



faith upon the permit issued by the Department of Buildings. The courts below properly concluded that a hearing was necessary on that issue and that, in this setting, that hearing could be conducted by Supreme Court and not the agency. Moreover, because the record was sufficiently developed, Supreme Court, after conducting the good faith hearing, properly concluded as a matter of law that petitioner had satisfied the criteria set forth in the Zoning Resolution and that the Board of Standards and Appeals should issue the requested variance.

\* \* \* \* \*

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question not answered upon the ground that it is unnecessary, in a memorandum. Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided May 1, 2008