



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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**JOHN WEIS**  
Chair

**ROBERT J. BENFATTO, JR., ESQ.**  
District Manager

December 14, 2009

Meenakshi Srinivasan, Chair  
Board of Standards and Appeals  
40 Rector Street, 9th Floor  
New York, New York 10006

**Re: Application to Amend Variance 346-47 BZ pursuant to ZR 11-412**  
**BSA Application No.: 196-08 BZ**  
**Premises: 792 10th Avenue, Manhattan, Block 1063, Lot I**

Dear Chair Srinivasan:

Manhattan Community Board 4 is pleased to provide its recommendation on this application by 23-24 Associates, LLC ("Applicant"). The Applicant seeks to amend the existing variance (346-47 BZ), pursuant to ZR Section 11-412, which would permit the enlargement of the existing building by one story in order to enclose an existing parking garage. We recommend approval of the application, subject to the conditions stated in this letter.

The Applicant made a presentation of its application to the Clinton/Hell's Kitchen Land Use Committee at its meeting on November 11, 2009, and a duly noticed public hearing was held immediately before the regular meeting of the Board on December 2, 2009.

At the outset, we remind the BSA that by Resolution, dated January 13, 2009, your agency reinstated the Applicant's Special Permit allowing the Applicant to operate a public parking garage in a C6-2 zoning district within the Special Clinton District. Your approval was conditioned upon several factors and included all of the recommendations made by CB4 in its letter to the BSA, dated October 3, 2008. We are gravely concerned that to date, the applicant has complied with none of the conditions outlined in CB4's October 3, 2008 letter, and reiterated in BSA's January 2009 Resolution.

Pursuant to New York City Zoning Resolution §11-412, the Applicant is seeking to enclose the roof top of the building wherein it operates a public parking garage. A structure may be altered, extended or enlarged as long as the zoning lot comprising the site received either a variance, exception, or permit prior to December 15, 1961. The Applicant meets this requirement as the BSA first granted a variance permitting this zoning lot to be used as a public parking garage in 1949. Zoning Resolution §11-412 limits any alteration, extension or enlargement to 50% of the existing floor area of the

structure as it was used and/or occupied as of December 15, 1961. The instant application contemplates an increase in floor area that is within the legal limits stated in ZR §11-412.

The C6-2 zoning district permits a floor area ratio (“FAR”) of 4.2 and a building height of 66 feet. The current FAR being utilized is 1 and the current height is 22 feet. The proposed enlargement, enclosing the roof of the structure as contemplated by its architectural drawings submitted with its application, falls below the permitted FAR and height limitations for the site.

Additionally, the curb cut issues discussed last year by the Applicant remain outstanding. Briefly, parking space on the roof is accessed by ramp from 53rd Street, across the street from PS 111. There are now five curb cuts, two on 53rd Street and three on Tenth Avenue. In their original presentation to CB4 on September 10, 2008, the Applicant stated that at least two of these curb cuts were no longer necessary and could be removed. In their most recent presentation, the Applicant again stated that unnecessary curb cuts will be removed. Moreover, the Applicant states in this application under “Proposed Conditions Part II” that they will eliminate the exiting 15-foot curb cut and garage exit located at or near the corner of West 53rd Street. The Applicant also agreed to bring the remaining curb cuts into compliance with the standards promulgated under the Americans with Disabilities Act.

The Premises is located in the Preservation Area of the Special Clinton District, which is largely comprised of low rise residential tenements. Accordingly, CB4 is extremely interested in participating in the final exterior design of the proposed enlargement to ensure that it fits within our community. The Applicant has verbally agreed to include CB4 in its discussions and to present its proposed design to the C/HKLU Committee prior to seeking building permits. CB4 must have the ability to comment upon the final exterior treatments that will be used in this project.

On a final note, the Applicant stated that no additional parking spaces will be created by this extension and that it will remain at its current operating capacity of 81 spaces with 10 spaces in reserve as per the Certificate of Occupancy.

CB4 recognizes the continual, long-term use of this facility as a public parking garage and is unaware of any record of difficulty with this business in the community. We appreciate the Applicant’s effort to clean up its legal status in addition to complying with ZR §11-412. However, we are cautionary in our approval as there remain outstanding commitments with which the applicant has failed to comply.

Accordingly, CB4 recommends approval of BSA Application No. 196-08 BZ, subject to the following conditions, all of which have been discussed with and verbally agreed to by the applicant:

- All unnecessary curb cuts will be removed resulting in no more than 3 curb cuts, one of which may be of double width, and the remaining curb cuts will be brought into compliance with the ADA;

- Street trees will be planted by Applicant pursuant to ZR §26-41. Placement of the street trees along the sloping sidewalk obstructed by garage entrances presents a challenge. The Applicant shall provide CB4 with a diagram of the site, indicating placement of street trees and the dates by which the planting will be accomplished (we should also ask for tree guards given that the high volume of cars entering and exiting).
- The height of the building shall not exceed the proposed 35 feet and 4 inches;
- Transient parking users must not enter or exit at the 53rd street entrance;
- The Applicant will continue to operate the parking garage within the limits of its Certificate of Occupancy and shall not seek to increase the number of parking spaces currently in use;
- The Applicant shall submit to CB4 a timetable stating when the Applicant shall begin construction and complete each of the phases contemplated by this application;
- The Applicant shall comply with each of the enumerated conditions in both this letter and the January 13, 2009 BSA Resolution in a timely manner; and
- The Applicant shall consult with CB4 to discuss and amend appropriately its architectural drawings and renderings prior to the completion of this project in order to ensure that any alterations to the current structure are contextual as it sits wholly within the Preservation Area of the Special Clinton District.

Sincerely,



John Weis, Chair  
Manhattan Community Board 4



Elisa Gerontianos, Co-Chair  
Clinton/Hell's Kitchen Land Use Committee



Sarah Desmond, Co-Chair  
Clinton/Hell's Kitchen Land Use Committee

cc: NYC Council Speaker Christine Quinn  
NYC Council Speaker Quinn's Office – Kate Seeley-Kirk, Melanie Larocca  
NYC Council Land Use Division – Danielle DeCerbo  
NYS Senator Thomas K. Duane  
NYS Assemblyman Richard Gottfried  
MBPO – Anthony Borelli, Deborah Morris  
Applicant – Michael Kramer, representative