

25-14-BZ

CEQR #14-BSA-111K

APPLICANT – Law Office of Lyra J. Altman, for Yeshiva of Flatbush, LLC, owner.

SUBJECT – Application February 6, 2014 – Variance (§72-21) to permit the enlargement of an existing four story Yeshiva (*Yeshiva of Flatbush*). R2 & R5 zoning districts.

PREMISES AFFECTED – 1601-1623 Avenue J aka 985-995 East 16th Street & 990-1026 East 17th Street, Block 6709, Lot(s) 32, 34, 36, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez3

Negative:.....0

Absent: Chair Perlmutter.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated January 29, 2015, acting on DOB Application No. 121532608, reads in pertinent part:

1. Existing building floor area is non-compliant in R2 lot portion per ZR 24-11 and proposed floor area in R2 lot portion is contrary to ZR 54-31, increasing the degree of non-compliance;
2. Proposed lot coverage in both R2 and R5 are contrary to 24-11;
3. Proposed side yard for the enlargement in the R5 zoning district is less than eight feet, contrary to ZR 24-35;
4. Proposed enlargement in the R5 zoning district does not comply with the sky exposure plane, contrary to ZR 24-521;
5. Proposed side yards for the enlargement in both R2 and R5 are less than ten percent of the aggregate width of street walls, contrary to ZR 24-35;
6. Proposed rear yards for the enlargement in both R2 and R5 districts are less than the 30 feet required, contrary to ZR 24-36;
7. Proposed building height for the enlargement does not comply with the required side setbacks in both R2 and R5 districts, contrary to ZR 24-551;
8. No parking is proposed for the proposed enlargement of the school as required in the R2 district portion of the lot, contrary to ZR 25-31; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within an R2 zoning district and partially within an R5 zoning district, the enlargement of an existing religious school (Use Group 3), that does not comply with zoning parameters for floor area, lot coverage, side yards, sky exposure plane, rear yards, height and setback, and parking, contrary to ZR §§ 24-11, 24-31, 24-35, 24-36, 24-521, 24-551, 25-

31, and 54-31; and

WHEREAS, the application is brought on behalf of Yeshiva of Flatbush (the “School”), a non-profit educational institution for high school-aged boys and girls; and

WHEREAS, a public hearing was held on this application on September 16, 2014, after due notice by publication in the *City Record*, with continued hearings on November 18, 2014, December 9, 2014, and January 13, 2015, and then to decision on February 3, 2015; and

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

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application, on condition that the School form a community advisory board to address ongoing community concerns; and

WHEREAS, certain members of the surrounding community, some through counsel, provided testimony in opposition to the application (the “Opposition”); and

WHEREAS, the Opposition advances the following primary concerns: (1) that the height and proximity of the proposed School building will have a negative impact on neighboring homes; (2) that the northern side yard width of eight feet will be inadequate to provide a proper buffer between the building and the adjacent home; (3) that the School has exhibited inadequate refuse management, which will only be aggravated by the proposed increase in enrollment; (4) that the proposal will result in an increase in vehicular and pedestrian traffic along East 16th Street and East 17th Street; (5) that the proposed plans lack HVAC and other mechanical equipment detailing, which, if provided, could reveal potential sources of noise and emissions; (6) that the EAS contains errors and inaccuracies that prevent the Board from examining the potential environmental impacts of the proposal; and (7) that the proposal is incompatible with residential use and will reduce nearby property values; and

WHEREAS, the subject site is the U-shaped parcel formed by Tax Lots 32, 34, and 36 within Block 6709; the site spans the north side of Avenue J between East 16th Street and East 17th Street and is located partially within an R2 zoning district and partially within an R5 zoning district; and

WHEREAS, the site has 200 feet of frontage along Avenue J, 100 feet of frontage along East 16th Street, 300 feet of frontage along East 17th Street, and approximately 46,200 sq. ft. of lot area (30,000 sq. ft. of floor area in the R2 portion of the site, which is mapped to a depth of 100 feet along East 17th Street and 16,200 sq. ft. of floor area in the R5 portion of the site, which is mapped to a depth of 100 feet along East 16th Street); and

WHEREAS, the site is occupied by four buildings; historic Lot 36 is occupied by the School’s main building, which was completed in 1964 and has four stories and 49,880 sq. ft. of floor area (1.08 FAR); Lot 34 is occupied by a two-story single-family home, a one-story shed, and a one-story garage; Lot 32 is

25-14-BZ
CEQR #14-BSA-111K

vacant; and

WHEREAS, the existing School building is configured as follows: (1) the sub-cellar has mechanical rooms, storage areas, a kitchen, a faculty lounge, a gymnasium, the lower portion of the swimming pool at the cellar level, a boys locker room, restrooms, a canteen, and two small offices; (2) the cellar has an art room, a book room, two large offices and four small offices, a copy room, a lab, one storage room, several mechanical rooms, a swimming pool, a girls locker room, two classrooms, and storage areas; (3) the first story has a large auditorium, a Beit Midrash, lobby areas, one classroom, restrooms, and the main faculty and staff offices; (4) the second story has restrooms, one small office, and 11 classrooms; (5) the third story has two physics and chemistry room, one general science room, a biology room, a science demonstration room, four general classrooms, and two small offices, and restrooms; and (6) the fourth story has restrooms and 11 classrooms; and

WHEREAS, the applicant has identified the following existing non-compliances with respect to the School building: (1) FAR (1.0 FAR is permitted, per ZR § 24-11; the building has an FAR of 1.43 in the R2 portion of the site); (2) lot coverage (55 percent lot coverage is permitted for the interior lot portion of the site and 60 percent lot coverage is permitted for the corner lot portion of the site, per ZR § 24-11; the lot coverage in the interior lot portion of the R2 portion of the site is 44.2 percent, which complies; however, the lot coverage in the corner lot portion of the R2 portion of the site is 71.8 percent, which is non-complying); (3) rear yard (a rear yard with a minimum depth of 30 feet is required, per ZR § 24-36; the building has a rear yard with a depth of 19 feet in the interior lot portion of the R2 portion of the site; and (4) parking (a minimum of 31 parking spaces are required in the R2 portion of the site, per ZR § 25-31; no parking is provided at the site); and

WHEREAS, the applicant notes that the School has operated in its current building since the early 1960s and currently has an enrollment of approximately 700 students; the applicant states that the existing School building is outmoded and unable to accommodate the needs of the existing student body; further, the building cannot handle the School's anticipated growth; accordingly, the School seeks to modernize and expand its facilities, which the applicant asserts can only be accomplished with certain waivers of the Zoning Resolution; and

WHEREAS, the School proposes to demolish all buildings on Lot 34 and enlarge the existing School building from 49,880 sq. ft. to 74,741 sq. ft. (a total enlargement of 24,861 sq. ft.); the applicant states that 10,519 sq. ft. of floor area will be located in the R5 portion of the site and 14,432 sq. ft. of floor area will be located in the R2 portion of the site; the enlargement will include a one-story portion along East 17th Street and a three-story portion along East 16th Street; and

WHEREAS, the proposed School building will be configured as follows: (1) the sub-cellar will continue to include mechanical rooms, storage areas, kitchen, and faculty lounge, however, they will be expanded, modernized, and/or rearranged to provide a more efficient layout; the gymnasium will be maintained at its current location and size; the swimming pool will be replaced with an auxiliary gym and a new refrigerated refuse room will be added; (2) the cellar will be expanded to include additional mechanical space; existing offices, the lab, the book room, and the art room will be combined and converted into a dedicated music department, with a large classroom, orchestra space, small practice rooms, and an office; (3) the first story will continue to include the auditorium lobby areas, restrooms, and main faculty and staff offices; the existing Beit Midrash will be converted to a large group classroom, and, within the new portions of the first story, a new Beit Midrash will be constructed, along with a library, student common areas, two small group study rooms, and additional restrooms; (2) the second story in the existing portion of the building will not change; the new second story will include faculty offices, a large classroom, restrooms, and college and Israel preparation rooms; and (3) the third story in the existing portion of the building will not change; the new portion of the third story will include a new art room, a technology lab, a fabrication lab, a small office, and storage space; and

WHEREAS, the applicant states that within the R2 portion of the site the proposal triggers the following variance requests: (1) 1.53 FAR, contrary to ZR § 24-11, which permits a maximum FAR of 1.0; (2) 71.5 percent lot coverage in the interior lot portion of the site and 75.7 percent lot coverage in the corner lot portion of the site, contrary ZR § 24-11, which permits 55 percent lot coverage in the interior lot portion and 60 percent in the corner lot portion; (3) a northern side yard with a width of 16 feet, contrary to ZR § 24-35, which requires a minimum side yard width of 22.51 feet; (4) no rear yard, contrary to ZR § 24-36, which requires a minimum rear yard depth of 30 feet; (5) side setbacks of 16 feet above a height of 35 feet, contrary to ZR § 24-551, which requires setbacks of 21.5 feet; and (6) no parking, contrary to ZR § 25-31, which requires 31 parking spaces; and

WHEREAS, the applicant states that within the R5 portion of the site the proposal triggers the following variance requests: (1) 62.5 percent lot coverage in the interior lot portion of the site, contrary to ZR § 24-11, which permits 55 percent lot coverage in the interior lot portion; (2) no side yard along the southern side of the interior lot portion of the site, contrary to ZR § 24-35, which requires a side yard with a minimum width of eight feet; (3) a northern side yard with a width of 16 feet, contrary to ZR § 24-35, which requires a minimum side yard width of 22.51 feet; (4) encroachment of the building into the one-to-one sky exposure plane, contrary to ZR § 24-521; (5) a rear yard depth of 8.16 feet in the interior lot portion of the

25-14-BZ

CEQR #14-BSA-111K

site, contrary to ZR § 24-36, which requires a minimum rear yard depth of 30 feet; and (6) side setbacks of 16 feet above a height of 35 feet, contrary to ZR § 24-551, which requires setbacks of 21.5 feet; and

WHEREAS, the applicant states that requested waivers will enable the School to construct a facility that meets its programmatic needs; and

WHEREAS, the School identifies the following primary programmatic needs: (1) to expand the arts curriculum, including providing spaces that will support motion graphics, three dimensional printing, and computer-controlled fabrication; (2) to expand, consolidate, and modernize the music curriculum; (3) to overcome the practical administrative difficulties, including scheduling and space assignments, and programmatic hardships, including curriculum development and teaching, of the current facilities; (4) to provide a modern research library, with adequate space for both group and individual study and informal collaborative learning; (5) to provide a larger Beit Midrash for full-grade assembly and religious study; (6) to allow for simultaneous physical education for boys and girls; (7) to have a designated counseling and college guidance area; and (8) to provide a facility that can accommodate an additional 100 students (800 students in total), in order to respond to the growing demand for the School; and

WHEREAS, the applicant notes that the current facility was designed to accommodate 600 to 650 students and that the current enrollment of 700 students results in a substantial shortfall of academic spaces, elective spaces, fitness facilities, administrative spaces, and gathering spaces; and

WHEREAS, likewise, the applicant states that classrooms were designed to accommodate 24 to 26 students but often are occupied by 30 students (and sometimes by ten or fewer); as such, many classrooms are too small while others are too large to properly function for their designated academic purpose; and

WHEREAS, the applicant also notes that due to space constraints, it is forced to utilize temporary structures for certain academic functions, including administration and student support; such structures are physically disconnected from the School, do not foster an environment for fulfilling their programmatic purpose, and pose a security risk; and

WHEREAS, the applicant represents that the proposal reflects 158 gross sq. ft. per student which is consistent with similar urban high school facilities; in contrast, the existing configuration yields 132 gross sq. ft. per student; and

WHEREAS, the Board also acknowledges the following physical conditions of the site and existing building which lead to a hardship: (1) the irregularly-shaped zoning lot is split over two zoning districts and is subject to both corner and interior lot regulations, which produce conflicting bulk restrictions that are incompatible with the use of the zoning lot for educational purposes; and (2) the existing School building has non-compliances

which would not allow for any enlargement without increasing the degree of such non-compliances; and

WHEREAS, the applicant analyzed an as-of-right scenario and a lesser variance scenario, in which complying side and rear yards would be provided; and

WHEREAS, as to the as-of-right scenario, the applicant states that it would be inadequate to satisfy the School's current and anticipated programmatic needs, as follows: (1) it would result in a library that would be too small to accommodate the students' needs to study and conduct research; (2) it would result in a Beit Midrash that would be too small to allow the students to assemble for religious instruction and debate; (3) it would require elimination of the designated counseling and college guidance area; (4) it would eliminate the link between the existing School building and the newly-constructed areas; and (5) it would require the maintenance of temporary structures for administration and student support; and

WHEREAS, as to the lesser variance scenario, the applicant states that it would require the elimination of the new third story and a significant reduction in the new first and second stories, which would result in substantial reductions in the art and music spaces, the Beit Midrash, and the library; as such, it would not result in a building that would satisfy the School's programmatic needs; and

WHEREAS, the applicant states that as a non-profit educational institution, the Board must grant deference to the School and allow it to rely on its programmatic needs to form the basis for its waiver requests; the applicant cites to the decisions of New York State courts in support of its claim that the school warrants deference; and

WHEREAS, specifically, the applicant cites to Pine Knolls Alliance Church v. Zoning Board of Appeals of the Town of Moreau, 6 N.Y.3rd 407 (2005); the Pine Knolls court stated as follows:

In assessing a special permit application, zoning officials are to review the effect of the proposed expansion on the public's health, safety, welfare or morals, concerns grounded in the exercise of police power, "with primary consideration given to the over-all impact on the public welfare" (Trustees of Union College, 91 N.Y.2d at 166). Applications may not be denied based on considerations irrelevant to these concerns.

We made clear in Cornell University that it is not the role of zoning officials to second-guess expansion needs of religious and educational institutions; and

WHEREAS, in analyzing the applicant's waiver requests, the Board notes at the outset that the School, as a non-profit New York State chartered educational institution, may rely on its programmatic needs, which further its mission, as a basis for the requested waivers; and

WHEREAS, as noted by the applicant, under well-established precedents of the courts and this Board, applications for variances that are needed in order to meet the programmatic needs of non-profit institutions, particularly educational and religious

25-14-BZ

CEQR #14-BSA-111K

institutions, are entitled to significant deference (see, e.g., Cornell University v. Bagnardi, 68 N.Y.2d 583 (1986)); and

WHEREAS, the Board observes that such deference has been afforded to comparable institutions in numerous other Board decisions, certain of which were cited by the applicant in its submissions; and

WHEREAS, the applicant states that based on an extensive review of its facility and operations, the proposal is the most efficient and effective use of its educational programmatic space, and the applicant concludes that bulk relief requested is necessary to meet the School's programmatic needs; and

WHEREAS, the Board finds that the proposal has been designed to be consistent and compatible with adjacent uses and with the scale and character of the surrounding neighborhood and is, therefore, consistent with the standard established by the decision in Cornell; and

WHEREAS, the Board concurs that the waivers will facilitate construction that will meet the School's articulated needs; and

WHEREAS, in sum, the Board concludes that the applicant has fully explained and documented the need for the waivers to accommodate the School's programmatic needs; and

WHEREAS, the Board also acknowledges the hardships associated with developing an irregularly-shaped site with a split-lot condition that is occupied by a 50-year-old, non-complying academic building; and

WHEREAS, the Opposition argues that the applicant has failed to make the finding set forth at ZR § 72-21(a) because, unlike in Cornell, there are negative impacts to the public welfare, namely the nearby residences, which are not outweighed by the proposal's benefits; and

WHEREAS, the Board finds that the applicant's submissions, which include statements, plans, and other evidence, provide the required specificity concerning its programmatic space requirements, establish that the requested variances are necessary to satisfy its programmatic needs consistent with Cornell, and that the Opposition has failed to establish that any potential negative impacts either meet the threshold set forth by the courts or outweigh the benefits; and

WHEREAS, in Cornell, the New York Court of Appeals adopted the presumptive benefit standard that had formerly been applied to proposals for religious institutions, finding that municipalities have an affirmative duty to accommodate the expansion needs of educational institutions; and

WHEREAS, the Board finds that the Opposition misapplies the guiding case law; and

WHEREAS, as to the guiding case law on educational deference, the Board disagrees with the Opposition and finds that the courts place the burden on opponents of a project to rebut the presumption that an educational institution's proposal is beneficial unless it is established to have an adverse effect upon the health,

safety, or welfare of the community; the Board notes that courts specifically state that general concerns about traffic and disruption of the residential character of a neighborhood are insufficient basis for denying a request (see Westchester Reform Temple v. Brown, 22 N.Y.2d 488 (1968), Cornell, and Pine Knolls); and

WHEREAS, the Board notes that where a non-profit organization has established the need to place its program in a particular location, it is not appropriate for a zoning board to second-guess that decision (see Guggenheim Neighbors v. Bd. of Estimate, June 10, 1988, N.Y. Sup. Ct., Index No. 29290/87), see also Jewish Recons. Syn. of No. Shore v. Roslyn Harbor, 38 N.Y.2d 283 (1975)); and

WHEREAS, furthermore, a zoning board may not wholly reject a request by an educational institution, but must instead seek to accommodate the planned use; (see Albany Prep. Charter Sch. v. City of Albany, 31 A.D.3rd 870 (3rd Dep't 2006); Trustees of Union Col. v. Schenectady City Cnl., 91 N.Y.2d 161 (1997)); and

WHEREAS, the Board finds that the Opposition's position is contrary to the decisions of New York State courts and contrary to the Board's many variances for educational institutions which have either been upheld by New York State courts or remain unchallenged; and

WHEREAS, in sum, the Board has reviewed the Opposition's submissions, as well as the applicant's responses, and finds that the Opposition has failed to rebut the applicant's substantiated programmatic need for the proposal or to offer evidence, much less establish, that it will negatively impact the health, safety, or welfare of the surrounding community in the sense the courts envision; and

WHEREAS, accordingly, the Board finds that the applicant has sufficiently established that the School's programmatic needs create an unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the School is a non-profit institution and each of the required waivers are associated with its educational use and are sought to further its non-profit educational mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant asserts that, consistent with ZR § 72-21(c), the noted bulk waivers will not alter the essential neighborhood character, impair the use or development of adjacent property, nor be detrimental to the public welfare; and

WHEREAS, the applicant contends that the neighborhood is characterized by the diversity of its uses and bulk, which include low- to medium-density residential and community facility uses; the applicant states that within a 400-foot radius of the site, although detached one- and two-family dwellings predominate, there is a public library, two synagogues, and two multiple dwellings; the applicant also notes that within the same study area, buildings range from one to six stories; and

25-14-BZ

CEQR #14-BSA-111K

WHEREAS, the applicant notes that the proposal reflects an expansion of a conforming use, which is entirely compatible with nearby uses and has existed since 1964; and

WHEREAS, the applicant states—and supports with a streetscape analysis—that its design respects the prevailing building forms and heights along its frontages; the applicant states that along East 17th Street, the building is significantly set back from the street, is sheltered by trees, and will not be directly adjacent to any residence; along East 16th Street, where the building will be directly adjacent to a residence, the building height has been reduced in the R2 portion of the site to be well below the height that a home could be as-of-right; likewise, the proposal reflects a 16-foot yard adjacent to the residence along the northern boundary of the site, where an as-of-right home could have as few as five feet; and

WHEREAS, the applicant notes that, initially, it proposed a northern side yard width of eight feet; however, in response to the concerns raised by the Board and by Opposition, it amended the proposal to reflect a width of 16 feet; and

WHEREAS, further, in response to the Board's concerns about neighborhood character and impact on adjoining properties, the applicant amended its proposal as follows: (1) an outdoor roof terrace along the northern boundary was altered to be an inaccessible roof; (2) additional street trees and plantings were added to the site plan; and (3) a refrigerated refuse room was provided; and

WHEREAS, at hearing, the Opposition requested an explanation as to why the existing building could not be vertically enlarged; and

WHEREAS, in response, the applicant provided a letter from its consultant, which indicates that the existing School building was not constructed to capacitate additional loads and that substantial structural reinforcement would be required to build atop the existing roof, at significant cost; further, the applicant asserts that a vertically-enlarged building would not satisfy the School's programmatic needs and would require complete cessation of the School's operations for extended periods of time; and

WHEREAS, the Board acknowledges that vertically enlarging the existing School building is not financially feasible and would be technically difficult, in addition to not satisfying the School's articulated programmatic needs; and

WHEREAS, as to the Opposition's concerns regarding pick-up and drop-off traffic, the applicant states that it will confine pick-ups and drop-offs to the Avenue J frontage; in addition, the applicant represents that the vast majority of students use public transportation (the Q train is less than one block away and several bus lines service nearby Coney Island Avenue) and only 6.6 percent of students drive or are driven to and from School; the applicant notes that even when enrollment reaches 800 students, less than 40

students will drive or be driven to School; and

WHEREAS, the Board has reviewed the Opposition's remaining concerns and determined them to be without merit; and

WHEREAS, based upon the above, the Board finds that the subject variances will not alter the essential character of the surrounding neighborhood, impair the appropriate use and development of adjacent property, or be detrimental to the public welfare; and

WHEREAS, the applicant states that, per ZR § 72-21(d), the practical difficulties and unnecessary hardship encountered by compliance with the zoning regulations is not self-created but is rather due to the combination of the School's programmatic needs with the physical constraints inherent in the site; and

WHEREAS, the Board agrees that the practical difficulties and unnecessary hardship that necessitate this application have not been created by the School or a predecessor in title; and

WHEREAS, the applicant states that the requested bulk waivers represent the minimum variance necessary to allow the School to meet its programmatic needs, in accordance with ZR § 72-21(e); and

WHEREAS, as noted above, the applicant analyzed an as-of-right scenario and a lesser variance scenario and concluded that neither alternative can accommodate the School's programmatic needs; and

WHEREAS, the Board therefore finds that the requested waivers represent the minimum variance necessary to allow the School to meet its programmatic needs; and WHEREAS, accordingly, based upon its review of the record and its site visits, the Board finds that the applicant has provided sufficient evidence to support each of the findings required for the requested variances; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has identified and considered relevant areas of environmental concern about the project documented in the Final Environmental Assessment Statement (EAS) CEQR 14-BSA-111K, dated January 30, 2015; and

WHEREAS, at hearing, the Board directed the applicant to amend and clarify certain statements contained within the EAS and to respond to the Opposition's assertion that the EAS should have reflected the use of the School building by Touro College; and

WHEREAS, in response, the applicant revised the EAS to: (1) add the area and volume of subsurface disturbance; (2) note that the project will be completed in multiple phases; and (3) note that the project will result in a substantial physical alteration to the streetscape; and

WHEREAS, as to the impact of Touro College's use, the applicant asserts and the Board agrees that Touro College's use of the site will be substantially less intense (a total of 65-120 persons per day) than the School's and occur during off-peak School hours (four evenings per week for approximately three-and-one-half

**25-14-BZ
CEQR #14-BSA-111K**

hours); and

WHEREAS, 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; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved that the Board of Standards and Appeals issues 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 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site partially within an R2 zoning district and partially within an R5 zoning district, the enlargement of an existing religious school (Use Group 3), that does not comply with zoning parameters for floor area, lot coverage, side yards, sky exposure plane, rear yards, height and setback, and parking, contrary to ZR §§ 24-11, 24-31, 24-35, 24-36, 24-521, 24-551, 25-31, and 54-31; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 21, 2015" – Seventeen (17) sheets; and *on further condition:*

THAT the proposed building will have the following parameters: (1) a maximum floor area of 74,741 sq. ft. (28,923 sq. ft. in the R5 portion of the site and 45,818 sq. ft. in the R2 portion of the site); (2) maximum FARs of 1.79 in the R5 portion of the site and 1.53 in the R2 portion of the site; (3) maximum lot coverage as follows: 62.5 percent for the interior lot portion and 40.2 percent for the corner lot portion of the R5 portion of the site; and 71.5 percent for the interior lot portion and 75.7 percent for the corner lot portion of the R2 portion of the site; (4) all yards and

setbacks as depicted on the Board-approved plans; and (5) no parking spaces;

THAT refuse shall be stored within a refrigerated storage area and shall not be placed on the sidewalk until immediately before pick-up;

THAT student drop-offs and pick-ups shall be limited to the Avenue J frontage;

THAT all fencing, trees, and plantings shall be maintained in good condition and in accordance with the BSA-approved drawings;

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

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by February 3, 2019;

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)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 3, 2015.

**A true copy of resolution adopted by the Board of Standards and Appeals, February 3, 2015.
Printed in Bulletin No. 7, Vol. 100.**

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

