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BOARD OF STANDARDS AND APPEALS

MEETING OF: May 19, 2025
CALENDAR NO.: 156-03-BZ & 127-15-BZ
PREMISES: 135-35 Northern Boulevard, Queens
Block 4958, Lot 38

ACTION OF BOARD — Application granted on condition.

THE VOTE —

Affirmative: Chair Chanda, Vice-Chair Scibetta,
Commissioner Sheta, and Commissioner Yoon.....4
Negative:.....0
Absent: Commissioner Ottley-Brown.....1

THE RESOLUTION —

I. The Request

The decision of the Department of Buildings (“DOB”), dated April 30, 2024, acting on DOB Job No. 401622669, states, in pertinent part:

ZR 23-151: Proposed residential FAR exceeds permitted residential FAR for an R6 zoning district contrary to ZR 23-151.

ZR 35-311(d): Proposed total FAR for all uses exceeds the maximum permitted FAR for the zoning lot contrary to ZR 35-311(d).

ZR 23-22 & ZR 35-40: Proposed number of dwelling units exceeds maximum permitted for the zoning lot contrary to ZR 23-22 and ZR 35-40.

ZR 23-471: Proposed building does not meet requirement for rear yard contrary to ZR 23-471.

ZR 23-151 & ZR 35-32: Proposed open space for residential portion of the building does not meet requirements for open space and open space ratio contrary to ZR 23-151 and ZR 35-32.

ZR 61-21: Proposed maximum building height exceeds the maximum permitted building heights for new buildings in an Airport Approach District contrary to ZR 61-21.

ZR 32-421: Proposed commercial uses on the 2nd floor contrary to ZR 32-421.

This is an application for a waiver of the Board’s Rules of Practice and Procedures (“Board’s Rules”); an extension of time to complete construction and obtain a certificate of occupancy pursuant to a

variance, previously granted under Z.R. § 72-21, which originally permitted development of a 200-unit, 17-story, mixed-use commercial/community facility / residential condominium building that would exceed the maximum floor area ratio (“FAR”) and provide less than the minimum open space ratio (“OSR”) and parking spaces, and a special permit, previously granted under Z.R. § 73-66, which permitted construction of a 16-story, mixed-use commercial/community facility/residential building that would exceed the maximum height limits around airports; and an amendment to the same.

A public hearing was held on this application on November 6, 2024, after due notice by publication in *The City Record*, with continued hearings on January 27, 2025, March 24, 2025, and April 7, 2025, and then to decision on May 19, 2025. Chair Chanda, Vice-Chair Scibetta, Commissioner Ottley-Brown, and Commissioner Yoon performed inspections of the Premises and surrounding area.

Community Board 7, Queens, recommends denial of this application, stating concerns about delayed construction of previously approved building designs and the proposed inclusion of 16,000 square feet of medical, community-facility use in the proposed building, which it contends would conflict with neighborhood character and increase traffic.

II. Location

The Premises are an irregularly shaped interior lot located on the north side of Northern Boulevard, between Prince Street and Farrington Street, within a C2-2 (R6) zoning district, in Queens. With approximately 150 feet of frontage along Northern Boulevard, 15 feet of frontage along Farrington Street, and 41,924 square feet of lot area, the Premises are currently occupied by a black-box enclosure, which contains the walls, floor, and ceiling of the subject interior landmark-registered theater, and are otherwise vacant.¹

III. Board History

The Board has exercised jurisdiction over the Premises since December 13, 2005, when, under BSA Cal. No. 156-03-BZ, the Board granted a variance to permit, within a C2-2 (R6) zoning district, the development of a 200-unit, 17-story, mixed-use commercial / community facility / residential condominium building, with ground level retail, second-floor community space, and 229 accessory parking spaces in a three-level, below-grade parking garage, which exceeds the maximum permitted residential and total mixed-use floor area ratio

¹ The applicant represents and has submitted Landmarks Preservation Commission Certificates of Appropriateness and a preservation status report demonstrating that it is temporarily storing, restoring, and preserving the remaining elements of the interior landmark-theater at an off-site location.

(“FAR”), and provides less than both the required open space ratio (“OSR”) and the required amount of accessory parking, contrary to Z.R. §§ 23-142, 35-31, and 36-20, on condition that all work substantially conform to the BSA-approved plans; a total of 229 attended parking spaces be provided in the accessory parking garage; the above condition be listed on the certificate of occupancy; prior to the issuance of any DOB permit for any work on the site that would result in soil disturbance (such as demolition, site preparation, grading or excavation), the applicant or any successor perform all of the hazardous materials remedial measures and the construction health and safety measures as delineated in the Restrictive Declaration to the satisfaction of the Department of Environmental Protection (“DEP”) and submit a written report that must be approved by DEP; no temporary or permanent certificate of occupancy be issued by DOB or accepted by the applicant or successor until the DEP has issued a Final Notice of Satisfaction or a Notice of No Objection indicating that the measures and conditions in the Restrictive Declaration have been completed to the satisfaction of DEP; construction materials and windows that provide at least 35 dBA of attenuation with alternate means of ventilation be used in order to maintain an interior noise level of 45 dBA; the applicant notify the Department of Transportation (“DOT”) six months prior to the opening of the proposed project so that they can investigate the feasibility of implementing improvement measures; the applicant submit the following documents to the Landmarks Preservation Commission (“LPC”) for review and approval prior to any demolition, construction, or development on the subject site: Construction Protection Plan for the interior landmark; an amended “Data Recovery” section of the Revised Mitigation Plan that shall read: “The scope of work for HABS documentation shall be submitted to the LPC for review and approval prior to the demolition and the start of the documentation process;” and a revised Environmental Assessment Statement (“EAS”) stating that any written approvals by the LPC Preservation Department be included in the Final EAS; a copy of Certificate of Appropriateness 06-1202 for the subject property issued on September 6, 2005, be included in the final EAS, as well as a Scope-of-Work for HABS documentation; the applicant submit the Scope-of-Work for HABS documentation to LPC for its review and approval prior to demolition and the start of the documentation process; the bulk parameters of the proposed building be as follows: (1) a residential FAR of 5.64 (245,798 square feet of zoning floor area); (2) a total FAR of 7.5 (314,127 square feet of zoning floor area); (2) [sic] an OSR of 4.86%; (3) 17 stories; (4) a total building height of 164'-11" without bulkheads and 174'-11" with bulkheads; (5) a street wall height of 41'-0"; and (6) an actual height for flight path purposes of 194.9 feet, AMSL; the interior layout, parking layout, and all exiting requirements be as reviewed and approved by DOB; the approval be limited to the relief granted by the Board in response to

specifically cited and filed DOB/other jurisdiction objection(s) only; the approved plans be considered approved only for the portions related to the specific relief granted; and DOB ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws irrespective of plan(s) and/or configuration(s) not related to the relief granted.

On May 29, 2007, under BSA Cal. No. 156-03-BZ, the Board permitted, by letter, modifications to the previously approved plans, including to concentrate larger units on the lower floors and smaller units on the upper floors, with no change in use, total number of units, building height, or FAR, as in substantial compliance with the Board's variance, on condition that DOB ensure compliance with all applicable provisions of the Zoning Resolution, Building Code, or any other relevant law and, to the extent the proposed changes did not meet the noted conditions or triggered any non-compliance, then the Board's determination have no effect.

On January 12, 2010, under BSA Cal. No. 156-03-BZ, the Board extended the time to complete construction for two years, to expire on January 12, 2012, on condition that substantial construction be completed by January 12, 2012; all conditions from prior resolutions not specifically waived by the Board remain in effect; the approval be limited to the relief granted by the Board and specifically cited and filed DOB/other jurisdiction objection(s) only; and DOB 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) and/or configuration(s) not related to the relief granted.

On July 12, 2011, under BSA Cal. No. 156-03-BZ, the Board amended the variance to permit modifications to the previously approved plans, including (1) an increase in the number of dwelling units from 200 to 357, (2) a reduction in average unit size from 1,437 square feet to 787 square feet, (3) an increase in the number of accessory parking spaces from 229 to 385, (4) a reduction in the residential floor area from 287,313 square feet to 280,810 square feet and an addition of a retail mezzanine between the first and second floors and an associated increase in commercial floor area from 10,957 square feet to 17,460 square feet, (5) the relocation of the community facility floor area from the second floor to the third floor, (6) a reduction in rear yard depth from 31'-5" to 30'-0", and (7) a reduction in the initial setback distance from 20'-0" to 15'-0", on condition that all work substantially conform to the BSA-approved plans; all conditions from prior resolutions not specifically waived by the Board remain in effect; the approval be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and DOB ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant

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laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

On January 31, 2012, under BSA Cal. No. 156-03-BZ, the Board extended the time to complete construction for four years, to expire on January 31, 2016, on condition that substantial construction be completed by January 31, 2016, Federal Aviation Administration (“FAA”) approval be in effect at the time DOB issues a building permit; all conditions from prior resolutions not specifically waived by the Board remain in effect; the approval be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and DOB 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.

On October 27, 2015, under BSA Cal. No. 156-03-BZ, the Board extended the time to complete construction for four years, to expire on October 27, 2019, and amend the variance to permit modifications to the previously approved plans, including (1) an increase in building height by 11'-7" measured to the roof and 14'-3" measured to the top of the bulkhead, from 194.75 feet to 209 feet (AMSL, NAVD), (2) a reduction in the number of dwelling units from 357 to 269, (3) a change from rental units to condominium units, and (4) a redesign of the entry façade on Northern Boulevard, on condition that all work substantially conform to the BSA-approved plans; all conditions from prior resolutions not specifically waived by the Board remain in effect; the approval be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and DOB 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) and/or configuration(s) not related to the relief granted.

On that same day, under BSA Cal. No. 127-15-BZ, the Board granted a special permit, pursuant to Z.R. § 73-66, to permit, within a C2-2 (R6) zoning district, the construction of a 16-story, mixed-use commercial / community facility / residential building which exceeds the maximum height limits around airports, contrary to Z.R. §§ 61-21 and 61-22, on condition that all work substantially conform to the BSA-approved plans; the maximum height of the buildings, including all appurtenances, be 209'—(AMSL (equivalent to NAVD-88)) at FAA Building Points 2, 3, 6, and 7; and 200'-1" (AMSL (equivalent to NAVD-88)) at FAA Building Points 1, 4, 5, and 8; the proposed building be marked/lighted in accordance with FAA Advisory Circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, red lights—Chapters 4, 5 (Red), and 12; the relief granted be only that associated with Z.R. § 73-66 and all construction at the site be as approved by DOB and must comply with all relevant Building Code and zoning district

regulations; the applicant comply with all FAA notification requirements associated with the construction at the site including, without limitation, the applicant file FAA Form 7460-2, Notice of Actual Construction or Alteration in the event the project be abandoned as well as at least 10 days prior to the start of construction and within 5 days after construction reaches its greatest height; substantial construction be completed in accordance with Z.R. § 73-70; the approval be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; the approved plans be considered approved only for the portions related to the specific relief granted; and DOB ensure compliance with all 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.

On February 5, 2019, under the subject calendar numbers, the Board extended the time to complete construction for four years, to expire on October 27, 2023, on condition that substantial construction be completed by October 27, 2023, as evidenced by inspection and determination by DOB; prior to the start of demolition work at the Premises, the applicant provide necessary access to and obtain all necessary sign-offs from the Fire Department, including sign-off for the installation /restoration of an appropriate wet or dry standpipe system; all conditions from prior resolutions not specifically waived by the Board remain in effect; the approval be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and DOB 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.

IV. Proposal

A. Project Description

The applicant now seeks to amend the variance and special permit to facilitate an enlargement and alteration of the proposed building. The applicant indicates that it would make the following changes:

- increase building height (to the parapet) from 209' to 216.84';
- increase roof height from 195'-7" to 204.68';
- increase the number of stories from 16 to 17;
- increase the total proposed, combined residential / community facility / and commercial floor area from 314,127 square feet (7.5 FAR) to 314,431 square feet (7.5 FAR), including to:

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- increase residential floor area from 280,810 square feet (6.70 FAR) to 284,414 square feet (6.78 FAR);
- increase community facility floor area from 15,857 square feet (0.39 FAR) to 16,400 (0.39 FAR); and
- decrease commercial floor area from 17,460 square feet (0.41 FAR) to 13,617 square feet (0.32 FAR);
- decrease open space from 4.86% to 3.62%; and
- decrease parking spaces from 305 to 238, which the applicant represents, pursuant to Z.R. § 36-21 and 25-222, would no longer require a waiver.

The applicant submits that the proposed amendment is necessary because the subject hardship of undertaking protection, offsite restoration, and preservation of the subject interior landmark's historic resources has generated premium construction costs that have delayed construction and rendered the previously approved building design financially inviable. The applicant also asserts that the previously proposed parking garage, which relies on a vehicle turntable, is no longer practicable and the planned vehicular ingress to the building would result in additional traffic along Northern Boulevard. Accordingly, the applicant seeks the noted modifications.

In the subject C2-2 (R6) zoning district, a mixed-use residential, community facility, and commercial, height-factor building, on a lot that is neither a corner lot nor a through lot, such as the proposed development at the subject Premises, must not exceed a maximum total FAR of 4.8 (Z.R. § 35-31), consisting of a maximum residential FAR of 2.30 (Z.R. § 23-732), maximum community facility FAR of 1.0 (Z.R. §§ 33-121 and 35-33), maximum commercial FAR of 2.0 (Z.R. § 33-121), and overall maximum FAR of 4.8, thereby limiting the full build-out of the separate uses' maximum FARs to a combined total of 4.8 (Z.R. § 35-31); must have a minimum OSR of 31%; must not exceed a maximum dwelling-unit quantity of 142 (Z.R. §§ 23-52 and 35-40); must provide a rear yard, with a minimum depth of 20 feet at or below a height of 75 feet and a minimum depth of 30 feet above a height of 75 feet, where the portion of a side lot line beyond 100 feet of the street line that it intersects, which shall be considered a rear lot line, coincides with a rear lot line of an adjoining zoning lot; and must not exceed a maximum height in an Airport Approach District of 149'-1" feet in NAVD88 (Z.R. § 61-21). Accordingly, the applicant seeks the relief requested herein.

The applicant also seeks an extension of time to complete construction and obtain a certificate of occupancy. The reason for the delay, the applicant represents, is again that the hardship that the Board recognized in its grant of the previously approved variance has driven premium costs and construction delays due to the requirements

to preserve some interior landmark features on location at the Premises and to restore and preserve other landmark features off site. The applicant states that it requires an additional four years from the date of this instant grant and it submitted a construction timeline representing that it would complete construction and obtain a certificate of occupancy for the development by approximately February 2029.

Finally, because this application was filed more than two years but less than ten years after the expiration of the term, the applicant requests a waiver, pursuant to § 1-14.2 of the Board's Rules, of § 1-07.3(c)(2) and (d)(2) of the Board's Rules to permit the filing of this application.

B. Findings

The applicant submits that the proposed project, as amended, would yield findings in satisfaction of both the subject Z.R. § 72-21 variance and Z.R. § 73-66 special permit, as well as the general special permit findings of Z.R. § 73-03.

1. Variance Findings

The applicant first represents that the subject hardship of protecting and restoring the interior landmark and the combination of its location on the site and the site's limited frontage continue to obtain. Moreover, the applicant contends that this hardship has generated premium construction costs that drive the instant request for modified waivers. Therefore, the applicant maintains that the amended variance would continue to satisfy Z.R. § 72-21(a).

The applicant next asserts that its Financial Feasibility Analysis ("Analysis") demonstrates that its project would satisfy Z.R. § 72-21(b). Specifically, the Analysis indicates that the previously approved building would generate an annualized return on total investment ("return") of 6.24%, which the applicant contends is below the level necessary to justify an investment, particularly given the risks associated with the subject hardship, and thereby it would not be a feasible project. In contrast, the Analysis shows that the proposed development would generate a return of 6.57%. The applicant contends that this is a reasonable increase in return that would compensate for the incurred premium costs and expected risk and would facilitate successful construction of the proposed mixed-use development.

The applicant further claims that the instantly proposed building would satisfy Z.R. § 72-21(c). In support, the applicant submitted a Neighborhood Character Study consisting of an FAR Study and an OSR Study which surveyed lots within a 400-foot radius and a Building Height Study that assessed buildings on lots within 500- and 1,000-foot radii of the Premises, all excluding the subject lot (the "Study

Area(s)"). The Building Height Study shows that, of a total of approximately 81 existing buildings on lots within the 500-foot Study Area, 6 (7.4%) have a height of 100 feet or greater; and of a total of approximately 298 buildings on lots within the 1,000-foot Study Area (including those that are existing, under-construction, or approved to be built), 20 (6.7%) have an existing or approved height of 1000 feet or greater, ranging from 100 to 201 feet. The FAR Study indicates that, of a total of approximately 64 lots within the Study Area, 7 (10.9%) have an FAR equal to or greater than the maximum combined community facility, commercial, and residential use FAR for the subject site of 4.8, ranging from 4.8 to 7.49 FAR. Next, the OSR Study illustrates that, of a total of approximately 64 lots within the Study Area, 52 (81.3%) have an OSR that is equal to or lower than the subject minimum OSR of 31% and 28 (43.8%) have an OSR that is equal to or less than the proposed OSR of 3.62%, ranging from 3% to -7%. Moreover, the applicant contends that, notwithstanding the text amendment's reduction of the required number of parking spaces for the Premises to 204 parking spaces, the applicant reiterates that it proposes to provide 238 off-street parking spaces and would provide an in-building porte cochere and reservoir space to ensure that vehicles would queue within the proposed building rather than along Northern Boulevard and minimize any effects on local parking and traffic.

The applicant also maintains that, as found in the prior grant, the hardship claimed herein was not created by the owner or a predecessor in title, as required pursuant to Z.R. § 72-21(d).

Regarding Z.R. § 72-21(e), the applicant declares that it has tailored the proposed amended development to be the minimum necessary to achieve a reasonable return. The applicant again cites its Analysis, which states that the proposed development would provide a 6.57% annualized return on total investment, which the applicant represents would be 0.34% more than the previously approved building's projected return of 6.24%. The applicant also contends that this instant application is a lesser variance than the previously approved project, as this instant project would not require a waiver of parking requirements. Thus, the applicant concludes that the proposed development would be the minimum necessary to obtain relief.

2. Special Permit Findings

The applicant represents that, as required by Z.R. § 73-66, the proposed enlargement would not constitute a hazard (either under the existing layout of the airport or under any planned reorientation or lengthening of the airport runways) to the safety of the occupants of such proposed building, to other buildings in the vicinity or to the safety of air passengers, and would not disrupt established airways. In support, the applicant submitted a revised site plan, with elevations, showing the proposed building or other structure in relation to

maximum height limits, and a Special Aeronautical Study (“SAS”) which analyzed whether construction of the proposed 217-foot AMSL building, within the defined property areas, would create an adverse impact to air navigation. The applicant first explains that the subject site is located within the inner section of the Approach Surface for Runway 31 at LaGuardia Airport (“Approach Surface”). The applicant notes, as described in the SAS, the following details regarding the Approach Surface its relation to the Premises and proposed building:

- The Approach Surface extends from a point 200 feet outbound of the east end of Runway 31 for a distance of 10,000 feet.
- The Approach Surface is 1,000 feet wide at the point closest to the runway and increases in width until reaching a width of 4,000 feet at a distance of 10,000 feet from the starting point.
- This trapezoidal surface, which starts at an elevation of 5 feet, rises at a slope of 1 foot for every 50 feet of horizontal distance such that at 10,000 feet, the imaginary surface rises 200 feet above runway elevation (the Approach Surface continues to rise at a slope of 1 foot for every 40 feet in its outer section).
- The point at the Site which is closest to Runway 31 is located 7,179.71 feet from the start of the Approach Surface, such that the allowable height, based on factors set forth in the Zoning Resolution, is 148 feet.
- While the proposed development would exceed that height, the SAS notes that the Federal Aviation Administration (“FAA”) does not protect for a 1:50 approach Surface at LaGuardia Airport; rather, the calculation of allowable height based upon 34:1 Approach Surface slope and the FAA-published elevation of Runway 31 (6.7 feet) yields an allowable height of 217.86 feet.
- The SAS concludes that the Proposed Development does not exceed the Runway 31 34:1 approach surface and that the maximum allowable height range for the 34:1 approach is 217 to 224 feet.
- The SAS also notes that there are existing penetrations to the 34:1 surface so obstruction marking and lighting typically offers sufficient mitigation for a penetration to this surface.

Moreover, the applicant asserts that the SAS demonstrates that the proposed development may be constructed within the circling district. The applicant first defines the airport circling district as the area below the flight path of an aircraft making a circling approach to land at a specific airport and states that it comprises that portion of the horizontal surface and conical surfaces that do not coincide with the approach district. The applicant further describes LaGuardia Airport’s horizontal surface as an imaginary horizontal plane located

150 feet above the airport reference point elevation for LaGuardia Airport and it extends outward from that point on a radius of 10,000 feet. The applicant clarifies that the subject site is located beyond the 10,000-foot radius distance from the LaGuardia Airport reference point and thereby the Premises are not located within the horizontal surface as defined in the Zoning Resolution.

Next, the applicant defines LaGuardia Airport's conical surface as an imaginary inclined surface extending upward and outward from the edge of the horizontal surface, rising 1 foot for every 20 feet of horizontal distance, and it extends 15,000 feet from the LaGuardia Airport reference point. The applicant thus notes that, while the subject site is located within the conical surface area, the SAS finds that, as the maximum allowable height range of the subject property within this surface is 255 to 266 feet, the proposed building would not exceed this surface.

Furthermore, the applicant asserts that the FAA has issued Determinations of No Hazard to Air Navigation ("FAA Determinations") for Building Points A, AS, AV and D and the applicant has submitted copies of such determinations in support of this subject application. The applicant states that each of the determinations find that the SAS has revealed that the proposed structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Moreover, the applicant notes that, as a condition of the FAA Determinations, the proposed development would be marked/lighted in accordance with FAA Advisory circular 70/7460-1 M Change 1, Obstruction Marking and Lighting, red lights-Chapters 4,5 (Red) & 15. The applicant also submitted a letter of the Port Authority of New York and New Jersey ("Port Authority"), dated December 5, 2024, which states, in pertinent part, that Port Authority has no additional comments on the FAA Determinations for the proposed development. Accordingly, based upon the SAS, FAA Determinations, and Port Authority letter, the applicant concludes that the proposed project satisfies the findings of Z.R. § 73-66.

In addition to the foregoing, the Board notes that this application to amend the subject special permit is also subject to and guided by Z.R. §§ 73-01 through 73-04, including the general findings of Z.R. § 73-03, and the applicant represents that the subject application materials demonstrate compliance with all applicable general findings.

Accordingly, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantages to the community at large due to this special permit is outweighed by the advantages to be derived by the community, and the proposed project will not interfere with any pending public improvement project.

V. Board Review

In response to Board questions regarding the scope of the initially proposed amendment, which sought to increase the FAR from 7.5 to 7.99 and the density from 269 to 275 dwelling units, the applicant reduced the floor area to 7.5 FAR and the density to 269 dwelling units. The applicant explains that it reduced the floor area through a deduction for *ultra low energy buildings* as defined in Z.R. § 12-10 and permitted by subsection (15) of the enumerated exclusions from floor area within the Z.R. § 12-10 *floor area* definition, which excludes floor space within an ultra low energy building “of an amount equivalent to five percent of the *floor area* located within such *building*” exclusive of any floor space otherwise excluded from floor area (*see* Z.R. § 12-10 for full definitions of all italicized terms). The applicant notes that the parameters of 7.5 FAR and 269 dwelling units exactly match the FAR and dwelling-unit parameters that the Board previously approved.

The applicant also explains that the 2024 City of Yes Zoning Resolution text amendments modified applicable parking regulations, resulting in a minimum parking space quantity of 204, which is 181 less spaces than the pre-text amendment minimum of 385. Thus, the applicant represents, the Zoning Resolution permits a reduction of the total number of proposed parking spaces for the proposed building from the previously approved 305 spaces to the instantly proposed 238 spaces, thereby eliminating a previously required waiver. The applicant notes that this instant proposal nonetheless seeks 34 parking spaces more than the current minimum. The applicant contends, therefore, that these additional parking spaces, in conjunction with the proposed design of the development’s parking and circulation space, would minimize the proposed development’s traffic and parking effects.

Finally, in response to Board questions and directions for the Financial Analysis (under Z.R. § 72-21(b)), the applicant addressed the following in its Analysis:

- (1) sales period details, including median sales prices and average length of time to sell condominium units in the market area of Flushing, Queens, and the projected changes to the proposed development’s anticipated return based upon the variable of the length of the sales period;
- (2) a comparison of the previously approved design and instantly proposed design using the same assumptions that have been factored into the Analysis;
- (3) a review of the proposed stacking plan, details of outdoor sales prices, and analyses of these details for both the previously approved design and the subject proposed design;
- (4) a detailed analysis of the factors contributing to the unviability of the previously approved building (in addition to the premium

costs and risks associated with the subject hardship) including the following:

- (a) fewer condominium amenities in the previous design than in the subject proposed design,
 - (b) lower sales prices resulting from the previous design's fewer amenities, and
 - (c) the previous design's inefficient turntable parking system and lack of capacity for free-flowing movement of vehicles;
- (5) an analysis of the project's satisfaction of Z.R. § 72-21(e) from a financial perspective, including discussion of the unique level of risk associated with the subject landmark-based hardship;
 - (6) the financial suitability of the subject proposed design's revised parking layout;
 - (7) a clarification that construction loan interest was only calculated on costs provided by the subcontractors that would perform the landmark preservation and restoration work and a note that no construction loan interest was calculated on the estimated hard costs;
 - (8) removal from the Analysis of the rent-up interest, operating expenses to be paid by the developer during the rent-up period, and real estate taxes to be paid during the rent-up period; and
 - (9) revisions to the Analysis to account for the changes to the proposed design over the course of this subject amendment application, including FAR, dwelling unit quantity, and parking spaces.

Accordingly, the applicant represents that the previously approved design would not yield a reasonable return on investment and the proposed design is the minimum necessary to afford relief.

VI. Environmental Review

This amendment is classified as a Type II action pursuant to Section 617.5 of 6 NYCRR. To confirm project impacts at the request of the Board, the applicant submitted a Final Technical Memorandum ("Tech Memo"), dated April 7, 2025, under CEQR No. 03BSA193Q. The Tech Memo documents that the project as proposed would not have significant adverse impacts on land use, zoning, and public policy; socioeconomic conditions; community facilities; open space; shadows; historic and cultural resources; urban design and visual resources; natural resources; hazardous materials; water and sewer infrastructure; solid waste and sanitation services; energy; transportation; air quality; greenhouse gas emissions and climate

change; noise; public health; neighborhood character; construction; or disadvantaged communities.

By correspondence dated January 17, 2025, LPC states that the Tech Memo is acceptable for historic resources.

As part of the variance that the Board granted on December 13, 2005, under BSA Cal. No. 156-03-BZ, the Premises were assigned E-designation number R-67, associated with a Restrictive Declaration recorded against the subject property.

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

VII. Decision

Based upon its review of the record, the Board has determined that the proposed amendment is appropriate with certain conditions as set forth below.

Therefore, it is Resolved, that the Board of Standards and Appeals does hereby *waive* its Rules of Practice and Procedures and *amend* the resolutions, dated December 13, 2005, and October 27, 2015, as amended through February 5, 2019, so that as amended this portion of the resolution shall read: “to extend the time to complete construction and obtain a certificate of occupancy for four years, to expire on May 19, 2029, and to permit the enlargement and alteration of the proposed building, *on condition* that all work and site conditions shall substantially conform to drawings filed with this application marked “Approved Plans” — Thirty-Two (32) sheets, dated May 14, 2025; and on further condition:

THAT the bulk parameters of the building shall be as follows: a maximum total, combined residential, community facility, and commercial floor area of 314,431 square feet (7.5 FAR), including a maximum residential floor area of 284,414 square feet (6.78 FAR), maximum community facility floor area of 16,400 (0.39 FAR), and maximum commercial floor area of 13,617 square feet (0.32 FAR); a maximum building height with bulkhead heads (top of parapet) of 216.84' (NAVD88 = AMSL); a maximum roof height (main roof top of slab) of 204.68' (NAVD88 = AMSL); a minimum open space of 10,306 square feet (3.62%); and a minimum rear yard dimension and orientation (as per Z.R. §§ 23-343 and 33-261) as illustrated on the Board-approved plans; and all as illustrated on the Board-approved plans;

THAT the applicant shall perform all of the hazardous materials remedial measures and construction health and safety measures as delineated in the 2005 Restrictive Declaration to the satisfaction of the Mayor’s Office of Environmental Remediation (“OER”);

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THAT all construction shall proceed according to the amended Landmarks Preservation Commission ('LPC') Certificate of Appropriateness for the subject property;

THAT the applicant shall coordinate any future amendment to the Certificate of Appropriateness with LPC prior to the issuance of a building permit;

THAT the applicant shall submit a Construction Protection Plan to LPC for the interior landmark for review and approval prior to issuance of a building permit;

THAT the proposed project shall utilize an electric heating ventilation and cooling ('HVAC') system and an electric water heating system;

THAT the HVAC type shall comply with applicable laws and regulations as determined by DOB and other relevant agencies;

THAT the building shall incorporate window-wall attenuation of 35 dBA and an alternative means of ventilation shall be provided;

THAT the project shall incorporate low-energy building materials as required by the New York City Energy Conservation Code and Local Law 154 of 2021;

THAT prior to issuance of any DOB permit for any work on the site that would result in any soil disturbance, the applicant or any successor shall perform all of the hazardous materials remediation and construction health and safety measures as stated in the Restrictive Declaration to the satisfaction of OER as successor to the Department of Environmental Protection;

THAT no temporary certificate of occupancy or permanent certificate of occupancy shall be issued by DOB or accepted by the applicant or successor until OER shall have issued a Final Notice of Satisfaction or a Notice of No Objection indicating that the measures and conditions in the Restrictive Declaration have been completed to the satisfaction of OER;

THAT all construction shall proceed according to the amended LPC Certificate of Appropriateness for the subject property;

THAT the applicant shall coordinate any future amendments to the certificate of occupancy with LPC prior to the issuance of a building permit;

THAT the applicant shall submit a construction protection plan to LPC for the interior landmark for review and approval;

THAT the applicant shall notify the Department of Transportation ('DOT') six months prior to the opening of the proposed project so that DOT can investigate the feasibility of implementing the proposed implementation measures identified for the construction of Northern Boulevard with Farrington Street, Main Street, and Union Street;

THAT prior to the start of demolition work at the subject site, the applicant shall obtain all necessary sign off from the Fire

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Department, including sign off for the installation and restoration of the appropriate wet and dry standpipe systems;

THAT the applicant shall comply with all conditions that have been imposed by the Federal Aviation Administration ('FAA') in the subject FAA Determinations of No Hazard;

THAT any increase in dwelling unit quantity, floor area ratio, building height, or major changes to the use shall constitute and require the filing of a new application before the Board of Standards and Appeals and new Board guidelines shall be applied;

THAT the above conditions shall appear on the certificate of occupancy;

THAT a certificate of occupancy, also indicating this approval and calendar number ('BSA Cal. No. 156-03-BZ & 127-15-BZ'), shall be obtained within four years, by May 19, 2029;

THAT this approval is limited to the relief granted by the Board in response to objections cited and filed by the Department of Buildings;

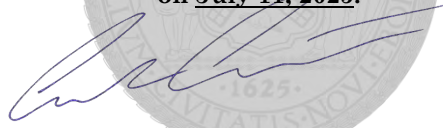
THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

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 plans or configurations not related to the relief granted."

Adopted by the Board of Standards and Appeals, May 19, 2025.

CERTIFICATION

**This copy of the resolution
Dated May 19, 2025
is hereby filed by the
Board of Standards and Appeals
on July 11, 2025.**



**Carlo Costanza
Executive Director**