

**\*CORRECTION**

This resolution adopted on February 25, 2014, under Calendar No. 238-07-BZ and printed in Volume 99, Bulletin Nos. 8-9, is hereby corrected to read as follows:

**238-07-BZ**

APPLICANT – Goldman Harris LLC, for OCA Long Island City LLC; OCAII & III, owners.

SUBJECT – Application October 28, 2013 – Amendment of a previously approved Variance (§72-21) which permitted the construction of a 12-story mixed-use building and a 6-story community facility dormitory and faculty housing building (*CUNY Graduate Center*), contrary to use and bulk regulations.

The amendment seeks the elimination of the cellar and other design changes to the Dormitory Building. M1-4/R6A (LIC) zoning district.

PREMISES AFFECTED – 5-11 47th Avenue, 46th Road at north, 47th Avenue at south, 5th Avenue at west, Vernon Boulevard at east, Block 28, Lot 12, 15, 17, 18, 21, 121, Borough of Queens.

**COMMUNITY BOARD #2Q**

**ACTION OF THE BOARD** – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously granted variance which permitted, on a site partially in an M1-4 zoning district and partially in an M1-4/R6A district within the Special Long Island City Mixed-Use District, the construction of a 12-story mixed residential and commercial building (the “Mixed-Use Building”) and a six-story student dormitory building (the “Dormitory Building”) for the City University of New York (“CUNY”) Graduate Center, contrary to use and bulk regulations; and

WHEREAS, a public hearing was held on this application on January 28, 2014, after due notice by publication in *The City Record*, and then to decision on February 25, 2014; and

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

WHEREAS, the subject site is bounded by Fifth Street to the west, 46th Road to the north, and 47th Avenue to the south, with a total lot area of 66,838 sq. ft.; and

WHEREAS, the Board has exercised jurisdiction over the site since September 23, 2008 when, under the subject calendar number, the Board granted a variance

pursuant to ZR § 72-21, which permitted the construction of a 12-story mixed residential and commercial building and a six-story student dormitory building and faculty housing building connected by a cellar-level accessory parking garage, contrary to ZR §§ 42-00, 117-21, 23-145, 24-632, 23-633, and 23-711; and

WHEREAS, the Board issued a letter of substantial compliance on June 10, 2009, to permit certain modifications to the approved plans, and to acknowledge that although the project was originally filed at the Department of Buildings (“DOB”) under a single permit application (NB # 402661945), the project was subsequently filed as two separate projects, with the Mixed-Use Building retaining the original application number, and the Dormitory Building filed under new NB # 420006111; and

WHEREAS, the Board issued a second letter of substantial compliance on December 8, 2009, stating that the Board has no objection to the issuance of a temporary and permanent certificate of occupancy for the Mixed-Use Building prior to the construction of the Dormitory Building and the connection between the buildings; and

WHEREAS, the applicant states that the issuance of the December 8, 2009 letter was based on the anticipated occupancy of the Dormitory Building by the CUNY Graduate Center; however, subsequent to the issuance of the letter, the CUNY Graduate Center withdrew from the project; and

WHEREAS, on February 15, 2011, the Board approved an amendment to clarify that either the Mixed-Use Building or the Dormitory Building may be constructed prior to the construction and occupancy of the other building and the connection between the buildings; and

WHEREAS, the applicant notes that the February 15, 2011 amendment allows each building to proceed independently and provides flexibility for the commencement of construction at the earliest possible time; and

WHEREAS, the applicant also notes that CUNY has resumed participation in the project; and

WHEREAS, substantial construction was to be completed by September 23, 2012, in accordance with ZR § 72-23; however, by that date, construction had not been completed due to budgetary constraints; accordingly, on July 24, 2012, the Board granted an extension of time to complete construction, to expire on September 23, 2016; and

WHEREAS, the applicant now seeks an amendment to permit the following: (1) the elimination of the cellar level of the Dormitory Building, which includes accessory parking for 91 automobiles and approximately 6,600 sq. ft. of amenity and storage space; (2) a reduction in floor area for the Dormitory Building from 183,472 sq. ft. to 177,693 sq. ft.; (3) the elimination of the seventh floor; (4) reduction in size of the stair, elevator, and mechanical bulkheads, and reduction in building height; (5) addition of balconies on the fifth and

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sixth floors; and (6) minor modifications to interior layouts and roof; and

WHEREAS, specifically, the applicant states that the site is, in the wake of Superstorm Sandy, now within ZONE AE on the Federal Emergency Management Agency's Flood Insurance Rate Map, which means the site is now considered to be within a high-risk, high-vulnerability zone, making a cellar more expensive to insure; and

WHEREAS, in addition, the applicant states that CUNY has reassessed its needs and determined that parking on the originally-proposed scale is neither necessary, nor desirable; and

WHEREAS, the applicant also notes that the zoning district does not require any parking, and that the area is well-served by mass transit; as such, a significant demand for parking onsite is not anticipated; likewise, what little demand exists can be accommodated by nearby facilities; and

WHEREAS, in support of this statement, the applicant provided a parking study, which reflects that the site will have sufficient parking without the cellar parking garage, due in part to the recent construction of new major parking facilities in the vicinity; and

WHEREAS, as for the other proposed modifications to the plans, the applicant states that they are minor in nature and are consistent with the programmatic needs articulated by the applicant and recognized by the Board in its original grant; and

WHEREAS, accordingly, the applicant states that the proposed amendment will have no negative impacts on the surrounding area; and

WHEREAS, at hearing, the Board requested clarification regarding whether excavation had been performed at the site; and

WHEREAS, in response, the applicant stated that excavation has proceeded and is required under the New York State Department of Environmental Conservation-mandated site-management plan; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment is appropriate, with certain conditions set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated September 23, 2008, to include the above-noted modifications; *on condition* that any and all work shall substantially conform to drawings filed with this application marked "Received February 10, 2014"- (20) sheets; and *on further condition*;

**A true copy of resolution adopted by the Board of Standards and Appeals, February 25, 2014.**

**Printed in Bulletin Nos. 8-9, Vol. 99.**

**Copies Sent  
To Applicant  
Fire Com'r.  
Borough Com'r.**

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application No. 402661945)

Adopted by the Board of Standards and Appeals, February 25, 2014.

**\*The resolution has been revised to correct the Plans Dates which read: "Received February 10, 2014"- (18) sheets, now reads: "Received February 10, 2014"- (20) sheets. Corrected in Bulletin No. 21, Vol. 99, dated May 28, 2014.**

