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BOARD OF STANDARDS AND APPEALS

MEETING OF: February 6, 2023
CALENDAR NO.: 243-13-BZ
PREMISES: 125 Greenwich Street, Manhattan
Block 51, Lots 13 and 14

ACTION OF BOARD — Application granted.

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

THE RESOLUTION —

This is an application for an extension of time to complete construction and obtain a certificate of occupancy pursuant to a variance, granted under Z.R. § 72-21, that permitted the construction of a 70-story mixed-use, commercial and residential building, contrary to setback requirements under Z.R. § 91-32, and expired on February 4, 2022.

A public hearing was held on this application on January 23, 2023, after due notice by publication in *The City Record*, and then to decision on February 6, 2023. Vice-Chair Scibetta performed an inspection of the Premises and surrounding area.

The Premises are located on the southeast corner of Greenwich Street and Thames Street, within a C5-5 zoning district and the Special Lower Manhattan District, in Manhattan. With approximately 261 feet of frontage along Greenwich Street, 119 feet of frontage along Thames Street, 125 feet of frontage along Trinity Place, 80 feet depth, a lot area of 26,799 at Lot 13 and 9,083 square feet at Lot 14, for a combined lot area of 35,775 square feet, the Premises are currently occupied by an unfinished, mixed-use, commercial and residential building.

The Board has exercised jurisdiction over the Premises since December 10, 1957, when, under BSA Cal. No. 847-56-A, the Board granted a variance to permit a fire escape located on the north side of the existing building to serve as a required second means of egress, contrary to the decision of the Borough Superintendent, acting on Alt. Application No. 1754/55, on condition that on the floors in question, namely the third to tenth, the present front fire escape be maintained as a second means of exit for such floors; such floors not have

subdividing partitions for more than one tenant; the number of persons per floor not exceed the number permitted for the primary means of exit with due allowance for the sprinkler system; and the building not be increased in height or area and in all other respects comply with all laws, rules, and regulations applicable.

On February 4, 2014, under the subject calendar number, the Board granted a variance, pursuant to Z.R. § 72-21, to permit, on a site within a C5-5 zoning district and the Special Lower Manhattan District, a 70-story mixed-use commercial and residential building, contrary to Z.R. § 91-32, on condition that any and all work substantially conform to drawings filed with the application; the following are the bulk parameters of the building: a maximum floor area of 536,835.5 square feet (14.99 FAR), 70 stories, a building height not to exceed 956.78 feet, and a minimum setback of 10 feet on Greenwich Street and 13 feet on Thames Street, all as illustrated on the BSA-approved plans; approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s); the approved plans be considered approved only for the portions related to the specific relief granted; construction proceed in accordance with Z.R. § 72-23; and the Department of Buildings 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.

By letter dated August 3, 2016, the Board stated that it had no objections to certain modifications to the proposed building, including a reduction of the total building height above curb level from 960.28 feet to 898.83 feet; a reduction in the highest residential floor above curb level from 815.28 feet to 814.72 feet; an adjustment in the floor area reflecting an increase in zoning floor area and a reduction in gross floor area; and a decrease in the number of dwelling units from 439 units to 275 units, on condition that the Department of Buildings ensure compliance with all applicable provision(s) of the Zoning Resolution, Building Code, or any other relevant law. To the extent proposed changes would trigger such non-compliance, the Board's determination would have no effect.

On January 9, 2018, under the subject calendar number, the Board amended the resolution to extend the time to complete construction for four years, expiring February 4, 2022, on condition that all work and site conditions substantially conform to the Board-approved plans; the bulk parameters of the proposed building are as follows: a maximum floor area of 536,835.5 square feet (14.99 FAR), 70 stories, a building height not to exceed 956.78 feet, and a minimum setback of 10 feet on Greenwich Street and 13 feet on Thames Street, all as illustrated on the BSA-approved plans; the above conditions appear on the certificate of occupancy; a certificate of occupancy be obtained within four years, by February 4, 2022; construction be

completed within four years, by February 4, 2022; all conditions from prior resolutions not specifically waived by the Board remain in effect; this approval is limited to the relief granted by the Board in response to objections cited and filed by the Department of Buildings; the approved plans be considered approved only for the portions related to the specific relief granted; and the Department of Buildings 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.

The time to complete construction under the variance having expired, the applicant now seeks a four-year extension of time to complete construction and obtain a certificate of occupancy. The applicant contends that although the Board's prior grant required that a certificate of occupancy be obtained and substantial construction be completed by February 4, 2022, pursuant to Section 5 of Executive Order 110, the time to file for such extension of time was tolled by the 475-day duration of New York State's COVID-19 Emergency, which lasted from March 12, 2020 to June 29, 2021. Accordingly, the applicant states that this subject application is timely filed pursuant to § 1-07.1(c)(1) and § 1-07.1(d)(1) of the Board's Rules of Practice and Procedure, as the latest applicable date to file without a waiver of the Board's Rules was tolled from March 6, 2022 ("thirty (30) days after the expiration of the time...") to June 24, 2023.

The applicant represents that construction delays occurred due, in part, to financial problems, which began in July of 2019. By February of 2020, the applicant states that it secured new lenders to finance the project and construction continued. Additionally, the applicant declares that the structure and interior work are substantially complete and applicant represents that about 78% of all construction has been completed and that construction would be fully complete by the third quarter of 2023.

Over the course of the hearings, the Board raised concerns about when, exactly, construction on the Premises would recommence, as it had been paused at the time. In response, the applicant submitted a letter from the owners of the Premises attesting that construction was expected to commence by March 1, 2023.

Based upon its review of the record, the Board has determined that the requested extension of time to complete construction and obtain a certificate of occupancy is appropriate with certain conditions as set forth below.

Therefore, it is Resolved, that the Board of Standards and Appeals does hereby *amend* the resolution, dated February 4, 2014, as amended through January 9, 2018, so that as amended this portion of the resolution shall read: "to extend the time to complete construction and

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obtain a certificate of occupancy for four years, to expire on February 6, 2027, *on condition:*

THAT substantial construction shall be completed by February 6, 2027, as evidenced by an inspection and determination by the Department of Buildings;

THAT the bulk parameters of the proposed building are as follows: a maximum floor area of 536,835.5 square feet (14.99 FAR), 70 stories, a building height not to exceed 956.78 feet, and a minimum setback of 10 feet on Greenwich Street and 13 feet on Thames Street, all as illustrated on the BSA-approved plans;

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. 243-13-BZ'), shall be obtained within four years, by February 6, 2027;

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, February 6, 2023.

CERTIFICATION

**This copy of the resolution
dated February 6, 2023
is hereby filed by the
Board of Standards and Appeals
on April 3, 2023.**



**Carlo Costanza
Executive Director**