

**COMMUNITY BOARD NO. 8 BRONX
MINUTES OF THE LAND USE COMMITTEE MEETING
HELD SEPTEMBER 16, 2009 AT MANHATTANVILLE HEALTH CARE CENTER
311 WEST 231ST STREET**

BOARD MEMBERS:

C. G. Moerdler, R. Abbott, B. Bender, A. Cohen, A.P. Creaney, T. C. Durham, P. Friedman, S. Froot, R. Ginty, M. Khury, Y. Levy, S. Marquez, D. Padernacht, J. M. Pilsner, M. Wolpoff

STAFF:

N. Stent, District Manager

GENERAL PUBLIC/REPRESENTATIVES:

Candice M. Giove Riverdale Review
Kathy Aleman
Connor Boals
Charlotte Cohen
Bryant Daniels
Manuel Delgado
Kim Dowdy
Victoria Dowdy
A. Gibbons
Michael Goldblum The Building Studio, LLP
Barbara Gross
Nick Judd
Randi Martos Rep. Assemblyman Dinowitz
Pearl Moerdler
Robert Press
Josh Rinesmith Sheldon Lobel, PC
Gila Rose
Don Schlitten
Nina Schlitten
D. Siderls
Margaret Van Dear
Harry Welsh
Rita Williams

The meeting was called to order at 7:30 p.m. by Charles Moerdler, Chairman of the committee.

Two matters were on the Agenda for this meeting. A third matter was untimely and hence, put over for another committee meeting. The two matters that were heard :

1. 3217 Irwin Avenue, a.k.a. 3210 Riverdale Avenue
Board of Standards and Appeals Calendar (BSA) NO. 214-07-BZ
Review of BSA's Notice of Comments and Applicant's Response with
Regard to the Transient garage

2. 4919 Goodridge Avenue
Landmarks Preservation Commission (LPC) Docket No. 10-0052

The applicant for 4919 Goodridge Avenue was awaiting her representative, so the Chairman called upon the representative for 3217 Irwin Avenue to make his presentation to the committee.

The applicant for 3217 Irwin Avenue was represented by Joshua Rinesmith, of Sheldon Lobel, P.C., 4 East 40th Street, New York, NY 10016, (212) 725-2727, ext. 16.

The Chairman asked the applicant to state the changes in the plans for the property since the last time the applicant had appeared. The answer was that not much had been changed with the exception of the number of units which changed from 39 to 46, indicating smaller but additional apartments.

The applicant is seeking a variance to allow the number of parking spaces to be increased from 83, which is an as-of-right number for the property, to 150 parking spaces. Further, the applicant is seeking approval for a public use of such parking spaces. The applicant states that, of the 83 as-of-right parking spaces, 23 parking spaces are required for residential use and 17 parking spaces are required for community facility use.

The Chairman had two preliminary questions for the applicant:

1. What is the spread of the different sized apartments? How many studios, 1 bedrooms, 2 bedrooms, etc. will there be in the property?

The applicant stated that he did not know the spread of the apartments but the apartments would range in size from studios at approximately 450sq/ft to larger apartments at approximately 1500 sq/ft. In addition, there will be a penthouse of approximately 2400 sq/ft.

2. Has there been any letters of intent or interest regarding the space set aside for the community facility?

There has been no such intent from any parties to occupy the space for the community facility use. However, the applicant stated that he is leaning towards medical office tenants, and it is this use in which the 17 parking spaces number was calculated to serve.

The Chairman asked the applicant to present evidence that his property met the requirements of Section 72-21 of the New York City Zoning Resolution.

The applicant presented the following statements regarding Section 72-21:

The applicant stated that the property lie on intermixed bedrock which was not good to build on. This required the applicant to absorb additional excavation costs.

The applicant stated that the retaining wall on Riverdale Avenue was not built on bedrock so the applicant was required to spend additional money on underpinning. The applicant stated that he could not know what the retaining wall was built on prior to beginning the project.

The applicant stated that he sustained a topographical hardship because of the elevation difference of the property. The Riverdale Avenue side of the property is approximately 35 to 50 feet higher than the Irwin Avenue side of the property.

The applicant stated that he has sustained 2.5 to 2.6 million dollars in increased development costs.

The Chairman asked the applicant questions regarding the applicant's statements regarding §72-21.

Q: To what extent has the hardship been relieved by adding apartments?

A: The applicant stated that the number and size of apartments were changed because of the economy as applicant believes he can sell smaller apartments.

Q: Has the applicant made a conclusion as to whether the apartments will be condos or rentals?

A: At this time the applicant is thinking rentals.

The Chairman yielded the floor to Assemblyman Jeffrey Dinowitz. Assemblyman Dinowitz stated that he was going back and forth between this meeting and another meeting and he thanked the Chairman for the time to address the Land Use Committee.

Assemblyman Dinowitz stated that the applicant was fully aware that the site was a bad site for development. Further, the applicant decided to build even after the wall on Riverdale Avenue collapsed. Assemblyman Dinowitz stated that common sense should have led the applicant to the conclusion that he shouldn't build on the site and now the applicant comes to the board claiming a hardship. Assemblyman Dinowitz suspects that the additional parking spots are not for the people in the community as most of the residents of this area have accommodations for parking. The Assemblyman asked, rhetorically, who the applicant thinks is going to park in this garage. Further, he asked whether or not there are some special arrangements with a commercial vendor. The Assemblyman stated that this variance would allow hundreds of cars to flow in and out of this garage each day. It is possible that ten cars can use one spot each day through turnover. The Assemblyman concluded by stating that this project is a commercial parking garage with apartments attached.

The Chairman then asked committee members if they had any questions or comments for the applicant.

Q: How many entrances to the garage? It was offered to be done on Riverdale Avenue and now it seems as if Irwin Avenue is the only entrance. Is it concluded that the entrance is on Irwin Avenue?

A: An entrance on Riverdale Avenue was never proposed. There will be one curb cut on Irwin Avenue with ingress and egress from the same entrance and exit.

Q: Are there vaults under the street?

A: The applicant doesn't know.

Q: How could the applicant not know about the foundation underneath the retaining wall? The applicant could have done a foundation test with borings that run parallel to the wall.

A: Even if you could do such a test, what do you do? The applicant stated that every hardship is pre-existing.

Q: Was there financing in place prior to this application?

A: Yes.

Q: Was the financing complete at the outset of the construction?

A: Yes.

The applicant stated that the users of the garage will be primarily unit owners. The applicant reiterated that 23 spaces are required for residents and 17 spots are required for the community facility, leaving an additional 43 spots for non-required use. The applicant stated that the additional space will not be used for taxi company, limousine company, car rental company or the like for several reasons; the applicant has no desire to have such a user; a different "grouping" variance would be required. In addition, the applicant stated that he will represent to the BSA that no such use will be employed by the applicant at the property.

Q: Has there been any traffic studies done? Do you know how many on-street parking spaces are available?

A: No traffic studies have been conducted.

Q: Isn't it best to get more information on parking availability before you go to the BSA with this application?

A: No, because of the notice requirement for the BSA.

Q: You are stating that you want additional parking spaces in order to receive a reasonable return on your investment. However, you have not conducted a market analysis. How do you know that you will get users for these additional spots?

A: The applicant did not build this space with the intent to rent it out. The space was built to fill the void of bedrock.

Q: Can you describe the layout of the floors in relation to the streets?

A: Total of eleven floors. There are three floors below Riverdale Avenue. There is one floor on Irwin Avenue, then two floors, another floor on Riverdale Avenue, and seven floors above that.

Q: Wasn't it part of the applicant's due diligence to check the retaining wall with regards to the underpinning?

A: The borings only go straight down. The applicant could not see material on which the retaining wall was built.

Q: Is there going to be attended parking for 24 hours?

A: Yes, because the owners will need access to their cars.

Q: How much space is required for each parking space?

A: For residential use, 300 square feet per vehicle. For public use, 200 square feet per vehicle.

Q: What does public parking include? Is that only for passenger vehicles?

A: The applicant is requesting a transient permit which does not include commercial operators.

The Chairman then asked the community residents attending the meeting if they had any questions.

Q: Where do we stand on this issue?

The Chairman stated the process for seeking a variance with BSA. The chairman stated that the BSA can grant or deny the application and any person can challenge that decision within four months. The Chairman stated that Bronx Community Board 8 unanimously turned down the first application brought before it, and is now asked to approve or disapprove the current application.

Q: What can the community do?

The Chairman stated that each person in the community is entitled by law to attend the BSA hearing in which they will be heard. At the hearing, each person is given three minutes to speak at the BSA hearing.

The Chairman stated that the applicant will be going to BSA prior to the next Community Board Meeting. Since this would be the case, the Community Board voted at the last meeting to authorize the Land Use Committee to act on behalf of the Community Board at this Land Use Committee Meeting, subject to ratification at the October Community Board Meeting.

Other members of the community stood up to express their sentiments regarding this parking variance. One resident stated that she wished to express her anger because the applicant has not answered their questions this evening. In addition, any economic problems suffered by the applicant should be borne by the developer and not the community.

The Chairman stated that the intersection at Irwin Avenue and 232nd Street should be referred to the Traffic & Transportation Committee for safety concerns.

The Chairman thanked Mr. Rinesmith for his presentation and called to the Committee for a motion that the requirements of New York City Zoning Resolution Section 72-21 have not been met, with a specific highlight on the fact that this variance would change the essential character of the community. The motion was brought, seconded and approved unanimously by the Land Use Committee which acted with the full authority of Community Board 8.

The Chairman then called the applicant for 4919 Goodridge Avenue, regarding Landmarks Preservation Commission (LPC) Docket No. 10-0052, to make a presentation to the Committee.

The applicant is represented by Michael Goldblum, R.A., of The Building Studio, 307 West 38th Street, New York, NY 10018, (212) 279-1507.

The applicant is seeking approval for (a) interior renovations; (b) exterior repair/replacement shutters, roof, planter boxes, windows – all repairs of existing materials or replacements as per standard LPC procedure; (c) new elements: modified window openings in several locations, new glazing at library and converted garage/office, newly enclosed pergola, exterior AC units, and terrace railing.

The subject property is a Dwight Baum house, wood frame, almost in original condition. The property falls under the policies of the Landmarks Preservation Commission. The only issue before the committee is the approval of an enclosure of the open porch to create additional living space. All other improvements can be approved at the staff level.

The matter was before the Fieldston Property Owners Association. The F.P.O.A. chose “not to oppose” the improvements.

No natural features of the area will be affected by the improvements.

The Chairman asked the applicant if he would be here this evening if the proposed rules to the Landmarks Preservation Commission had been approved. The answer was “no,” as the improvements could have been approved at the staff level.

The Chairman called for a motion to approve the proposed improvements to 4919 Goodridge Avenue. The motion was brought, seconded, and unanimously approved by the Land Use Committee.

Submitted by,

Daniel Padernacht
Board Member

DP:db (September 23, 2009)