APPLICANT – Moshe M. Friedman PE, for Bais Yaakov D. Chassidei Gur, owner.

WHEREAS, the proposed five-story building is a not-for-profit religious school (the “School”); and

WHEREAS, the application is brought on behalf of Bais Yaakov D’ Chassidei Gur, with continued hearings on January 22, 2016, and February 2, 2016, and then to decision on March 22, 2016; and

WHEREAS, Community Board 12, Brooklyn, recommends approval of this application; and
WHEREAS, because the proposed enlargement does not comply with the applicable bulk regulation in the subject zoning district, the School seeks the requested variance; and

WHEREAS, the School states that the variance sought is necessary to meet its programmatic needs of remaining in its current location, continuing to serve local families, keeping all of the divisions of the School in the same building, providing space for its educational and extracurricular programs, and accommodating the anticipated increases in enrollment of approximately 6 percent per year over the next 5 years resulting in a total of 704 students; and

WHEREAS, the applicant states that the size and shape of the building on the premises, which is currently obsolete and unable to meet its current programmatic needs, make a vertical expansion that follows the contours of the existing building the only viable manner in which to provide much needed classroom and accessory space; and

WHEREAS, the applicant proposes to renovate the cellar to restore the lunchroom and auditorium to their intended uses; use the first and second floors for pre-school and lower elementary grade students, providing both classroom and indoor play areas that separate these students from older students; use the third floor for elementary school classrooms with a library for preschool through third grade students, a science lab, and offices; use the fourth floor for middle and high school classrooms with a computer room and offices; and use the fifth floor solely for high school students, with classrooms, a computer room, and a dedicated library/resource room; and

WHEREAS, the proposal also includes relocating existing rooftop play area to the roof above the fifth floor, installing a 10’-0” high fence, limiting the use of the area to times between sunrise and sunset and only providing lighting required by the Building Code for emergency egress; and

WHEREAS, the School contends that the requested waivers are both modest and essential to its ability to meet its programmatic needs; and

WHEREAS, the Board acknowledges that the School, as both a religious and educational institution, is entitled to deference under the law of the State of New York as to zoning and its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Cornell University v. Bagnardi, 68 NY2d 583 (1986), an educational institution’s application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based on the above, the Board finds that the programmatic needs of the school and the constraints of the existing building create unnecessary hardship and practical difficulty in developing the premises in compliance with the applicable zoning regulations; and

WHEREAS, because the School is a not-for-profit institution and the variance is needed to further its not-for-profit mission, the finding set forth in ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the School represents that, pursuant to ZR § 72-21(c), the variance, if granted, will not alter the character of the neighborhood, impair the appropriate use or development of adjacent property, or be detrimental to the public welfare; and

WHEREAS, specifically, the School states that it has occupied the subject premises, and been an essential part of the character of the neighborhood, for nearly 20 years; that the expansion will be vertical only and the additional floor will be designed to fit in with the style, shape and form of the existing building; and that a five story community facility is not out of character in around a residential zone; and

WHEREAS, in support of its argument, the School has submitted a neighborhood character study concluding that, because the premises is a corner lot with avenue frontage; the existing building is already twice as tall as the neighboring row houses; there are four-story apartment houses located adjacent to the north and directly across the street to the south; the proposed height is not atypical for the area, which includes 50 to 80 feet tall buildings alongside 20 to 30 feet tall homes, or for schools or other civic institutions in the neighborhood, and none of the taller buildings in the surrounding area, most of which were constructed before the adoption of the Zoning Resolution have setbacks, the proposed enlargement will not alter the character of the neighborhood; and

WHEREAS, with regards to the proposal’s effect on transportation, the School has submitted an analysis concluding that the proposed enlargement and anticipated increase in enrollment will result in a small increment in travel to and from the School that does not reach any thresholds of significance, but nevertheless recommends that steps be taken to coordinate bus loading with available curbside space and that no-standing zones and moving lanes be more strictly enforced; and

WHEREAS, specifically, the applicant has developed an operating plan for the arrival and departure of school buses including a transportation coordination system requiring bus drivers to contact the school administrator or faculty member assigned to monitor arrivals and dismissals by cell phone to ensure that buses arrive only when there is sufficient curbside space available to accommodate them; and

WHEREAS, the School has adopted staggered school hours for its students wherein, in the morning, the high school students, who either walk or take public transportation to the School, are the first to arrive at the building at 8:45 A.M., the elementary school students enter the building between 9:00 A.M. and 9:15 A.M., and the preschool students, who are expected to take the longest to be escorted from buses and into the school because of their age are the last to enter the
WHEREAS, the Board has determined that the proposed action will not have a significant impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site in an R5 zoning district, the enlargement of an existing four-story school building, contrary to ZR §§ 24-11, 24-34, 24-35, 24-521 and 24-551, 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 March 3, 2016” – Sixteen (16) sheets; and on further condition:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 37,450 sq. ft. (3.98 FAR), a maximum 80.4 percent lot coverage, minimum front yard of 0’-0”, minimum side yards of 15’0” and 0’-0”, and maximum total height of 54’-6”;

THAT these bulk parameters represent the maximum expansion possible on the subject site;

THAT buses shall be parked at a commercial lot located at 1625 Surf Avenue, Brooklyn when not in use;

THAT traffic monitors shall be utilized to keep all “No Standing” areas clear of obstruction;

THAT masonry at fifth floor level of the building façade will match the existing brick used on the lower floors;

THAT trash shall only be stored inside the premises in the dry waste and refrigerated storage areas and, at the earliest, moved to the street the night before morning trash pick-up;

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, March 22, 2016.