

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

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August 19, 2009
Start: XX:XXam/pm
Recess: XX:XXam/pm

HELD AT: Council Chambers
City Hall

B E F O R E:
TONY AVELLA
Chairperson

COUNCIL MEMBERS:
Maria del Carmen Arroyo
Charles Barron
Leroy G. Comrie, Jr.
Elizabeth Crowley
Simcha Felder
Daniel R. Garodnick
Eric N. Gioia
Sara M. Gonzalez
Vincent Ignizio
Melinda R. Katz
Jessica Lappin
John C. Liu
Domenic Recchia
Joel Rivera
Larry B. Seabrook
Helen Sears
Albert Vann

A P P E A R A N C E S (CONTINUED)

Ross Moskowitz
Attorney
Counsel to the applicant

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2 CHAIRPERSON AVELLA: Good morning,
3 everyone, and it still is the morning. I'd like
4 to reconvene the Zoning and Franchises
5 Subcommittee. The one item that we have to vote
6 on is the, if I can find it in the agenda, is 1178
7 4-8 East 94th Street Project. As some of you may
8 remember, this lies in Council Member Dan
9 Garodnick's district. We had laid the vote over
10 till today, for some last minute negotiations.
11 And I know Council Member has met with the
12 applicant yesterday and this morning. And what
13 I'd like to do is call the representative of the
14 applicant up to discuss the changes and the
15 commitments that have been made.

16 ROSS MOSKOWITZ: Good morning,
17 Council Member Avella, Subcommittee and other
18 Council Members. Ross Moskowitz, counsel to the
19 applicant. As Council Member Avella has said, we
20 have had extensive discussions with Council Member
21 Garodnick and his office, as well as other members
22 and staff, and have listened carefully to the
23 testimony from yesterday. So, there are a couple
24 of things that we'd like to put back into the
25 record, if we could. There was a series of

1 questions that were asked yesterday, and I will
2 briefly go through them, and of course available
3 to answer any questions that, that may arise from
4 them. There's a question specifically about the,
5 the southern wall of the property, that currently
6 exists a twelve foot edition that will also, it
7 also has a foot, a seven foot fence on top of it.
8 That will be coming down and will be replaced as a
9 five foot, seven inch brick wall, per the building
10 code. Along those lines, the local neighbors have
11 asked if we could consult with them about the
12 texture and the like about that brick wall, and
13 you know, we will of courses speak with them. As
14 you'll hear, there's a common theme throughout our
15 presentation yesterday as well as today that we
16 will have a designated person on site who will be
17 a point of contact, one point of contact, for the
18 neighbors, so that if there are any issues,
19 concerns, pre-construction, during construction,
20 post-construction, there will always be someone
21 who they can, who they can reach. Second
22 question, asked about safety concerns, that were
23 addressed in the Manhattan Borough President's
24 approval, again we will comply with all the
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2 Department of Building's procedures regarding
3 historic districts, and protecting historic
4 districts. We'll have in place a monitoring and
5 protection plan, and again we've committed to
6 maintaining an open dialogue with our neighbors.
7 We'll work with the, your o--Council Member
8 Garodnick's office, Community Board Eight and
9 other local stakeholders to address. We will
10 submit, as requested, Council Member Avella, the
11 shadow analysis that you asked for. We will also
12 submit, as required under the special permit, the
13 restrictive declaration. As the Council knows,
14 the restrictive declaration is binding on the
15 owner, any future owners its recorded against the
16 property, and sets forth certain obligations
17 relating to the repair and maintenance of the
18 premises. The Council yesterday raised a question
19 about pending violations. We were recently made
20 aware of these violations, most of them concerned
21 Department of Buildings and Environmental Control
22 Board issues, which, as you know, this is a former
23 Spence-Chapin Adoption Agency, or mostly
24 applicable to there. Most of them deal with the
25 boiler and elevator. There's no one currently

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2 occupying the facility, so we believe once the
3 restoration and maintenance of the property is
4 done, those will be dismissed. And if there are
5 any remaining violations that require immediate
6 dealing with, we, the applicant endeavors to do
7 that immediately. In terms of the mechanical
8 equipment question from the Council was whether we
9 could put up some acoustical barrier. This is on
10 the southern part of 4 East 94th Street. We will,
11 we will indeed endeavor to use good faith efforts
12 to install some kind of acoustical barrier; the
13 caveat being we need to be able to do this
14 obviously on an as-of-right basis. We haven't
15 analyzed whether it's permitted under the building
16 code or zoning resolution, but again we will
17 commit to, to doing it if indeed it can be done.
18 Last but not least, perhaps the most significant
19 change in the presentation from yesterday, as you
20 know we're creating a new 30 foot rear yard and
21 substantially reducing the height of the building
22 closest to the property. The Community Board
23 Eight, Manhattan Borough President, Landmarks
24 Commissions and City Planning Commission felt that
25 the plan as proposed was, was sufficient and

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2 approved each, at each level; nevertheless, we
3 heard the concerns raised yesterday, and one of
4 the waivers that we are seeking, which is at the
5 southern end of the property, behind 4 East 94th
6 Street, we understand from discussion with
7 counsel, we are committing not to exercise our
8 right, assuming there is an approval, we are
9 committing not to exercise our right for that
10 waiver, of the three waivers we, we enunciated
11 yesterday, the third one being the one at the
12 back, so that there would no longer be three
13 waivers, there would be two waivers that would
14 ultimately be utilized. We are committing here on
15 the record, and we will submit something in
16 writing later today, to, to make that statement as
17 well.

18 CHAIRPERSON AVELLA: And one, one
19 additional thought has occurred to us. Would you
20 be willing, and to commit onto the record, that
21 when the building plans are filed, that you give
22 us a copy before you actually file, so that we
23 have an opportunity to review the building plans
24 and make sure they're following the agreement that
25 you're making today?

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2 ROSS MOSKOWITZ: If, if we could
3 set up a process, Council Member Avella, that, you
4 know, was, gave us some certainty on sort of--

5 CHAIRPERSON AVELLA: Timeline.

6 ROSS MOSKOWITZ: --timing, etc.,
7 absolutely.

8 CHAIRPERSON AVELLA: Okay. No, I
9 think we can arrange that. I'd like to call on
10 Council Member Garodnick.

11 COUNCIL MEMBER GARODNICK: Thank
12 you very much, Chair Avella, and I want to thank
13 you for your hard work and your interest on this
14 issue, and also to my colleagues for their
15 patience this morning, as we worked out some of
16 the details here. This is an issue which is a
17 complicated one because of the proximity of the
18 buildings to each other. And we, in the Council,
19 wanted to be extremely sensitive to the potential
20 impacts on the neighbors in the immediate
21 vicinity. Neighbors who have their rear yards
22 facing the backside of this building, as well as
23 some of the significant apartment buildings that
24 are close to the proposed changes here. But after
25 a very thorough review of the plans and with the

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2 modifications that Mr. Moskowitz just discussed
3 and committed to on the record, I feel that we
4 have a plan that makes sense for the community.
5 We had a Community Board Eight vote without any
6 votes against this. There was a Landmarks hearing
7 which resulted in approval of this project. And I
8 think it is undisputed by anybody who sees what
9 the front of these buildings will look like after
10 the changes that it certainly is an, a vast
11 improvement in the heart of a historic district.
12 And so I think that is a very positive
13 development. As to the shadows, from what I can
14 tell, it looks like it will be an improvement for
15 the neighbors. It will certainly be an
16 improvement for those neighbors who currently have
17 a 19 foot wall right in front of their windows.
18 And I have been to these apartments to see them
19 firsthand, as has Chair Avella. And those folks,
20 I think, will do very well by seeing that 19 foot
21 wall come down, and have this be in its place a
22 five foot, seven inch fenced area, which will add
23 additional light and air for them. We appreciate
24 the concessions that have been made here. We know
25 they were not made easily. And the changes of

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2 significance that Mr. Moskowitz mentioned were
3 the, essentially the, the removal of one of the
4 special permits that they had sought. And that
5 included the additions at the sixth floor of 4
6 East 94th Street, and I believe that that will add
7 even further to the light and air of the rear of
8 those buildings. The commitment to acoustical
9 barriers on the mechanical equipment is something
10 which we believe is very important. And as well,
11 we want to make sure that there is a good line of
12 communication between the developer here and the
13 neighbors. Which is why we are glad that they
14 were consults on the subject of the, the wall that
15 will be the replacement, five foot, seven inch
16 wall, in the backyard. As well as having an
17 ongoing, specific contact person for issues of
18 construction problems. So, with that, I, I want
19 to thank Mr. Moskowitz for, for his willingness to
20 have these conversations, and certainly to his
21 clients, as well as to all of the, the neighbors
22 who were tremendous advocates on this project, and
23 certainly these changes would not have happened
24 without their advocacy. And I think that they
25 should feel very good about, about that. And so,

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2 with that, Mr. Chairman, thank you and I would
3 like to ask my colleagues to vote yes on this.

4 CHAIRPERSON AVELLA: Any question
5 since we did ask the applicant to ask back?
6 Seeing none, thank you, thank you, Ross.

7 ROSS MOSKOWITZ: Thank you.

8 CHAIRPERSON AVELLA: I will ask
9 Council to call the vote. Given the commitments
10 that the applicant has made, Chair recommends
11 approval.

12 COUNSEL: Christian Hilton, Council
13 to Committee. Chair Avella?

14 CHAIRPERSON AVELLA: Aye.

15 COUNSEL: Council Member Rivera.

16 COUNCIL MEMBER RIVERA: I vote aye.

17 COUNSEL: Council Member Felder.

18 COUNCIL MEMBER FELDER: Yes.

19 COUNSEL: Council Member Gioia.

20 COUNCIL MEMBER GIOIA: Yes.

21 COUNSEL: Council Member Seabrook.

22 COUNCIL MEMBER SEABROOK: Vote aye.

23 COUNSEL: Council Member Vann.

24 COUNCIL MEMBER VANN: Aye.

25 COUNSEL: By a vote of six in the

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affirmative, none in the negative, no abstentions,
LU 1178 is approved and referred to the full Land
Use Committee.

MALE VOICE: [gavel] Thank you,
everyone, this closes this meeting of the
Subcommittee on Zoning and Franchises, and
obviously everybody hang around for Land Use. - -

C E R T I F I C A T E

I, JOHN DAVID TONG certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "John David Tong". The signature is written in dark ink and is positioned above a horizontal line.

Signature_____

Date September 9, 2009