

*Note. —This resolution is final but subject to formal revision before publication in the Bulletin. Please notify the General Counsel of any typographical or other formal errors so that corrections may be made before the Bulletin is published.*

**CORRECTION: This resolution adopted on November 5, 2025, under Calendar No. 2024-59-BZ, is hereby corrected to read as follows:**

**BOARD OF STANDARDS AND APPEALS**

**MEETING OF: November 5, 2025**  
**CALENDAR NO.: 2024-59-BZ**  
**PREMISES: 1343-1353 50th Street, Brooklyn**  
**Block 5642, Lots 53 and 59**

**ACTION OF BOARD — Application granted on condition.**

**THE VOTE —**

**Affirmative: Chair Chanda, Vice-Chair Scibetta,**  
**Commissioner Ottley-Brown, Commissioner Sheta, and**  
**Commissioner Yoon.....5**  
**Negative:.....0**

**THE RESOLUTION —**

The decision of the Department of Buildings (“DOB”), dated March 6, 2025, acting on Alteration-CO Application No. B01050571-I1, reads in pertinent part:

- Proposed plans are contrary to ZR Section 24-11 in that the proposed floor area/FAR exceeds the maximum permitted.
- Proposed plans are contrary to ZR Section 24-11 in that the proposed lot coverage exceeds the maximum permitted.
- Proposed rear yard is contrary to ZR Section 24-36.
- Proposed front wall height, initial setback, and sky exposure plane are contrary to ZR Section 24-522.

**I. The Request**

This is an application for a variance, pursuant to Z.R. § 72-21, to permit the horizontal and vertical enlargement of an existing, Use Group (“UG”) III(B) school, contrary to regulations for floor area, FAR, lot coverage (Z.R. § 24-11), rear yard depth (Z.R. § 24-36), front wall height, initial setback, and sky exposure plane (Z.R. § 24-522). This application is brought on behalf of Bais Esther (the “School”).

A public hearing was held on this application on May 20, 2025, after due notice by publication in *The City Record*, with continued hearings on August 12, 2025 and September 30, 2025, and then to

decision on November 5, 2025. Chair Chanda and Commissioner Yoon performed inspections of the site and surrounding neighborhood.

The Board received one form letter of support for this application.

## II. Location

The Premises consist of two abutting interior lots, which are located on the northeast side of 50th Street, between 13th Avenue and 14th Avenue, within an R6 zoning district, in Brooklyn. With approximately 160 feet of frontage along 50th Street, 100 feet of depth, and 16,027 square feet of lot area, Lot 53 is currently occupied by a four-story, plus cellar and mezzanine, UG III(B) girls' pre-school and elementary/middle school, consisting of approximately 38,445 zoning square feet of floor area (3.20 FAR), and Lot 59 currently contains a three-story, mixed-use commercial and residential development with 5,930 square feet that the applicant plans to demolish as part of the proposed enlargement. Additionally, the applicant notes that as part of the proposed project, the two separate tax zoning lots are to be merged into a single tax and zoning lot.

## III. Proposal

The applicant proposes to add two additional floors, as well as a six-story horizontal enlargement, to the existing four-story, plus cellar and mezzanine building at the Premises. The applicant represents that the resulting building would consist of six stories, plus cellar, with 83,804 square feet of floor area (5.23 FAR); a lot coverage of 98%; no front yard; no side yards; a rear yard with a depth of 17'-0" at the second floor and above; and a street wall height of 77'-3" with no setback. Per Z.R. § 25-31, no parking spaces are required in an R6 zoning district for a school, which is classified as a Parking Requirement Category ("PRC") G use.

Furthermore, the applicant describes that after the proposed addition, the building would be organized and utilized as follows:

- The cellar level would continue to house the lunchroom for the entire School, except for the pre-school students; a meat kitchen and a dairy kitchen; a 3,289-square-foot auditorium; and the refrigerated trash room for the entire building;
- The basement level would include eight classrooms for the pre-nursery students ages 2-3, in accordance with New York City Department of Health ("NYCDOH") Article 47 requirements with 30 square feet per child and a teacher-student ratio of 1:6; an indoor play area; office areas for the school administration; and a computer room for use by grades 1-8;
- The first floor would include a second 5,006-square-foot lunchroom; the School's gymnasium; a sewing room; and an art room; and office cubicles for staff;

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- The second floor would contain one, pre-nursery classroom (ages 2-3); four nursery classrooms (ages 3-4); five kindergarten classrooms (ages 4-5); and two Pre-1A classrooms (ages 5-6), in accordance with student to teacher ratio and square footage requirements stated in NYCDOH Article 43; a teachers' room; four offices for the preschool administration and staff; an office for the attendance secretary; and a book room;
- The third floor would have five classrooms for Pre-1A (ages 5-6); four, first grade classrooms (ages 6-7); and one second grade classroom (ages 7-8); various therapy spaces, such as a physical therapy area; an occupational therapy area; a speech therapy area; and a 449 square-foot sensory gym; the counseling office; a STEM lab, offices for administration and staff; and the elementary school library;
- The fourth floor would contain three, second grade classrooms (ages 7-8), four third grade classrooms (ages 8-9), four fourth grade classrooms (ages 9-10), and three fifth grade classrooms (ages 10-11) to provide 20 square feet per person; teachers' room and offices for the elementary school and administrative staff;
- The fifth floor would consist of one classroom for fifth grade (ages 10-11); four classrooms for sixth grade (ages 11-12); four classrooms for seventh grade (ages 12-13); and four classrooms for eighth grade (ages 13-14), each containing 20 square feet per person; a designated Title I room with an occupancy of 29 students and 1 teacher, with 20 square feet allocated per person; offices for the middle school staff; and teachers' room; and
- The roof would comprise of a 10,249 square-foot recreation area, with an occupancy of 512 people to serve as an outdoor play space for the pre-school, in accordance with §47.47 of NYCDOH Article 47, and grades 1-8 during their respective recess periods surrounded by a 10'-0"-high, steel-post frame fence with acoustic barrier, consisting of two layers of 1/8"-thick, heavy, mineral-filled VISCO elastic material.

In the subject R6 zoning district, for the proposed community facility use, Z.R. § 24-11 permits a maximum floor area of 76,929.60 square feet (4.80 FAR) and a maximum lot coverage of 65%. Additionally, Z.R. § 24-36 requires a rear yard of 30'-0" at the first floor and above. Furthermore, Z.R. § 24-522 dictates that past a height of 60'-0" or six stories, whichever is less, a sky exposure plane of 2.7 vertical to 1 horizontal is required. Accordingly, the applicant seeks the relief requested herein.

#### IV. Findings

The Zoning Resolution vests the Board with wide discretion to “vary or modify [its] provision[s] so that the spirit of the law shall be observed, public safety secured and substantial justice done,” Z.R. § 72-21.

##### A.

First, the applicant submits that there are unique physical conditions inherent in the Premises — namely, its programmatic needs and the restrictive bulk regulations — that create practical difficulties or unnecessary hardship in complying strictly with applicable zoning regulations that are not created by general circumstances in the neighborhood or district. The applicant begins by stating that the School’s existing building on Lot 53 can only accommodate 891 students and lacks many of the rooms that are today considered essential to a complete pre-school, elementary, and middle school education, such as designated therapy and Title I spaces, a STEM lab, an auditorium, and elective rooms. As such, the School has started renting space on the adjacent Lot 48 (1363 50th Street), which currently houses an affiliated high school, to accommodate 7 of its preschool classes. The applicant describes how the current arrangement makes its daily operations more difficult as it must oversee classes in two separate locations and limits the growth of the high school. In support, the applicant included a Student Growth Chart, which shows that the pre-school (ages 2-6) is expected to reach maximum capacity in the first year after expansion, with a total of 358 students, divided amongst 25 classes with 77 students in prenursery, 77 students in nursery, 94 students in kindergarten, and 110 students each in Pre-1A through 8th grade. The chart also anticipates that within six years, all of the proposed classrooms would be utilized, and within eight years with an increase of 217 students, the building would reach maximum capacity at a total of 1,238 students across all grades, approximately 65 teachers and 55 members of administration and staff.

To achieve its programmatic needs and its anticipated expansion, the School proposes to add two new floors to the existing building on Lot 53 and horizontally enlarge onto Lot 59 to have 1) sufficient classroom space; 2) adequate lunchroom space to accommodate the projected student body, along with storage and preparation areas; 3) a gymnasium, to accommodate physical education classes; 4) a Title I room and various therapy spaces; 5) sufficient office space to accommodate both administration and staff; 6) an auditorium to house various productions and assemblies throughout the year; 7) teachers’ rooms, where the faculty can prepare lessons in between classes; 8) a library and a pre-school book room; 9) a rooftop play area to be used by

all students over the course of the day, as well as an indoor play area for the pre-school; and 10) space to accommodate various elective offerings, such as STEM classes, sewing, and art.

Moreover, the applicant included as-of-right plans which illustrate a six-story building that would be required to set back its front wall at a sky exposure plane of 2.7 vertical to 1 horizontal, starting at a height of 60'-0". The plans demonstrate how this requirement would result in increasingly smaller floor plates at each level above the top of the fourth floor and to accommodate the projected student body at capacity, the School would have to provide smaller classrooms at the fifth floor and add a sixth level to recoup the lost space. As this sixth floor would need to be outfitted with bathrooms, stairs, and an elevator stop, the total floor area of this building would need to be increased to approximately 89,947 square feet, approximately 6,143 square feet above the instant proposal and would offset the benefit of a compliant sky exposure plane. Moreover, the applicant claims the location of additional classrooms on the sixth floor would require the School to hire additional staff, despite the number of students remaining the same. The applicant also explored an alternate setback scheme at the fourth and fifth floors that matches the floors below but found that it would be unviable because it would entail a reduction of space in six classrooms, representing a loss in occupancy of 48 people.

Accordingly, the Board finds that the above unique physical conditions create practical difficulties or unnecessary hardship in complying strictly with applicable zoning regulations that are not created by general circumstances in the neighborhood or district.

**B.**

Next, the applicant submits, and the Board concurs that, because the applicant is a nonprofit institution, no showing need be made with respect to realizing a reasonable return.

**C.**

The applicant further represents that the requested variance would not alter the essential character of the neighborhood, impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. In support, the applicant submitted a radius map, which shows that within 500 feet of the Premises (the "Study Area") there are 17 buildings rising to 63'-0" or above and 19 building at 5 stories or greater, including two, 5-story sites directly across the street from the Premises, one of which rises to 90'-0" and the other of which rises to 80'-0"; the neighbor immediately to the west, whose building rises to 63'-0" and six stories; and the mixed residential

and commercial development three lots to the west (Lot 7504), which rises to 83'-0" and six stories.

As per the proposed FAR at the Premises, the applicant notes that the surrounding FARs are smaller than that of the instant proposal, due solely to the exceptionally large sizes of their lots, and in no way minimizes the imposing bulk of the structures. For example,

- On the block immediately south of the Premises, at 5018 14th Avenue (Block 5649, Lot 46), there is a school building with an FAR of 7.03 (70,444 square feet of floor area) on a 10,020-square-foot lot;
- Five blocks to the southeast, a community facility located at 5301 14th Avenue (Block 5671, Lot 1) contains five floors rising to 78'-0", and totals to 134,650 square feet on a 36,000-square-foot lot (3.74 FAR); and
- Seven blocks to the northeast, a school building located at 4201 14th Avenue (Block 5600, Lot 1) stands five stories and 83'-0" tall, with 87,000 square feet of floor area on a 40,066-square-foot lot (2.17 FAR).

In addition to these community facilities, the applicant represents that immediately surrounding blocks also contain two, large-scale residential uses. On the block immediately east of the Premises, the mixed-use, commercial and residential building at 4910 15th Avenue (Block 5643, Lot 38) rises to six stories and 63'-0", with 107,268 square feet of floor area on a 20,000-square-foot lot (5.36 FAR), while the six-story, 67'-0"-tall, multi-family elevator building at 5000 15th Avenue (Block 5650, Lot 34), located on the block immediately southeast of the Premises, contains 139,500 square feet on a 24,000-square-foot lot (5.81 FAR).

Next, the applicant points out that the instant proposal would furnish a rear yard of 17'-0" at the second floor and above, representing a one-inch improvement over the current rear yard condition at these levels. To the rear of the Premises, the map shows that lots 23, 7502, 7503, 7501, 30, 31 and 33 each provide between 7.5' and 35' of rear yardage providing sufficient space between these neighbors and the Premises. Furthermore, the applicant maintains that the three-story building on Lot 27 is built all the way to the rear lot line, and the proposed project would not impact this neighbor's open space; that the proposed rear yard at the new fourth and fifth floors would accord well with that of the six-story neighbor to the west, which maintains a rear yard of 15.8'; and would have no additional impact on the neighbor to the east, which rises to only two stories.

Finally, as per increased traffic and congestion concerns as a result of the proposed project, the applicant represents that the School would utilize six buses for the elementary and middle school at capacity, transporting roughly 40% of the elementary/middle school student body (352 children), and 5 buses for the pre-school,

transporting roughly 80% of the pre-school student body (286 children) to arrive and depart in staggered, two separate 45-minute arrival periods and two separate 45-minute dismissal periods. In addition to the 160 feet of frontage along 50th Street where the buses would be operating, the applicant points to the “No Standing” sign in front of the school, in effect on school days from 7:00 a.m. to 7:00 p.m., to ensure that the buses keep moving and do not idle. When not in use, the applicant provided a lease showing that the buses would park in the lot at 401-417 Dahill Road, where the School rents parking spaces.

Furthermore, the applicant claims that the remaining 60% of elementary/middle school students (528 children) and 20% of pre-school students (72 children) would walk or be walked to and from the Premises each day, with none traveling by private car as all students come from the surrounding neighborhood. The applicant submits that based on the trend the School has observed over the past several years, 95% of staff are likewise expected to commute to and from the Premises on foot each day, with the remainder commuting by public transit. Moreover, the applicant states that some faculty and staff members are scheduled to only work in the morning, with others working only in the afternoon, therefore, staff arrivals and departures would be staggered. Accordingly, the Board finds that the proposed variance would not alter the essential character of the neighborhood or district in which the Premises are located; would not substantially impair the appropriate use or development of adjacent property; and would not be detrimental to the public welfare.

**D.**

The applicant represents that the above practical difficulties or unnecessary hardship have not been created by the applicant or by a predecessor in title. In support, the applicant submitted a Chain of Title for the Premises (lots 53 and 59), as well as the immediately adjoining lots (61, 23, 7502, 7503, 7501, 27, 30, 31, and 48), which showed that the Premises have never been held in common ownership with any of the surrounding lots other than Lot 48. The applicant reiterates that the property available to the School has never been large enough to accommodate its programmatic needs, barring the grant of the requested waivers. Accordingly, the Board finds that the above practical difficulties or unnecessary hardship have not been created by the applicant or by a predecessor in title.

**E.**

The applicant notes that the variance request is the minimum necessary to develop a community facility use at the Premises. The applicant claims that the extent of the requested variance is no greater than is necessary to meet the School’s programmatic needs in an

efficient and cost-effective design, and any lesser variance would result either in a building that does not meet those programmatic needs or would be cost-prohibitive design. To start, the applicant notes that the existing building is an old structure, and any attempts to expand would require significant construction, representing a major disruption to the high school's daily operations. As part of its anticipated growth, the School also seeks to update its building with modern accessory and support spaces. Here, the applicant represents that the site cannot be repurposed to accommodate the programmatic needs of the pre-school through middle school because the need for the new spaces is directly tied to the anticipated growth and typical programs.

Given the square footage per occupant set forth in both Article 47 of the NYCDOH, which governs the pre-nursery classrooms, and Table 1004.1.3 of the New York City Building Code, which governs the remaining classrooms, the applicant notes that based on its projected enrollment, the School would require 57 total classrooms. The applicant also included a listing of area schools with kindergarten classrooms and their most recent enrollment statistics, obtained from NYSED publicly available data, to show that the average for these neighborhood schools is 132 square feet per student, wherein it plans for approximately 67.69 square feet per student.

Finally, the applicant contends that all of the planned spaces for the School are so that it can meet the physical, extracurricular, and religious needs of its students, thereby furthering their holistic development. Accordingly, the Board finds that the proposed variance is the minimum necessary to afford relief within the intent and purposes of the Zoning Resolution.

## V. Board Review

Over the course of hearings, the Board directed the applicant to provide a proactive plan to address trash accumulation and to avoid congestion at the proposed site. In response, the applicant submitted an operational plan from director of operations at the School, dated October 16, 2025, which states:

With regard to bus parking, upon completing their morning routes, drivers will park their buses in the leased spaces at 401-417 Dahill Road. The buses will remain in these leased spaces until afternoon pickup. Once the drivers have completed their afternoon routes, they will return the buses to the leased spaces to be parked overnight. Buses will not be parked in front of the School, on the adjacent lot, or on the surrounding streets.

With regard to trash storage and disposal, the School employs a full maintenance and janitorial staff, who complete a thorough cleaning of the building every evening after students and all other staff members have left for the day. Upon completion of the proposed project, there will be a new designated refrigerated trash

storage space at the cellar level. Trash will be stored inside this space within cooler bins. The janitorial staff will wheel the trash bins out to the curb just before [Department of Sanitation, New York] DSNY pickup and will leave the bins on the curb for DSNY to empty; no trash will be placed on the sidewalk. After collection, the janitorial staff will return the bins directly to the cellar storage area. Trash is picked up twice each week by the DSNY. Our staff works directly with DSNY to coordinate these pickups so that they do not interfere with the School's operations.

To quantify the amount of space needed to contain the School's potential trash output, the applicant referenced a study performed by the Minnesota Pollution Control Agency, which surveyed six schools and determined that the average student generates 0.5 pounds of waste per day.

Here, the Board also notes that the structural integrity of the subject building before and after the proposed addition is erected is beyond the scope of the BSA review and, therefore, was not reviewed as part of this application process.

## VI. Environmental Review

The project is classified as an Unlisted action pursuant to Section 617.2 of 6 NYCRR. The Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final EAS CEQR No. 25BSA008K, dated November 5, 2025. 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 sanitation services; energy; traffic and parking; transit and pedestrians; air quality; noise; or public health.

By correspondence dated December 16, 2024, the Landmarks Preservation Commission ("LPC") states that the properties located at 1343 50th Street, Brooklyn have no architectural or archeological significance.

No other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable. 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 on the foregoing, the Board finds that the evidence in the record supports the findings required to be made under Z.R. § 72-21

and that the applicant has substantiated a basis to warrant exercise of discretion.

*Therefore, it is Resolved,* that the Board of Standards and Appeals does hereby *issue* a Negative Declaration prepared in accordance 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 1997, as amended, and make each and every one of the required findings under Z.R. § 72-21 to *permit* the enlargement of a UG III(B) school, contrary to regulations for floor area, FAR, lot coverage (Z.R. § 24-11), rear yard depth (Z.R. § 24-36), front wall height, initial setback, and sky exposure plane (Z.R. § 24-522).; *on condition* that all work and site conditions shall conform to drawings filed with this application marked: “Approved Plans”, received October 17, 2025 — Eighteen (18) sheets; and *on further condition*:

THAT the bulk parameters of the building shall be as follows: maximum floor area of 83,804 square feet of floor area (5.23 FAR); a lot coverage of 98%; a rear yard with a depth of 17'-0" at the second floor and above; and a street wall height of 77'-3" with no setback as per the BSA-approved plans;

THAT there shall be no sound amplification on the building roof;

THAT the rooftop shall have a fence which consists of 10'-high steel post frame with acoustic barriers or of similar material, as shown on the BSA-approved plans;

THAT the School shall maintain sidewalks and loading zones free and clear of trash, debris, vehicles, and any other blockages;

THAT the School shall comply with its trash management plan, which includes a designated, refrigerated trash storage space at the cellar level where cooler bins are stored;

THAT trash bins shall be wheeled out to the curb just before scheduled sanitation pickup days;

THAT after trash collection, trash bins shall be returned to the cellar storage area;

THAT the buses shall be parked at leased spaces at 401-417 Dahill Road, Brooklyn after drop-offs, pickups, and when not in use;

THAT the structural integrity of the subject building before and after the proposed addition is erected shall be evaluated by a NYS-licensed structural engineer and reviewed and approved by DOB to satisfy the applicable provisions of the NYC Building Code;

THAT there shall be a window wall attenuation of 33 dB(A) on the southern façade of the building along 50th Street and on the eastern and western façades for 50 feet from 50th Street;

THAT the above measures shall be in place prior to obtaining a temporary certificate of occupancy (“TCO”);

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

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THAT a certificate of occupancy, also indicating this approval and calendar number (“BSA Cal. No. 2024-59-BZ”), shall be obtained within four years, by November 5, 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; 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 plans or configurations not related to the relief granted.

**Adopted by the Board of Standards and Appeals, November 5, 2025.**

**CERTIFICATION**

**This copy of the resolution  
dated November 5, 2025  
is hereby filed by the  
Board of Standards and Appeals  
on November 10, 2025.**



**Carlo Costanza  
Executive Director**