

*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 September 30, 2024, under Calendar No. 805-79-BZ, is hereby corrected to read as follows:**

**BOARD OF STANDARDS AND APPEALS**

**MEETING OF: September 30, 2024**  
**CALENDAR NO.: 805-79-BZ**  
**PREMISES: 88 Pine Street, Manhattan**  
**Block 38, Lot 17**

**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 July 3, 2024, acting on Alteration Application No. M00935528-I1, reads, in pertinent part: “Proposed construction of vestibules in the plaza is contrary to BSA approved and ZR section 34-223.”

**I. The Request**

This is an application for an amendment of a previously approved variance, pursuant to Z.R. § 72-21, to permit the addition of vestibules contrary to the previously approved floor area and underlying zoning requirements (Z.R. § 34-223).

A public hearing was held on this application on May 6, 2024, after due notice by publication in *The City Record*, with continued hearings on July 15, 2024 and September 9, 2024, and then to decision on September 30, 2024. Chair Chanda, Vice-Chair Scibetta, and Commissioner Yoon performed inspections of the site and surrounding neighborhood.

Community Board 1, Manhattan, recommends denial of this application, stating, in part:

On September 23, 2024, CB1’s Landmarks Preservation Committee reviewed the proposal and raised the following concerns:

## 805-79-BZ

- The proposed vestibules, canopies and number “88” still encroach significantly into the POPS remaining opposed since April;
- The proposal does not address much needed maintenance and repairs to the plaza and furnishings including the central circular bench and broken and dirty pavers;
- Details regarding the materials and size of the proposed permanent seating and table were not provided (making it impossible to understand the relationship to the existing circular bench and other furnishings);
- The proposed furnishings do not appear to integrate well with the existing POPS furnishings and landscape;
- Any proposed changes to privately owned public spaces in NYC, including that at 88 Pine Street should be presented to the Community Board to allow for discussion and resolution;
- The plans should include the potential for additional types of amenities such as more green space, particularly given the areas need for resiliency.

### II. Location

The Premises are located at the southeast intersection of Pine Street and Water Street, within a C6-9 zoning district and the Special Lower Manhattan District, in Manhattan. With approximately 113 feet of frontage along Pine Street, 251 feet of frontage along Water Street, 114 feet of frontage along Maiden Lane, 242 feet of frontage along Front Street, and 27,740 square feet of lot area, the Premises are occupied by an existing, 32-story, commercial building. At issue in this application is the subject plaza, which has 9,630 square feet of area and is comprised of two areas: one that fronts on Water Street (the westerly side of the subject Premises), where entrances are located, and a larger portion to the south, between Water Street and Front Street. The applicant further represents that the seating and other plaza amenities are located in the southerly portion of the plaza, without an entrance.

### III. Board History

The Board has exercised jurisdiction over the Premises since May 20, 1969 when, under BSA Cal. No. 92-69-BZ, the Board granted a special permit, pursuant to Z.R. § 73-68, to permit, in a C6-9 zoning district, the erection of a 28-story office building that exceeds the permitted front wall height, tower coverage, and tower set back, on condition that all work substantially conform to the drawings filed with the application; DePeyster Street is de-mapped and the realignment of Front Street is approved by the Planning Commission and the Board

of Estimate prior to the issuance of a building permit; and all laws, rules, and regulations applicable be complied with and substantial compliance be completed within one year, by May 20, 1969. Subsequently, on June 18, 1970, under BSA Cal. No 92-69-BZ, the Board amended this resolution to extend the time to complete construction until June 18, 1971.

On June 30, 1970, under BSA Cal. No. 277-70-BZ, the Board granted a special permit, pursuant to Z.R. § 73-68, to permit, within a C6-9 zoning district, the erection of a 31-story, plus mezzanine, office building that exceeds the permitted front wall height and encroaches on the tower area and tower setback, on condition that all work substantially conform to drawings filed with the application; the permit be valid only if and when Pine Street is legally closed and the title to the bed of the street is vested in the owner of the subject plot; all laws, rules, and regulations applicable be complied with and substantial construction be completed in one year, by June 30, 1970.

On January 8, 1980, under the subject calendar number, the Board granted a variance, pursuant to Z.R. § 72-21, to permit, in an existing, 32-story office building located within a C6-9 zoning district, the conversion of mechanical equipment space into offices that creates non-compliance in floor area ratio ("FAR"), on condition that all work substantially conform to drawings as they apply to the objection filed with the application; a plan showing the plaza layout and treatment be submitted to the Board for approval prior to the issuance of a building permit; and all laws, rules and regulations applicable be complied with and substantial compliance be completed in accordance with Z.R. § 72-23. On December 18, 1982, the applicant filed, and the Board accepted, an affidavit signed by the owner stating that it will provide 24 movable chairs in the south plaza area from 7:00 a.m. to 7:00 p.m. – May 15 to September 15 and from 8:00 a.m. to 5:00 p.m. – September 16 to May 14.

#### IV. Proposal

The applicant proposes to eliminate the revolving doors and adjacent swing doors for the subject plaza and to, instead, provide two vestibules that are ADA compliant and meet the requirements of Section C402.5.7 of the Energy Conservation Code ("ECC"). The applicant represents that currently, the access to the subject Premises from the plaza is through three revolving doors with an adjacent swing door which does not comply with ADA accessibility requirements. Furthermore, the applicant describes that the entrance renovation would be filed under the current NYC Building Code which includes the 2020 NYC ECC, and one of the changes that occurred upon adoption of the 2020 ECC is that there cannot be a swing door into a building of the size of the subject building without a vestibule, as per ECC Section C402.5.7.

The language of the Section C402.5.7 (Vestibules) of the ECC is as follows:

Building entrances shall be protected with an enclosed vestibule, with all doors opening into and out of the vestibule equipped with self-closing devices. Vestibules shall be designed so that in passing through the vestibule is it not necessary for the interior and exterior doors to open at the same time. The installation of one or more revolving doors in the building entrances shall not eliminate the requirement that a vestibule be provided an any doors adjacent to revolving doors.

The applicant states that, as the vestibules are located in the Water Street portion of the plaza area, this proposed amendment would not interfere with the existing plaza seating and other plaza amenities. The applicant further contends that the proposed changes would be minimal in relation to the floor area of the entire Premises and to the reduction of open plaza space, as the vestibules would occupy a total of 277 square feet that is now open plaza space. Here, the applicant notes that the proposed plaza would contain 9,907 square feet (out of a total proposed floor area of 510,500 square feet), and therefore, the increase would be .05%, or a .0005 differential, and the reduction in the plaza space would be 2.7%, or a .027 differential.

In the subject C6-9 zoning district and the Special Lower Manhattan Zoning District, the Zoning Resolution permits, for each square foot of public plaza provided, the total floor area permitted on the zoning lot may be increased by three square feet. Accordingly, the applicant seeks the relief requested herein.

## V. 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 resubmits that the finding of uniqueness in the original grant has not been eliminated nor does the inclusion of vestibules in the plaza impact on this uniqueness. Accordingly, the Board finds that the previously determined unique physical conditions continue to 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 resubmits, and the Board concurs, that the modification of the plaza is not an issue that relates to or affects the economic status or operation of the subject Premises as there would be no additional revenue being generated with the proposed amendment.

**C.**

The applicant further represents that the requested amendment to the 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. Here, the applicant declares that the commercial uses at the subject Premises continue to be appropriate for the site and surrounding area, and the modification of the plaza remains consistent with the character of the neighborhood. Accordingly, the Board finds that the proposed amendment will not alter the essential character of the neighborhood or district in which the Premises are located; will not substantially impair the appropriate use or development of adjacent property; and will 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. Specifically, the applicant notes that the issues relating to the use and operation of the plaza have not been self-created but have derived from changed conditions in the prevailing law, area and throughout New York City. 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 amendment to the variance is the minimum necessary to further continue the operate a school at the Premises. The applicant submits that the addition of the vestibules has no impact on the relief provided by the original variance grant, and the minimal variance remains in effect. Accordingly, the Board finds that the proposed variance is the minimum necessary to afford relief within the intent and purposes of the Zoning Resolution.

**VI. Board Review**

Over the course of hearings, the Board raised concerns regarding the existing and proposed conditions within the plaza, including

amenities and landscaping at the site. In response, the applicant submitted revised drawings showing the existing and proposed seating and tables at the plaza, which it contended would be enhanced, and not diminished, by the proposed amendment. Additionally, the applicant represented that the existing landscaping, trees, and bushes were not required as part of the prior BSA grant and were, instead, installed at the property owner's accord.

## VII. Decision

Based upon its review of the record, the Board has determined that the proposed amendment to the existing building 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 December 14, 1982, so that as amended this portion of the resolution shall read: "to permit the addition of vestibules contrary to the previously approved floor area, as per Z.R. § 34-223, *on condition* that all work, site conditions and operations shall conform to drawings filed with this application marked 'Board Approved'— Eight (8) sheets, received September 16, 2024; and *on further condition*:

THAT the bulk parameters of the building shall be as follows: a maximum floor area of 510,500 square feet (18.40 FAR);

THAT the owner shall provide 24 movable chairs in the south plaza area from 7:00 a.m. to 7:00 p.m. – May 15 to September 15 and from 8:00 a.m. to 5:00 p.m. – September 16 to May 14;

THAT additional Privately Owned Public Space ("POPS") signs shall be installed along Water Street, as per the BSA-approved plans;

THAT inventory of seating, benches, and hours of operation for the South Plaza be indicated on the POPS sign facing the South Plaza, pursuant to Z.R. § 37-61 standards;

THAT no temporary or permanent obstruction shall be permitted beyond the face of the building façade, including artwork, except as shown on the BSA-approved plans;

THAT a clear circulation path measuring 16.45 feet wide shall be maintained from the western face of the vestibule to the western property line along Water Street, as shown on the BSA-approved plans;

THAT landscaping shall be maintained as shown on the BSA-approved plans;

THAT a certificate of occupancy, also indicating this approval and calendar number ('BSA Cal. No. 805-79-BZ'), shall be obtained within four years, by September 30, 2028;

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;

**805-79-BZ**

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, September 30, 2024.**

**CERTIFICATION**

**This copy of the resolution  
dated September 30, 2024  
is hereby filed by the  
Board of Standards and Appeals  
on November 20, 2024.**



**Carlo Costanza  
Executive Director**