow width of the site along East 60th Street, and the location of wires for the Roosevelt Island Tram (which run directly over East 60th Street); and

WHEREAS, the applicant notes that because a crane cannot be used, it must employ a reinforced concrete frame rather than a structural steel frame; and

WHEREAS, the applicant provided an analysis of the construction costs for the site; according to that report, the site’s unique conditions result in \$709,365 in premium construction costs; and

WHEREAS, the applicant explored the feasibility

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of a conforming development with 24,368.5 sq. ft. of floor area (6.5 FAR) (18,745 sq. ft. of commercial floor area (5.0 FAR) and 5,623.5 sq. ft. of community facility floor area (1.5 FAR)); such development yields floorplates of 3,351 sq. ft. that vary in width from 48 feet to 17 feet, which the applicant states are not conducive to either commercial or community facility uses; and

WHEREAS, in addition, as noted above, the applicant states that the conforming development must include two sets of stairways and an elevator bank, which decreases the overall efficiency of the building and further limits its rentable portions; and

WHEREAS, accordingly, the applicant concludes that conforming uses are infeasible at the site, due to the inefficient building that results from its trapezoidal shape and narrow width, and the premium construction costs inherent in the development of a site in close proximity to one of the city's major bridges; and

WHEREAS, the Board agrees that the aforementioned unique physical conditions, when considered individually and in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that, per ZR § 72-21(b), there is no reasonable possibility that the development of the site in conformance with the Zoning Resolution will bring a reasonable return; and

WHEREAS, in addition to the proposal, the applicant examined the economic feasibility of: (1) an as-of-right 6.5 FAR mixed commercial and community facility building with parking on the first story, two stories of community facility use, and six stories of office use; and (2) a lesser-variance residential development with only six stories and 5.0 FAR; and

WHEREAS, the applicant concluded that the as-of-right scenario and the lesser variance scenario resulted in negative rates of return after capitalization; in contrast, the applicant represents that the proposal results in a positive rate of return, making it economically viable; and

WHEREAS, based upon its review of the applicant's economic analysis, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return, in accordance with ZR § 72-21(b); 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 immediate area is characterized by a mix of medium-to

high-density residential and commercial uses and, of course, the Ed Koch Queensboro Bridge and its many elevated approaches and structural elements; the applicant notes that the portion of East 60th Street east of the bridge is predominantly residential with some ground floor commercial; and

WHEREAS, as to adjacent uses, immediately north of the site are three five-story tenement buildings, immediately east of the site is a large commercial building that is 146 feet in height and spans the full width of the block from East 60th Street to East 61st Street; as noted above, streets abut the site to the west and south; and

WHEREAS, the Board agrees that the character of the area is mixed-use, and finds that the introduction of 28 dwelling units will not impact nearby conforming uses; and

WHEREAS, as to bulk, the applicant states that the building's wall and building height of 93'-0" is comparable to buildings in the immediate vicinity, 53'-0" feet shorter than the adjacent commercial building, and well within the maximum building height in the subject C8-4 district (210'-0"); and

WHEREAS, at hearing, the Board directed the applicant to provide additional details regarding: (1) why a crane cannot be used to lift materials into the site; (2) the proposed noise attenuation and air quality preservation measures; and

WHEREAS, in response, the applicant provided a supplemental statement from the project architect, which further describes the constraints of the site, including its inability to use a crane; and

WHEREAS, as to the Board's noise concerns, the applicant states that proposal includes specially-glazed windows, which will provide 25 dB(A) of attenuation, resulting in interior noise levels that are within acceptable ranges; as to air quality, the applicant states that the HVAC systems for the dwelling units will provide fresh air in addition to heating and cooling; therefore, residents will be able to receive fresh air without opening external windows; 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 trapezoidal shape and its proximity to the Ed Koch Queensboro Bridge; the Board notes that the applicant provided copies of the 1969 and 1970 tax maps, which coincide with the construction of the bridge exit and reflect the formation of the site in its current form; and

WHEREAS, finally, the Board finds that the proposal is the minimum variance necessary to afford

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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 has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 14BSA044M, dated September 24, 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; and

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

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, within a C8-4 zoning district, the construction of an eight-story residential building (Use Group 2), contrary to ZR § 32-11, *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 16, 2014"- seven (7) sheets; and *on further condition:*

THAT the following will be the bulk parameters of the proposed building: a maximum of 24,368.5 sq. ft. of floor area (6.5 FAR); a maximum of 28 dwelling units; a maximum total building height of 93'-0"; one front yard along East 60th Street with a minimum depth of 10'-0"; and a maximum of nine accessory parking spaces;

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.

THAT sound attenuation will be in accordance with the BSA-approved plans;

THAT substantial construction will 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 will 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,
June 17, 2014.

