

12-12-BZ**CEQR #12-BSA-068M**

APPLICANT – Greenberg Traurig, LLP by Deirdre A. Carson, Esq., for 100 Varick Realty, LLC, AND 66 Watts Realty LLC, owners.

SUBJECT – Application January 19, 2012 – Variance (§72-21) for a new residential building with ground floor retail, contrary to use (§42-10) and height and setback (§§43-43 & 44-43) regulations.

PREMISES AFFECTED – 100 Varick Street, east side of Varick Street, between Broome and Watts Streets, Block 477, Lot 35, 42, 44 & 76, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Hinkson and Commissioner Montanez ...4

Negative:.....0

Absent: Commissioner Ottley-Brown.....1

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated January 5, 2012, acting on Department of Buildings Application No. 120084719, reads, in pertinent part:

1. ZR 42-10 – Proposed residential use within manufacturing (M1-6) zoning district is not permitted.
2. ZR 43-43 – Proposed building does not comply with front wall heights and setback requirements, hence is not permitted.
3. ZR 44- – Proposed curb cut is located within 50 feet of the intersection of two streets, hence is not permitted; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-6 zoning district, a 13-story residential building, with 96 dwelling units, commercial use on the first floor, and a curb cut within 50 feet of the intersection, which is contrary to ZR §§ 42-10, 43-43, and 44-582; and

WHEREAS, a public hearing was held on this application on June 19, 2012, after due notice by publication in the *City Record*, with continued hearings on August 7, 2012, September 11, 2012, and October 30, 2012, and then to decision on February 5, 2013; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Vice-Chair Collins, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 2, Manhattan, recommends disapproval of the initial iteration of this application with the suggestion that the development of the site be addressed after the pending the Department of City Planning's Hudson Square Rezoning is finalized and that any plans substantively comply with the new zoning; and

WHEREAS, The Door Youth Development Services submitted testimony in opposition to the proposal, citing concerns about (1) the placement of the curb cut, (2) poor site maintenance, and (3) a decision before the Rezoning being premature; and

WHEREAS, the neighbor at 64 Watts Street provided written and oral testimony in opposition to the proposal, citing concerns about whether (1) the hardship had been established and all premium costs are justified, (2) the site conditions are unique, (3) a lesser variance (7.2 FAR) would be sufficient to overcome any hardship, (4) the scale of the proposal is compatible with neighborhood character, and (5) sufficient measures will be performed during and after construction to protect the adjacent building; and

WHEREAS, the subject premises is located on the east side of Varick Street between Watt and Broome streets, across the street from the Hudson Tunnel entry plaza, and is comprised of four tax lots - Lots 35, 42 (1999 acquisitions), 44, and 76 (2006 and 2007 acquisitions); the assembled site has frontage of 171.41 feet along Varick Street, 56'-3 3/4" along Broome Street and 55 feet along Watts Street, with a total lot area of 9,576 sq. ft.; and

WHEREAS, under the prior application, the site is the subject of a prior variance, dated August 8, 2006, under BSA Cal. No. 151-05-BZ for an eight-story building with 7.97 FAR and a height of 78'-9"; and

WHEREAS, the site before the Board was only lots 35 and 42 and was subject to a private agreement, with 125 Varick Street (and another nearby property) which restricted the building height to 80 feet above the level of the sidewalk of Varick Street (the "Height Limitation Agreement"); and

WHEREAS, the applicant states that subsequent to the Board's 2006 grant, it reached an agreement with its neighbors to eliminate the height agreement and, separately, purchased Lots 44 and 76; and

WHEREAS, the applicant then applied to DOB in 2009 and was approved to construct a hotel at the site as-of-right, but determined that such a proposal was not economically feasible; and

WHEREAS, the current application began with the applicant proposing a 14-story building with a total floor area of 95,760 sq. ft. (10 FAR) including residential 9.19 FAR, with a base that fully occupied the lot and would have risen without setback to the roof over the twelfth floor, at an elevation of 145 feet; it would then have set back 12 feet on Watts Street and 13 feet on Broome Street at that level and would have achieved a partial setback along the Varick Street frontage of 8 feet; the top two floors of the building would have achieved the final building height of 169 feet; the original proposal penetrated the sky exposure plane and encroached on the required setback at 85 feet on all three street frontages; and it included parking on a portion of the first floor (and a curbcut within 50 feet of an intersection, which was

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non-compliant with ZR § 44-43); and

WHEREAS, the applicant also originally sought in a companion application (BSA Cal. No. 110-12A) pursuant to Multiple Dwelling Law (MDL) § 310(2)(c) to permit certain rooms in dwelling units in the new building to obtain their light and air from windows that do not face upon a legal yard, court or area above a setback on the same zoning lot, contrary to MDL §§ 26(7)(a) and 30(2); and

WHEREAS, during the public hearing process, in response to comments received from the Board indicating that it would not support a new residential building with a total 10 FAR the applicant redesigned the proposed building to reduce its proposed FAR and to reorganize the configuration of the building; as modified, the proposal reflects 13 stories in a total height of 154 feet, with 96 dwelling units ranging in size from 530 sq. ft. to 1,030 sq. ft.; and two retail stores on the ground floor; and

WHEREAS, at the Board's direction, the applicant redesigned the building to comply with MDL requirements and ultimately withdrew the companion MDL application; and

WHEREAS, the new building has a total floor area of 76,608 sq. ft. with a resulting FAR of 8, of which 4,600 sq. ft. will be commercial (0.48 FAR) and 72,008 sq. ft. (7.52 FAR) will be residential; and

WHEREAS, the revised proposal provides a 17-ft. wide outer court along the Watts Street frontage, running north/south a distance of approximately 116 feet; the building rises without setback to the roof over the eleventh floor, at an elevation of 132 feet along both the Varick Street and Broome Street frontages; the building provides setbacks of 15 feet from the street line on each of Watts and Broome Streets and seven feet from the street line along the Varick Street frontage; the new building penetrates the existing sky exposure plane and encroaches on the required setback at 85 feet on all three street frontages; and

WHEREAS, the applicant now seeks relief in the form of a use and several bulk variances pursuant to ZR § 72-21 to permit: (1) residential use in the building, which is contrary to ZR §§ 42-11, 42-12 and 42-13; (2) encroachment on the setback that would ordinarily be required at 85'-0" and penetration of the sky exposure plane, contrary to ZR § 43-43; and (3) a curb cut that is within 50 feet of the corner of the intersection of Broome and Varick Streets, contrary to ZR § 44-582 for the proposed loading berth, rather than for parking; and

WHEREAS, accordingly, the owner now seeks a use variance from the Board, which would permit the construction of the proposed residential building; and

WHEREAS, the applicant states that the following are unique physical conditions which create an

unnecessary hardship in developing the site in conformance with applicable regulations: (1) the size and shape of the site and the presence of an alley easement along the eastern lot line; (2) poor soil conditions, a high water table, and the existence of rubble stone foundations on the adjacent property; (3) the presence of the Seventh Avenue subway along the Varick Street frontage; and (4) the testing and potential remediation of a buried gasoline tank; and

WHEREAS, as to the site's size and shape, the applicant states that the dimensions are 171 feet by 55 feet, with an alley easement along the eastern lot line which constrain as of right construction; and

WHEREAS, the applicant states that the presence of the historic alley, entered from Watts Street and wrapped around behind the four remaining three-story buildings fronting on Watts and terminating at a point inside the site, distorts what would otherwise have been a nearly rectangular lot; and

WHEREAS, the applicant states that the alley projects a distance of approximately 7'-6" into the interior of the lot at the rear and that it does not appear from the available records that the alley is owned by any one property owner on the block and, barring litigation to quiet title, must be maintained for the use of all property owners whose land touches the alley; and

WHEREAS, the applicant states that these conditions only allow for a single-loaded corridor (resulting in an inefficient floor plate) and a building aspect ratio in excess of 3 (creating significant engineering difficulties for shear wall design); and

WHEREAS, further, the applicant states that the narrowness of the site and the existence of the notch along the eastern property line, along with the subsurface conditions which the engineers for the project are required to manage (including the adjacency of the subway and rubble wall foundation) and the high building aspect ratio collectively result in significant inefficiencies in the building layout and in significant premium costs for the design and construction of foundations and superstructure; and

WHEREAS, the applicant asserts that it analyzed two options when considering constructing a complying hotel: the first was a standard complying scenario setting back above the sixth story and the second was a tower, as reflected in the conforming and complying scenario plans; in both scenarios, in order to achieve the most efficient possible layout, taking into account the presence of the notch, the elevators for the building were placed along the eastern property line; and

WHEREAS, as to the subsurface conditions, the applicant states that its engineers confronted several hardship conditions: (1) the geotechnical engineer discovered an unstable layer of peat located 17 feet to 21 feet below curb level, which led the structural engineers, to recommend drilled piles to support the

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structure, in order to reach stable bedrock; and (2) due to the presence of the subway tunnel along Varick Street, standard driven piles would not be viable; accordingly, a system of drilled piles, taken to bedrock at 100 feet, was initially considered but ultimately deemed cost prohibitive; and

WHEREAS, the applicant states that rather than using driven piles, the engineers designed a fully excavated foundation that required removal of the peat layer in its entirety and creation of a new stable substrata with three to four feet of crushed rock, compacted to achieve sufficient bearing capacity; the applicant states that this design necessitated excavation to a depth that was five feet greater than the depth that would have been required to accommodate a standard cellar and the four feet thick concrete mat slab that the engineers designed as the foundation alternative; and

WHEREAS, the applicant asserts that the deep excavation would be complicated by placement of the building's elevators along the eastern property line; the applicant states that the condition of the foundation of at least one of the adjacent properties is poor, because its foundations are not deep and one of the buildings has a rubble stone foundation (64 Watts Street); and

WHEREAS, the applicant asserts that special foundational requirements are necessary to protect the adjacent property on the east from the deep excavation, consisting of a secant wall system, which will act as a retaining wall at the site; and

WHEREAS, the applicant asserts that as excavation proceeds, the secant wall supports will require modification, soil compaction grouting will also be required, and in order to maneuver in the narrow site, portions of the secant wall will have to be removed as the foundation progresses, which increases the time required to pour the foundation, the number of steps in construction of each phase and, consequently, the foundation cost; and

WHEREAS, the applicant asserts that all of these elements impose a cost premium on the construction of the foundation; and

WHEREAS, further, the applicant asserts that the high water table complicates foundation construction as it is above the peat layer and at the level of the mat slab; and

WHEREAS, the applicant asserts that the high water table precludes the use of standard underpinning of the adjacent rubble wall foundation and necessitates the secant wall system; and that dewatering operations will also be required during excavation and foundation construction, all of which must meet the MTA's specifications; and

WHEREAS, the applicant asserts that the presence of water complicates the construction of the temporary shoring and permanent support for the

adjacent building; the finished basement will require permanent drainage and waterproofing to maintain a water free environment for the life of the building, and that these factors add more premium to the cost of foundation construction; and

WHEREAS, the applicant asserts that the building aspect ratio also imposes significant additional costs as a complying building on the site is a taller building, resulting in a building aspect ratio of more than 3.8; and

WHEREAS, the applicant asserts that a building designed to comply with setback requirements would present significant problems for shear and wind loads, adding to both engineering and superstructure costs; the original tower design had two shear walls built into it: one at the elevator core and a second at the eastern wall, along the building's single corridor; and

WHEREAS, the applicant asserts that building a shorter building, in the form proposed, allows a single exterior wall to function as the shear wall for wind loading purposes; and

WHEREAS, further, the applicant asserts that if a building were to conform to required setbacks and the sky exposure plane along Varick Street, the resulting width of the building would produce a floor plate that is 40 feet deep at the point of initial setback, with additional setbacks required at the top of the building to comply with the sky exposure plane; and

WHEREAS, the applicant asserts that simultaneously, the building would be pinched in the middle by the seven-ft. incursion of the notch representing the vestigial remainder of the alley; and

WHEREAS, accordingly, the applicant asserts that the site's conditions mandate that the building have a single-loaded corridor (which is necessary even with the relief requested on this application), resulting in an inefficient floor layout; and

WHEREAS, the applicant asserts that a complying building would have a net useable to gross floor area ratio of 72.19 percent with a loss factor of nearly 28 percent while the proposed building would have a net useable to gross floor area ratio of 83 percent, reducing the loss factor to 17 percent; and

WHEREAS, the applicant asserts that the proposed building reduces premium costs, by reducing the height, the location and size of setbacks, and increasing the size of upper floors for a more efficient floor layout; and

WHEREAS, the applicant performed an analysis of the area in order to evaluate the uniqueness of its site conditions and identified all sites that would be considered soft sites for future development (including potential assemblages) in the study area, as well as sites of recent construction within the past 30 years that are within or at the edge of the 400-ft. radius of the site; and

WHEREAS, the applicant assert that its study reflects that only the subject site was burdened by the

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combination of factors that give rise to the owner's claim of uniqueness in this case; none of the buildings within the radius and constructed within the past 30 years shared all of these factors; for example, the Trump Soho site, at 246 Spring Street, is outside the historic marshland shown on the Viele Map; the Hampton Hotel at 52 Watts Street is not irregular and has a building aspect ratio of only 2.5; the building at 57 Watts Street is on a large lot with a 25-story tower completed in 1992, that shares the characteristics of the site, except irregularity, but has a building aspect ratio of only 2.23; 80 Varick Street was a building constructed in the 1920's but converted to residential use pursuant to a variance granted in 1978; and 66 Charlton, at the northern edge of the Study Area, shares none of the characteristics with the site; and

WHEREAS, the applicant asserts that, similarly, none of the potential development and assemblage sites in the study area have the same combination of former marshland subsurface adjacencies with the subway on one side and a fragile rubble wall on the other, a high building aspect ratio and an irregular lot; and

WHEREAS, the applicant asserts that with respect to the request for waiver to the regulations prohibiting curb cuts within 50 feet of a corner, the owner has no option to provide an alternative, given the shallow depth from Varick Street; and

WHEREAS, the applicant represents that DOB approved the curbcut associated with the as-of-right hotel project, under its authority and that it could seek DOB's authority to do so for the proposed residential building, but has included the waiver request as part of the variance application; and

WHEREAS, finally, the applicant asserts that there is likely but unknown mitigation associated with the underground storage tanks that have never been removed and may have been affected by the high water table; no record exists that these tanks, installed long before either the state or federal government imposed any significant regulation on underground storage tanks, were ever closed or removed when the site was redeveloped (without a basement or cellar) in the early 1960's; and

WHEREAS, the applicant states that the environmental consultant estimates that remediation costs associated with these tanks could run from as low as \$50,000 to study and remove (if there have been no leaks) to \$1,000,000, if the tanks leaked into the water table and the plume migrated off-site; and

WHEREAS, the Board does not view the foundation conditions on the adjacent site to be a unique condition and it cannot credit the supposition that there is contamination at the site, without any evidence; and

WHEREAS, however, the Board does view the configuration of the site, the subsurface conditions

(including high water table), and the presence of the subway as legitimate unique physical conditions, in the aggregate; and

WHEREAS, based upon its review of the submitted radius diagram and its site and neighborhood inspection, the Board observes that the conditions in the aggregate are relatively unique within the area; and

WHEREAS, based upon the above, the Board finds that the site conditions create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility study analyzing: (1) an as-of-right hotel, (2) a complying residential scenario, and (3) the original proposal for a 10 FAR residential building; and

WHEREAS, the applicant determined that only the original proposal for a 10 FAR residential building would realize a reasonable rate of return; and

WHEREAS, the applicant asserts that although all of its proposed scenarios assumed that the Height Limitation Agreement had been extinguished, none included the actual cost paid to other parties to extinguish the agreement; and

WHEREAS, at hearing, the Board directed the applicant to analyze an 8.0 FAR and 7.52 FAR lesser variance alternative for a residential building; and

WHEREAS, after revising its methodology, at the Board's direction, to consider a comparison of capitalized net operating income to development costs, rather than a return on equity, the feasibility study reflected that the proposed 8.0 FAR alternative would realize a reasonable rate of return, but the 7.52 FAR alternative would not; and

WHEREAS, based upon its review of the subsequent submissions, the Board has determined that because of the site's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the immediate area surrounding the site contains significant residential use, notwithstanding the manufacturing zoning classification; and

WHEREAS, the applicant specifically cites to lots on the subject block occupied by residential use, as well as residential uses on Blocks 491 and 578, located to the north and west of the site; and

WHEREAS, in support of the above statements, the applicant submitted a land use map, showing the various uses in the immediate vicinity of the site; and

WHEREAS, as to the subject site, itself, the applicant states that two of the lots incorporated in the

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zoning lot were historically used primarily for residential use, with only ground floor commercial use; and

WHEREAS, the applicant asserts that many of the buildings on Varick Street and in the vicinity of the New Building are substantial in size, including 75 Varick Street, southwest of the New Building, at 20 stories, to Trump Soho at the north end of the study area, with 42 stories; and

WHEREAS, the applicant asserts that the existing built fabric of the neighborhood is dense, consistent with its 10 FAR and printing house history; and

WHEREAS, the applicant asserts that on the subject block, there is an 18-story hotel, completed in 2008, and in the block immediately south of the site is a 23-story commercial building that was constructed between 1989 and 1992; and

WHEREAS, the applicant asserts that the mixed character and dense bulk of the surrounding area are recognized in the proposed Rezoning; and

WHEREAS, the applicant notes that the Rezoning proposes to permit residential use throughout the rezoning area, which will reach from Canal Street to West Houston Street, Avenue of the Americas to the east side of Greenwich Street, and that most of the Rezoning area will be zoned to permit an FAR of 10 for non-residential uses and 9 (bonusable to 12 for inclusionary housing) for residential use; and

WHEREAS, the applicant notes that, under the Rezoning, the anticipated maximum building height will be 320 feet with base heights of between 125 and 150 feet on wide streets and 60 and 125 feet on narrow streets more than 100 feet from a wide street; the required setback distance above the base height would be 10 feet on a wide street and 15 feet on a narrow street; and

WHEREAS, the applicant notes that a subdistrict has been proposed to maintain the smaller buildings in the area, but asserts that the purpose of the subdistrict is to address preserving the existing smaller scale buildings and not limiting the height for vacant sites, like the subject one; and

WHEREAS, the applicant states that it is expected that the Rezoning, which was certified into ULURP in August 2012, is expected to become final before the end of March 2013, and the revised form of the application, without the downzoning subdistrict component, which the Community Board rejected, will be approved; and

WHEREAS, the applicant asserts that the proposal is mostly consistent with the proposed Rezoning regulations, although it is of lesser bulk and does not maintain the street wall along Watts Street due to structural requirements; and

WHEREAS, the applicant asserts that the curb cut

is necessary, even without parking at the site, in order to accommodate drop offs and loading and unloading to the site given the heavily-trafficked area, where such required vehicle access would otherwise be infeasible and onstreet drop off would hinder the flow of traffic; and

WHEREAS, the applicant asserts that its proposed construction plan reflects a sensitivity to the conditions on adjacent sites; and

WHEREAS, the Board agrees that the area is best characterized as mixed-use, and that the proposed residential use is compatible with the character of the community and the proposed Rezoning; and

WHEREAS, the Board finds that the proposal, with the noted setbacks, FAR reduction, and first floor commercial use are compatible with the neighborhood context and result in a use and building form that is consistent with the proposed rezoning; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, as noted above, the applicant originally proposed a 14-story, 10 FAR building with 95,760 sq. ft. of floor area and parking on the first floor; and

WHEREAS, the Board expressed its dissatisfaction with this proposal at the first hearing, given that it reflected a degree of relief not consonant with the amount of hardship on the site; and

WHEREAS, as noted above, the Board recognized that the 8 FAR scheme was compatible with the context of the neighborhood; and

WHEREAS, the Board has reviewed the revised feasibility analysis and agrees that the 8.0 FAR scenario represents the degree of relief necessary to overcome the site's inherent hardship; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement ("EAS") CEQR No. 12BSA068M, dated January 30, 2013; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and

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Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the New York City Landmarks Preservation Commission (“LPC”) reviewed the project for potential archaeological impacts and requested that an archaeological documentary study (Phase IA) be submitted for review and approval; and

WHEREAS, based on LPC’s review and approval of the Phase IA Report, a Phase IB Archaeological Field Investigation Report was requested; and

WHEREAS, based on LPC’s review of the Phase IB Archaeological Field Investigation Report, the proposed project is not anticipated to result in significant archaeological impacts; and

WHEREAS, the New York City Department of Environmental Protection’s (DEP) Bureau of Environmental Planning and Analysis reviewed the project for potential hazardous materials, air quality and noise impacts; and

WHEREAS, DEP reviewed and accepted the January 2013 Remedial Action Work Plan and site-specific Construction Health and Safety Plan; and

WHEREAS, DEP requested that a Remedial Closure Report be submitted to DEP for review and approval upon completion of the proposed project; and

WHEREAS, DEP reviewed the applicant’s November 2012 stationary source air quality screening analysis and determined that the proposed project is not anticipated to result in significant stationary source air quality impacts; and

WHEREAS, DEP reviewed the results of noise monitoring and determined that a minimum of 35 dBA window-wall noise attenuation and an alternate means of ventilation should be provided in the proposed building’s residential units in order to achieve an interior noise level of 45 dBA; and

WHEREAS, DEP determined that, with these noise measures, the proposed project is not anticipated to result in significant noise impacts; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance

**A true copy of resolution adopted by the Board of Standards and Appeals, February 5, 2013.
Printed in Bulletin No. 6, Vol. 98.**

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an M1-6 zoning district, a 13-story residential building, with 96 dwelling units, commercial use on the first floor, and a curb cut within 50 feet of the intersection, which is contrary to ZR § 42-10, 43-43, and 44-582, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received January 10, 2013” – twelve (12) sheets; and *on further condition*:

THAT the bulk parameters of the proposed building shall be as follows: a total floor area of 76,608 sq. ft., a total FAR of 8 (residential FAR of 7.52 and commercial FAR of 0.48), 13 stories, 154'-0" building height, 96 residential units, and setbacks, all as illustrated on the BSA-approved plans;

THAT all residential units shall comply with all Multiple Dwelling Law requirements as to provision of light and air;

THAT DOB shall not issue a Certificate of Occupancy until the applicant has provided it with DEP’s approval of the Remedial Closure Report;

THAT the sound attenuation measures in the proposed building will be maintained as reflected on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings 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, February 5, 2013.