



CITY PLANNING COMMISSION

February 4, 2015 / Calendar No. 9

C 150059 ZSM

IN THE MATTER OF an application submitted by 110 Residence LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the rear yard requirements of Section 23-47 (Minimum Required Rear Yards), the narrow outer court requirements of Section 23-841 (Narrow outer courts), and the lot coverage requirements of Section 23-145 (For Quality Housing buildings), to facilitate the legalization of an existing 1-family residential building on property located at 110 East 70th Street (Block 1404, Lot 67), in an R8B District, within a Limited Height District (LH-1A), within the Upper East Side Historic District, Borough of Manhattan, Community District 8.

The application for a special permit was filed by 110 Residence LLC on July 25, 2014. The special permit seeks to modify the rear yard requirements of Section 23-47, the narrow outer court requirements of Section 23-841, and the lot coverage requirements of Section 23-145 to facilitate the legalization of an existing 1-family residential building located in the Upper East Side in Manhattan Community District 8.

BACKGROUND

110 East 70th Street, built in 1869, is a contributing building in the Upper East Side Historic District which was designated by the Landmarks Preservation Commission (“LPC”) in 1981. The building is located in Manhattan Community Board 8 on the Upper East Side in an R8B zoning district. The neighborhood generally consists of a mix of townhouses (typically four-to-five stories), midblock, on the side streets with large apartment buildings on the higher density avenues and a substantial number of philanthropic, educational and religious uses sprinkled throughout, either at the lower floors of houses or occupying entire structures. The neighborhood’s townhouses are not infrequently occupied as one- or two-family homes, when

they are not occupied in whole or in part as community facilities.

110 East 70th Street is located on the south side of the street, 125 feet east of Park Avenue and 260 feet west of Lexington Avenue. The building is on a zoning lot which has 19'-10" of frontage and a depth of 100'-5", for a total lot area of 1,991.59 square feet. The building contains a total of 7,536 square feet of zoning floor area with an FAR of 3.78. The building is 5 ½ stories (including a basement) with a cellar and partial subcellar. The 5½ story portion is at the street line and there is a 3 ½ story portion in the rear. The rear yard extension is at the basement level only, measuring 12' 4½" x 10'8", constituting approximately 130 square feet.

The building rises to the maximum permitted height of 60 feet and has a lot coverage of 84% (1,668 square feet).

The building underwent substantial alterations on at least two occasions. The first alteration was in 1905, when the current Beaux-Arts façade was adopted and the front façade was pulled close to the street line. At the same time, the rear of the building was enlarged by a two-story extension. The second alteration was the 1922 Extension which further enlarged the building's rear extension, which previously occupied one-half of the width of the lot, to within one foot of the rear lot line. The 1922 Extension brought the building to a condition that was substantially the same as that existing on the site in drawings filed with DOB in 1995. The 1961 Zoning Resolution made the 1922 Extension a non-complying condition because the extension encroached in the required rear yard, it had a non-complying court, and may not have observed

the minimum required distance between legally required windows and lot lines.

In 1954, a further alteration application was filed to change the legal occupancy of the building's basement to a doctor's office. In 1995, an application was filed to convert the upper floors of the building from a two-family use (established in the 1940's) back to single family use and further enlarge the basement level by the addition of another Rear Yard Extension, measuring 12' 4-1/2" x 10'8", constituting approximately 130 square feet along the rear property line, leaving a court at the basement level surrounded on three sides by the doctor's office. This enlargement of a community facility use was permitted under the Zoning Resolution in effect at that time.

In 2004, amendments were adopted to the Zoning Resolution that changed the rules as to the extent of permitted encroachment by doctor's offices into rear yards in residential districts. Previously, a doctor's office could occupy the entire rear yard of a house in the district to a height of 23 feet as a permitted rear yard encroachment. The new regulations did not permit such encroachments. As a result of this change in the law, the portion of the doctor's office occupying the rear yard of the building, including the 1922 Extension and the approximately 130 SF from the 1995 Rear Yard Extension, became legal non-complying conditions. The building was then purchased by its current owner in 2007.

An application to alter the building was filed on May 22, 2008 by the current owners for a comprehensive renovation of the structure including the rear yard extension. The owners obtained a Certificate of Appropriateness on November 18, 2008 from the Landmarks

Preservation Commission (LPC). LPC subsequently issued permits for the building in 2009 and 2011.

At the time of 2008 filing, the architect relied upon the provisions of Section 54-41 which permit the owners of one and two-family residences to rebuild non-complying buildings after complete demolition. The plans were approved by DOB in April of 2009 calling for the use of the building's basement level as part of a single dwelling unit. Building permits were issued in 2009 and owners performed the demolition and rebuilt the portions of the property, including the 1995 Rear Yard Extension and the 1922 Extension, as authorized by both LPC and DOB permits. In a special audit conducted at the end of 2009, the use of the basement was changed back to a doctor's office but the approval of the plans was affirmed. The building was subjected to multiple audits by the DOB of the building plans and approvals, which they also passed.

In June of 2011, the DOB advised the owners that it had decided to recharacterize the building and not allow the benefits of Section 54-41. At that time, DOB issued a notice of intent to revoke the owner's permit for the now almost completed renovations. An application for a Certificate of Occupancy was filed with DOB on December 20, 2011, which was denied, and after an unsuccessful appeal to the Board of Standards and Appeals and litigation in late 2011 through early 2012, the owner's dispute with the DOB was resolved by allowing the family to occupy the portions of their home not in controversy (the rear yard extension) and to seek a remedy permitting them to legalize the disputed rear yard extension through a special permit at City Planning pursuant to Section 74-711.

The applicant is seeking three waivers. First, minimum required rear yard regulations of Section 23-47 requires that a rear yard with a depth of not less than 30 feet be provided at the rear lot line on the property and there currently is a rear yard of only one foot. Second, minimum narrow outer court width regulations of Section 23-841 provides that a narrow outer court's width must be at least one and one-third its depth thus a waiver is needed for the 7 and 5/8 inches by 8 and 5 3/4 inches which the court's width does not meet the minimum required. Third, the maximum lot coverage in Section 23-145 for interior lots in R8B districts is 70% and the waiver would allow the existing legally non-complaint lot coverage on the property which is 76.5%, to be increased to 84%.

ENVIRONMENTAL REVIEW

This application (C 150059 ZSM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 15DCP015M. The lead is the City Planning Commission. This application was determined to be a Type II action which requires no further environmental review.

UNIFORM LAND USE REVIEW

This application (C 150059 ZSM) was certified as complete by the Department of City Planning

on September 29, 2014, and was duly referred to Community Board 8 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Manhattan Community Board 8 held a public hearing on this application at its Land Use meeting on October 8, 2014 and, on that date, approved the application by a vote of 34 in favor, 2 opposed, and 2 abstentions.

Borough President Review

This application was considered by the President of the Borough of Manhattan, who issued a recommendation on November 24, 2014, to approve the application.

City Planning Commission Public Hearing

On December 17, 2014, (Calendar No. 6), the City Planning Commission scheduled a January 7, 2015, public hearing on this application (C 150059 ZSM). The hearing was duly held on January 7, 2015 (Calendar No. 19). There were two speakers in favor of the application and none in opposition.

The applicant's representative provided an overview of the project focusing on interactions with the Department of Buildings regarding the rear yard extension and on the restoration of the historic building. The Deputy Director of Planning for the Office of the Manhattan Borough

President spoke in favor of the proposal and stated the Borough President's concern that the application could be setting precedent for granting a waiver upon the cumulative adverse condition that may already exist rather than the findings for this special permit which require discussion as to whether this individual waiver impacts the light and air.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the grant of this special permit is appropriate.

The existing building at 110 East 70th Street occupies a lot area of 1,991.59 square feet and is located in an R8B zoning district within the Upper East Side Historic District. The building contains a total of 7,536 square feet of zoning floor area with an FAR of 3.78. The requested action would permit the modification the use regulations pursuant to Section 74-711 of the Zoning Resolution on a zoning lot that contains a landmark or is within an Historic District. The applicant is seeking a special permit to modify the narrow court requirements (Section 23-841), rear yard requirements (Section 23-47), and lot coverage requirements (Section 23-145) in order to legalize the residential use as a home office of a portion of an existing rear yard extension.

The Commission notes that zoning districts in this area allow dense residential and community facility development and the buildings in the midblocks of the surrounding area are characterized by historic, 4 and 5-story buildings that have similar conditions with existing rear yard

extensions within the minimum 30-foot rear yard depth dimension. In this instance, the 1995 Rear Yard Extension to further enlarge the basement level doctor's office as a community facility use which was established in 1954, was permitted under the Zoning Resolution in effect at that time. This extension measures only 12 feet and 4½ inches by 10 feet 8 inches constituting approximately 130 square feet along the rear property line, leaving an inner court at the basement level surrounded on three sides by the 1905 and 1922 Rear Yard Extensions which were built when the building was a single family home. No new floor area is being added to the building and there is no change to the envelope of the building, therefore the bulk modification to the building will have minimal adverse effects on conforming uses within the building or the structures in the vicinity.

The Commission notes that the 1995 Rear Yard Extension is located along the rear lot line of the building and is 8 feet and 5½ inches above the curb level and is not visible from East 70th Street, Park Avenue, Lexington Avenue and it is just visible through a narrow alleyway accessed from East 69th Street on the property (the Union Club) located directly southwest of the building. Therefore, the Commission believes that the low-rise, rear yard extension and bulk coverage will have minimal effects on the structures or open space in the vicinity in terms of scale, location and access to light and air.

The Commission also notes that it is in receipt of a letter dated December 26, 2013, from the Landmarks Preservation Commission (LPC) to the Department of City Planning, detailing that the proposed (and now completed) restorative work will return the building closer to its original

appearance and will reinforce the architectural and historic character of the building, the streetscape, and the Upper East Side Historic District.

The Commission believes that the proposed waivers of the rear yard regulation, the inner court regulation, and the bulk regulation will have minimal adverse effects on the structures or open space in the vicinity in terms of scale, location and access to light and air, and, therefore, believes that the grant of a special permit is appropriate.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-711 (Landmark preservation in all districts) of the Zoning Resolution:

- (1) such bulk modifications shall have minimal effects on the structures or open space in the vicinity in terms of scale, location and access to light and air.
- (2) such use modifications shall have minimal adverse effects on the conforming uses within the building and in the surrounding area.

RESOLUTION

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by 110 Residence LLC for the grant of special permit pursuant to Section 74-711 of the Zoning Resolution to modify the rear yard requirements of Section 23-47 (Minimum Required Rear Yards), the narrow outer court requirements of

Section 23-841 (Narrow outer courts), and the lot coverage requirements of Section 23-145 (For Quality Housing buildings), to facilitate the legalization of an existing 1-family residential building on property located at 110 East 70th Street (Block 1404, Lot 67), in an R8B District, within a Limited Height District (LH-1A), within the Upper East Side Historic District, Borough of Manhattan, Community District 8 is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 150059 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Steven Harris Architects, filed with this application and incorporated in this resolution:

<u>Drawing Number</u>	<u>Title</u>	<u>Last Date Revised</u>
A.01	Zoning Calculations	August 20, 2014
A.02	Site Plan	August 20, 2014
A.03	Waiver Plan	August 20, 2014
A.04	Waiver Sections	August 20, 2014
A.05	Waiver Sections	August 20, 2014

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

4. In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this resolution and the restrictive declaration described below and any subsequent modifications to either document shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.
5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution the provisions of which shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure or breach of any of the conditions referred to above, may

constitute grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, renewal or extension of the special permit hereby granted.

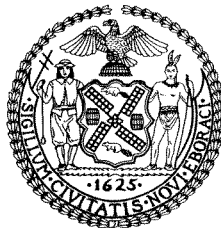
7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's action or failure to act in accordance with the provisions of this special permit.

The above resolution (C 1500590 ZSM), duly adopted by the City Planning Commission on February 4, 2015 (Calendar No. 9), is filed with the Office of the Speaker, City Council and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

CARL WEISBROD, Chairman
KENNETH J. KNUCKLES, ESQ., Vice Chairman
IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,
MICHELLE R. DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY,
CHERYL COHEN EFFRON, ANNA HAYES LEVIN,
ORLANDO MARIN, LARISA ORTIZ, Commissioners

Nicholas Viest
Chair

Latha Thompson
District Manager



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The City of New York Manhattan Community Board 8

October 20, 2014

Hon. Carl Weisbrod
Chair
The Department of City Planning
22 Reade Street
New York, New York 10007

Re: ULURP Application No. , 110 East 70th Street, Block 1404, Lot 67

Dear Chair Weisbrod:

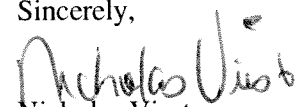
At its Land Use meeting on Wednesday, October 8, 2014 Community Board 8M **approved** the following resolution by a vote of 34 in favor, 2 opposed 2 abstentions and 0 not voting for cause.

WHEREAS, the application for a special permit pursuant to 74-711 to modify bulk regulations applicable to a single family home within the Upper East Side Historic District in order to legalize the residential use of a portion of a rear yard extension that was created in 1995 for a then-permitted community facility use on the property. Application seeks waivers of (i) rear yard regulations of ZR Section 23-47 to permit retention of an existing structure in required rear yard; (ii) narrow outer court regulations of ZR Section 23-841 to permit retention of existing outer court that does not meet the minimum required width; and (iii) requirements of ZR Section 23-145 as to lot coverage, therefore

BE IT RESOLVED that Community Board 8 approves the application for a special permit pursuant to 74-711 to modify bulk regulations applicable to a single family home within the Upper East Side Historic District in order to legalize the residential use of a portion of a rear yard extension that was created in 1995 for a then-permitted community facility use on the property.

Please advise this office of any decision made by City Planning concerning this matter.

Sincerely,


Nicholas Viest
Chair

cc: Honorable Bill de Blasio, Mayor of the City of New York
Honorable Gail Brewer, Manhattan Borough President
Honorable Carolyn Maloney, 14th Congressional District Representative
Honorable Liz Krueger, NYS Senator, 26th Senatorial District

Honorable Micah Kellner, NYS Assembly Member, 65th Assembly District
Honorable Dan Quart, NYS Assembly Member, Assembly District
Honorable Ben Kallos, NYC Council Member, 5th Council District
Honorable Daniel Garodnick, NYC Council Member, 4th Council District
Deirdre A. Carson, Esq., Greenberg Taurig, LLP



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Gale A. Brewer, Borough President

November 24, 2014

**Recommendation on ULURP Application No. C 150059 ZSM – 110 East 70th Street
By 110 Residence LLC**

PROPOSED ACTION

110 Residence LLC (“the applicant”) seek a special permit pursuant to Section 74-711 of the Zoning Resolution (“ZR”) to modify the rear yard requirements of Section 23-47, the narrow outer court requirements of Section 23-841 and the lot coverage requirements of Section 23-145 for an existing single family residential building at 110 East 70th Street, Block 1404, Lot 67 (“Project Site”) located in an R8B District in the Upper East Side Historic District in Community Board 8, Manhattan.

Pursuant to ZR § 74-711, applicants may request a special permit to modify the use regulations of zoning lots that contain landmarks or are within Historic Districts as designated by the Landmarks Preservation Commission (“LPC”). In order for the City Planning Commission (“CPC”) to grant use modifications, the applicant must first meet the following conditions:

- 1) LPC has issued a report stating that the applicant will establish a continuing maintenance program for the preservation of the building and that such modification or restorative work will contribute to a preservation purpose;¹
- 2) The application shall include a Certificate of Appropriateness, other permit, or report from LPC stating that such bulk modifications relate harmoniously to the subject landmark building in the Historic District²;
- 3) The maximum number of permitted dwelling units is as set forth in ZR § 15-111.³

Further, in order to grant a special permit, the CPC must find that:

- 1) The modifications shall have minimal adverse effects on the structures or open space in the vicinity in terms of scale, location and access to light and air;
- 2) Such modifications shall have minimal adverse effects on the conforming uses within the building and in the surrounding area.

¹ The LPC issued a report dated December 26, 2013.

² The LPC issued Certificates of Appropriateness 09-8354 and 12-2066 on April 1, 2009 and June 28, 2011, respectively.

³ The building contains one dwelling unit. This is below the maximum permitted number of dwelling units set forth in Section 15-111.

PROJECT DESCRIPTION

The applicant proposes three waivers of bulk requirements in order to legalize the residential use of a portion of an existing rear yard extension (the “home office”) and a portion of wall that encroaches into the outer court. The residential building also has some existing legal non-complying conditions, including exceeding the maximum lot coverage and encroachments into the required rear yard. These areas, which are part of the main house, are not subject to the special permit.

The area that is subject to the waivers is approximately 130 square feet. The first waiver is to permit a reduction of 12’-4 ¼” in the 30 foot minimum required rear yard. The second waiver would allow the existing non-compliant lot coverage to be increased from 76.5% to 83.75%. Only 70% lot coverage is permitted as of right. The third waiver is to permit a reduction in the required width of one and one-third of the depth of a narrow inner court from 11’-3 5/8” to 10’-8.” The proposed use of the home office conforms to zoning and no change of use is proposed for the remainder of the building.

The building is located in the Upper East Side Historic District, which the LPC designated in 1981 and expanded in 2010. The district is known for its collection of townhouses and luxury apartment buildings, a testament to its heyday as the most fashionable residential district in the city. In the 1981 report, 110 East 70th Street was designated as being simplified Beaux-Arts in style and two major alteration periods were noted, 1905 when a new façade was added, and 1948, when the building was converted to a two family residence. The special permit pursuant to ZR § 74-711 requires the applicant enter into a Restrictive Declaration with the LPC and establish a continuing maintenance program for the preservation of the building.

Area Context

The project site is located in an R8B zoning district in the heart of the Upper East Side Historic District in Community Board 8, Manhattan. The project site is also subject to an additional zoning control as it is also located in a Limited Height District (LH-IA). Due west is Central Park. Most of the surrounding area also has R8B as the underlying zoning district. Also nearby is an R9X District along Lexington Avenue to the south, an R10A District along East 72nd Street to the north and east, and a C1-8X District along Lexington Avenue to the north. The nearest subway station is for the number 6 line and is about two blocks away at Lexington Avenue and 68th Street.

The project site is also adjacent to the Special Park Improvement District (PI), which limits the heights of new buildings to 210 feet or 9 stories, whichever is less, mandates street wall continuity, and was put in place to preserve the residential character and architectural quality of Fifth and Park Avenues in the neighborhood. Farther west, there is also the Special Madison Avenue Preservation District (MP). This district’s goal is to preserve and insure the commercial retail character of Madison Avenue while balancing the residential character on the mid blocks. The ground floor of buildings on Madison Avenue must be occupied by selected retail uses, while bulk controls such as height and street wall provisions ensure the continuity of the streetscape.

The area's land use is known for its townhouses, many of which are single-family homes, at the midblock and taller apartment building along the avenues. This built character is for the most part consistent with the applicable zoning. The townhouses range in height from four to five stories. There is also a substantial number of philanthropic, educational, and religious uses distributed throughout the neighborhood. The area is generally within the Upper East Side Historic District and there are a number of individual landmarks nearby. These include the Center for Inter-American Relations, the Automation House, the Italian Cultural House and the Consulate General of Italy.

Site Description

The Project Site is a five and a half story building located at 100 East 70th Street (Block 1404, Lot 67) in an R8B District within a Limited Height District. R8B Districts permit a maximum floor area ratio (FAR) of 4.0 for residential uses and 5.10 FAR for community facility uses. If the building contains both residential and community facility, the maximum FAR is 4.0. Buildings are allowed a maximum building height of 60 feet after the minimum street wall height of 55 feet has been met. The maximum street wall height is 60 feet.

The Project Site is a single-family residence that was originally constructed in 1869 as one of five in a series of brownstone row houses in the Anglo-Italianate style. In 1905, it underwent a significant alteration and the style of the building was changed to simplified Beaux-Arts, as was popular during that particular time. The façade was pulled closer to the street wall and the rear of the house was also enlarged. In 1922, the house was enlarged again in the rear extension. The house was altered again in 1948 when it was converted from a single family to a two family residence. A few years later, a new certificate of occupancy was requested to reflect the basement level use as a doctor's office. In 1995, plans were filed to convert the house back to a single family; the doctor's office remained and was enlarged under the community facility use and bulk requirements.

When the 1961 Zoning Resolution was enacted, the 1922 rear extension became a legal non-compliance as it encroached in the rear yard, had a non-complying narrow outer court and the total building exceeded the maximum lot coverage permitted. In 2004, text amendments were adopted which limited rear yard encroachments of community facility uses in residential districts; the 1995 addition then became a legal non-complying condition as well.

The applicant purchased the property in 2007, and in 2008 began the process of completely rebuilding the structure. At the time, the applicant filed for a building permit on the basis of the text of ZR § 54-41 which allows owners of one and two family residences to rebuild non-complying buildings after complete demolition. Building permits were issued in 2009 from Department of Buildings and the LPC for the complete demolition and reconstruction of the house, including the 1995 extension and the 1922 extension. In the ensuing years, multiple audits were conducted and passed as to whether these portions could be reconstructed and occupied. In 2011 this decision was reversed and further litigation ensued, resulting in the applicant's ability to occupy all portions of the home except the 130 square feet in question. The remedy was to pursue a special permit pursuant to ZR § 74-711 to legalize the non-complying portion of the rear yard extension that was built in the footprint of the 1995 addition.

Proposed Actions

The applicant seeks a special permit pursuant to ZR § 74-711 to modify bulk controls related to the rear yard, court, and lot coverage requirements in order to legalize the residential use of a portion of an existing rear yard extension (the “home office”) and a portion of wall that encroaches into the outer court. A restrictive declaration will be recorded which sets forth a continuing maintenance plan for the building to ensure the preservation of the building and the fulfillment of the preservation purpose as a condition of approval for this special permit.

As described in the application materials, Certificates of Appropriateness and LPC report, the reconstruction and restoration of the building has put it in a sound, first-class condition. The restoration involved the replication of original architectural details from the 1920s Beaux-Arts façade, a complete reconstruction floor by floor of the building’s structure and mechanical systems, and the recladding of an exposed party wall with historically appropriate brick. The LPC noted in its report to the City Planning Commission that the restoration work “returned the building closer to its original appearance, and will reinforce the architectural and historic character of the building, the streetscape, and the Upper East Side Historic District.”

COMMUNITY BOARD RECOMMENDATION

At its Land Use Committee, a committee of the whole, on October 9, 2014 Manhattan Community Board 8 (CB8) recommended approval of this application. The vote was 34 in favor, 2 opposed, and 2 abstentions. The recommendation was submitted to the Department of City Planning on October 22, 2014.

BOROUGH PRESIDENT’S COMMENTS

A unique attribute of Manhattan’s blocks is, in general, a consistent street wall along the perimeter of all four sides of the block. We do not have a road system that includes alleys; instead, we have “donuts.” These donuts on the Upper East Side were historically formed by the rear yards of townhouses, like 110 East 70th Street, built speculatively by developers as the residential development of Manhattan expanded ever northward in response to a post-Civil War population boom and the opening of Central Park. Today, it is the City of New York’s Zoning Resolution through its requirements for open space, minimum yards, and distance between buildings that maintains and ensures these open areas will remain in perpetuity to provide light and air.

The waiver requested as part of this application is for a relatively small amount of square footage within the donut or open area of this particular block. However, while it is important to note that much of the donut space has been intruded upon by other development, this aggregate intrusion should not be used as a justification for why it is appropriate for further obstruction. We should be careful about setting precedent for granting a waiver upon the cumulative adverse condition that may already exist. The findings for this special permit require discussion as to whether this individual waiver impacts the light and air, not whether this waiver is appropriate because the existing conditions already do so.

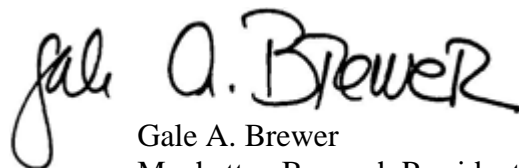
Also to be clear, this approval is not condoning the construction of community facility space under the bulk requirements of that use only to have that space converted to residential use soon after. Here the space was documented as being used for a doctor's office for a long period of time, at least fifty years. Neighborhoods and buildings should and can change over time.

The story of how and when the conclusion was reached that the home office was non-complying is unsettling. A building permit was issued and audits undertaken over the course of years only for this interpretation to be made after construction was completed and a certificate of occupancy was requested. If a mistake was made in the interpretation and that mistake created a non-complying condition, all efforts should be made to correct the non-compliance. This should be undertaken in a reasonable and judicious manner. The text of the Zoning Resolution is complex and many memos and interpretations already exist. These documents are encouraged to be made available online even in draft form to ensure transparency and that these discussions occur before shovels hit the ground and such a painstaking and commendable restoration is undertaken.

However, many of these concerns are broader than the special permit under consideration. The Manhattan Borough President believes the conditions and findings have been met for the requested special permit. The encroachments into the rear yard subject to this permit are minimal and do not significantly impact light and air; nor is this addition visible from the street. The applicant has already completed a first-class restoration of the building. A great amount of research was undertaken by the family to ensure the right brick, windowpane treatment and pattern, and attention was paid. In addition, it is appreciated that the applicant's sought the rationale behind the façade changes from 1905, including understanding the significance of its former inhabitants, that resulted in a completely different style designation for this row house from its immediate neighbors. Given that the family who undertook this restoration marked by such painstaking detail and work will occupy the building, the maintenance plan and commitment to the building are considered with confidence.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends approval of ULURP Application No. C 150059 ZSM.


Gale A. Brewer
Manhattan Borough President