

**RESOLUTION**

**Date: April 3, 2013**

**Committees of Origin: Land Use and Transportation**

**Re: Application of Columbia Grammar & Preparatory School for a Variance Pursuant to ZR72.21**

**Full Board Vote to disapprove Finding A: 22 In Favor 8 Against 3 Abstentions 2 Present**

**Full Board Vote to disapprove Finding C: 25 In Favor 6 Against 6 Abstentions 2 Present**

**Full Board Vote to approve Finding D: 31 In Favor 0 Against 3 Abstentions 2 Present**

**Full Board Vote to approve Finding E: 34 In Favor 1 Against 1 Abstention 2 Present**

Columbia Grammar and Preparatory School seeks a BSA variance pursuant to Section 72.21 of the Zoning Resolution, in order to enlarge its existing five story building at 36 West 93<sup>rd</sup> Street (33 West 92<sup>nd</sup> Street), Manhattan with respect to lot coverage (ZR24-11); permitted rear yard equivalent obstruction (ZR24-33); real yard equivalent (ZR24-382) and sky exposure plane (ZR24-522).

Currently, the site is developed with five stories plus sub-cellar and cellar. The existing building was erected as of right. The Applicant proposes building out an existing set-back area at West 92 Street from two floors in height to four; building out an existing set-back on West 93<sup>rd</sup> Street from five floors in height to seven; and adding two new floors, so that upon completion, the building will consist of a sub-cellar, cellar and seven floors above grade.

The proposed enlargement would increase the square footage of the building from 28,178 to 40,778, still below the as-of-right permissible FAR of 54,301.

The applicant has cited as a programmatic need its desire to create a middle school physically separate from the school's upper and lower schools. The applicant has stated that this change is in keeping with current educational theory, and that most New York City private schools have a separate middle school.

The application has generated a significant amount of opposition from neighbors on both 93<sup>rd</sup> Street and 92<sup>nd</sup> Street for reasons related primarily to traffic congestion and the blocking of light and air, which would be experienced by adjacent residents on 92<sup>nd</sup> Street.

The Land Use Committee of Community Board 7 has held hearings on the application on February 20 and March 20, 2013, and has reviewed numerous written submissions.

In order to be eligible for a variance under Section 72-21 of the zoning resolution, a non-profit applicant must satisfy four specific findings set forth in the zoning resolution). Failure to satisfy any one of these findings results in a rejection of the application. The findings are discussed in order below:

The Required "A" Finding:

As a result of unique physical conditions peculiar to and inherent in the zone lot, programmatic difficulties or unnecessary hardship arising in complying strictly with the use or bulk provision to the zoning resolution.

The applicant has sought to meet this finding by pointing to a combination of conditions:

(1) the lot's odd shape with its varying frontages on West 92<sup>nd</sup> Street and West 93<sup>rd</sup> Street, (2) the lot's narrowness, and (3) the existing building's unique footprint, configuration and structure support system, and (4) the programmatic needs posed by the Applicant's condition as a not-for-profit, specifically the need for additional floor area for the educational institution to achieve its stated goals.

None of the foregoing conditions, either singularly or in combination, satisfy the "A" finding.

1. The shape of the lot: The lot results from a zoning lot merger of two lots, one fronting on West 93<sup>rd</sup> Street and one fronting on West 92<sup>nd</sup> Street. Each of the merged lots was a regular and unexceptional rectangular lot which differs from the typical mid-block lot only in that each was wider than the typical brownstone lot. The only "irregularity" resulting from the combination of the two lots is that the southern half (fronting on West 92<sup>nd</sup> Street) is a narrower rectangle than the northern half. To the extent that this creates an irregularity, it was created by the applicant. More importantly, the applicant has made no effort to demonstrate any difficulty caused by the shape of the lot which would prevent it from complying with the bulk provisions of the zoning resolution.

2. The lot's "narrowness": As noted above, the lot is not narrow. Any inability to build to the maximum FAR allowable is caused by an application of the zoning resolution to all similar lots in the district.

3. The existing building's "unique footprint, configuration and structure support system": This claimed condition has not been shown to be "peculiar to and inherent in the zone lot," and in any event is self-created. Moreover, according to a report by an engineer consulted by the applicant, the structural support issue can be dealt with at slightly greater cost.

4. Programmatic needs: The applicant has made no effort to show why its programmatic needs, i.e., the "need" to separate the middle school from the upper school, cannot be met in an as-of-right building. Thus, giving significant deference to the applicant with respect to its assertion of programmatic needs, those needs do not serve to meet the A finding.

The applicant has argued it has satisfied the A finding simply by reason of the fact that it is a school and has asserted a "programmatic" need. In support of this argument, the applicant has cited a New York Court of Appeals case, Cornell University v. Bagnardi, 68 N.Y.2d 583 (1986). That case does not support the applicant's interpretation of the zoning resolution. Bagnardi dealt with the issue of whether a municipal zoning resolution can exclude a school entirely from a residential district. The case dealt with use regulation, not bulk regulation, as the Columbia Grammar application does. The Court in Bagnardi held that schools, as an important part of the community, cannot be automatically excluded from residential areas. No such exclusion is at issue here. Columbia Grammar presently has sufficient real estate on West 92<sup>nd</sup>, 93<sup>rd</sup> and 94<sup>th</sup> Streets to house nearly 1,300 students in an otherwise residential area. No one has ever challenged the use of Columbia Grammar's property as a school.

What is at issue in this application is not the use of the zone lots, but the size of the buildings on the lots. Bagnardi does not deal in any way with that issue.

Moreover, and relevant to this application, Bagnardi expressly rejected the notion that schools are entitled to a "full exemption from zoning rules..." (68 N.Y.2d at 594), observing that the result of some municipalities applying such an exemption "has been to render municipalities powerless in the face of a religious or educational institution's proposed expansion, no matter how offensive, overpowering or unsafe to a residential neighborhood

the use might be. Such an interpretation, however, is mandated neither by the case law of our State nor common sense.” The Court held that

...a special permit may be required and reasonable conditions directly related to the public’s health, safety and welfare may be imposed to the same extent that it may be imposed on non-educational applicants... Thus, a zoning ordinance may properly provide that the granting of a special permit to churches or schools may be conditioned on the effect the use would have on traffic congestion, property values, municipal services, the general plan for development of the community, etc...

The Court noted further that the zoning board should have the “opportunity to weigh the proposed use in relation to neighboring land uses and to cushion any adverse effects by the imposition of conditions designed to mitigate them.” If anything, Bagnardi stands for the proposition that a school’s “need to expand” [or lack thereof] is irrelevant to the zoning decision. (68 N.Y.2d at 597).

In sum, nothing in Bagnardi justifies the applicant’s claim that its programmatic needs trump the requirements of the A finding. This reading of Bagnardi is supported by the Court of Appeals decision in Pine Knolls Alliance Church v. Zoning Board of Appeals of the Town of Moreau, 5 N.Y.3d 407, 413 (2005),

The applicant has also drawn our attention to two BSA decisions, The Abraham Heschel School and York Prep. But a review of the Board’s decisions in those cases demonstrates that the Board did not ignore the A finding in “deference” to the school’s programmatic needs. Rather, the Board made detailed findings relating to the lots and how the peculiarities of the lots made it impossible for the schools to fulfill their programmatic needs absent a variance. We similarly give deference to the school’s expression of “need”, but the application here merely asserts a “need” without explaining how the “uniqueness” of the lot impacts on the school’s ability to meet that need.

The Required “B” Finding:

The B finding is inapplicable to non-profit institutions.

The Required “C” Finding:

The variance, if granted, will not alter the essential character of the neighborhood or district in which the zone lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public’s welfare.

Residents in the surrounding community have raised a number of objections to the proposed enlargement, the most prominent of which are that (1) the enlargement would significantly contribute to already intractable traffic congestion on West 93<sup>rd</sup> Street and on Central Park West between West 92<sup>nd</sup> and 94<sup>th</sup> Streets, primarily at the time of drop off and pick up of students; and (2) the proposed West 92<sup>nd</sup> Street addition would deprive neighboring residents with adjacent windows of light and air.

1. Traffic: At the committee hearing, and elsewhere, the school has acknowledged that there is significant traffic congestion on West 93<sup>rd</sup> Street caused by parents or other caretakers dropping off or picking up their children at the school. Because cars need to queue up on Central Park West both northbound and southbound in order to turn west onto 93<sup>rd</sup> Street, the congestion spills over onto the avenue as well. Neighbors have complained of the effect of such congestion on air quality and noise pollution. The problem has persisted for several years, and efforts by the school to date have failed to mitigate the congestion. In recent weeks, the

school has for the first time retained a traffic consultant. However, the traffic consultant had not, as of the date of the CB7 committee hearing produced a report or recommendations with respect to the traffic problem. The consultant's report was delivered on April 2, 2013. The report confirmed the existence of traffic congestion both in the morning and at pick-up time in the afternoon. The report made three recommendations to address the problem: 1) adding personnel to help direct traffic (which the school says it has already done); 2. Establishing a "school zone" on Central Park West (which would eliminate several parking spaces); and arranging for pick-up and drop-off on 92<sup>nd</sup> Street (a "solution" which residents of the block and the community board strenuously objected to the last time the school sought a special permit for one of its buildings). In any event, the consultant cautioned that before the school could implement his recommendations the school would need to consult with the New York City Department of Transportation. The consultant did not offer an opinion—and neither does CB7-- as to whether the measures recommended would eliminate the congestion.

Absent from the consultant's report was any opinion as to whether an increase in enrollment of up to 84 students would further adversely impact traffic congestion. Nor did the consultant address issues of air quality and noise.

Given the tentative nature of the consultant's report and the need for the school to consult with and, presumably, put into effect the recommendations, it cannot be safely predicted that traffic congestion can or will be brought under adequate control. Indeed, it may well be that the most prudent course is for the school to seek a delay in calendaring this application at the BSA until after it has had an opportunity to consult with the Department of Transportation and implement the consultant's recommendations. In the present state of affairs, it cannot be concluded that the proposed expansion will not adversely impact the public welfare.

The applicant contends that the proposed enlargement will have no effect on congestion because current plans are for the school's enrollment to increase by only ten students to a maximum of 1,300. At the Land Use Committee hearing, the school was asked if it would enter into a binding agreement not to increase enrollment above 1,300. The school's headmaster declined to agree to do so. It is not realistic to rely on an expression of present intent by the present administration of the school. The proposed enlargement consists of more than 12,000 square feet. It would defy common sense to assume that in the future, the applicant would not take advantage of the additional space to materially increase the size of the school. Assuming the current ratio of approximately 150 square feet per student, the proposed addition could accommodate an increased enrollment of at least 84 students. Such an increase would undoubtedly result in worsening traffic conditions.

2. West 92<sup>nd</sup> Street: The proposed infill of the setback on West 92<sup>nd</sup> Street would be constructed within 10 feet of apartments containing approximately 15 windows to the east and to the west. The applicant has modified its original plans to create a sloping roof opposite these windows, which mitigates the effect of reduced light and air. However, these windows will lose their sight lines to the south and will have their light and air affected albeit to a lesser extent than under the original plan.

#### The Required "D" Finding:

The practical difficulties or unnecessary hardship claimed as a ground for a variance have not been created by the owner or by a predecessor in title.

As noted above, the claimed irregular shape of the zone lot resulted from the combination of two zone lots by the applicant. The claimed difficulty in complying with bulk regulations resulting from the structure of the existing building was created by the applicant. Since, as noted above Community Board 7 does not believe that these conditions meet the "A" Finding, there are no self-created conditions relevant to the application.

The Required "E" Finding:

The variance, if granted, is the minimum variance necessary to afford relief.

The Community Board has no reason to dispute the assertion by the applicant that if a variance is granted, the present proposal represents the minimum variance necessary.

For the foregoing reasons, it is

RESOLVED:

1. That Finding A of the ZR72.21 has not been met.  
*Joint Committee Vote: 6-2-0-1.*  
*Non-Committee Board Member Vote: 2-0-0-0.*
2. That Finding C of the ZR72.21 has not been met.  
*Joint Committee Vote: 6-0-2-1.*  
*Non-Committee Board Member Vote: 2-0-0-0.*
3. That Finding D of the ZR72.21 has been met.  
*Joint Committee Vote: 8-0-0-1.*  
*Non-Committee Board Member Vote: 1-0-1-0.*
4. That Finding E of the ZR72.21 has been met.  
*Joint Committee Vote: 6-1-1-1.*  
*Non-Committee Board Member Vote: 2-0-0-0.*
5. Accordingly, Community Board 7 rejects the proposed enlargement.

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Health & Human Services**

**Re: 2724 Broadway (West 104<sup>th</sup>-105<sup>th</sup> Streets.) Lease of commercial space at 2724 Broadway by the NYC Economic Development Corporation to Brandy Melville, a women's clothing store.**

**Full Board Vote: 32 In Favor 0 Against 2 Abstentions 0 Present**

This Resolution is based on the following facts:

The New York City Economic Development Corporation (“EDC”) is tasked with, among other things, the management of certain City-owned properties. The goal of the management of such properties is to generate revenue to support its mission of generating employment opportunities, business opportunities, and infrastructure needed for sustainable residential and business communities.

EDC manages two storefronts located in the ground floor of the Regent Hotel at Broadway at 104<sup>th</sup> Streets. The building above the ground floor is currently used as a shelter run by the Department of Homeless Services.

Section 384(b)(4) of the City Charter empowers the mayor (and the EDC as the mayor’s designee), with the approval of the relevant Borough Board, to lease City-owned property “for such purpose or purposes and at such rental or for such price as may be determined by the mayor to be in the public interest, and no such lease shall run for a term longer than ninety-nine years.”

The current application concerns the retail space at 2724 Broadway, most recently occupied by a “Hot and Crusty” bakery store. The store space has been vacant since or about June 2012.

The store space comprises approximately 952 square feet on the east side of Broadway between 104<sup>th</sup>-105<sup>th</sup> Streets, with approximately 32 linear feet of frontage on Broadway mid-block. The applicant does [not] presently anticipate significant renovations to the existing façade. The Regent building is zoned R-9A with a C1-5 commercial overlay.

EDC published a Request for Offers for the storefront space in the Summer of 2012, and received four expressions of interest. The tenant selected by EDC is Brandy Melville, a retailer that features affordable yet fashionable clothing aimed at women aged 18-25. The other potential tenants included two fast-food establishments that required ventilation for cooking equipment that the space could not support, and a liquor store.

EDC retained the firm of Goodman Marks to appraise the fair market value of the retail space, and Goodman Marks advised EDC that a fair market base rent for the space is approximately \$155 per square foot per year. The proposed net lease to Brandy Melville includes a base rent of \$175 per square foot per year, or approximately 12% above current market.

The lease has a term of 10 years, and the base rent increases by 3% per year. Goodman Marks opined to EDC that a 3% per year increase in base rent is a fair escalation in the current market for a ten year lease. The proposed lease is a “triple net” lease requiring the tenant to pay all taxes, expenses and fees incident to its operation of the space.

The proposed use of the store space by a women’s clothing retailer will add to the mix of ground floor retail on the block, which currently includes a Ben and Jerry’s ice cream shop, a barber shop, a McDonald’s franchise, a pharmacy, and a vacant restaurant space being converted to use by a liquor store.

A former restaurant on the same block experienced significant difficulties in venting cooking exhaust in a manner that did not disturb residential neighbors in the rear yard.

EDC advised that Brandy Melville expects to hire 10 full-time and 15 part-time employees to staff the store.

More commercial spaces have been vacated than have been re-let on Broadway between 96<sup>th</sup> and 110<sup>th</sup> Streets since 2008, with many storefronts remaining vacant for significant periods.

THEREFORE, BE IT RESOLVED THAT Community Board 7/Manhattan finds that the financial terms of the proposed lease, and the proposed use and purpose of the occupancy of the store space as a women's clothing retailer, are sufficiently consistent with the public interest to warrant Borough Board approval of the EDC's proposed lease to Brandy Melville.

*Committee: 4-0-1-0. Non-Committee Board Member: 1-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committees of Origin: Transportation Joint with Parks & Environment**

**Re: Central Park/Stranger's Gate (West 106<sup>th</sup> Street and Central Park West.) Proposal to increase visibility at the Park entrance.**

**Full Board Vote: 33 In Favor 0 Against 0 Abstentions 0 Present**

This resolution is premised on the following facts and concerns:

- Strangers Gate, an entrance to Central Park located at Central Park West and W.106 St. provides a small and beautiful public pedestrian plaza.
- The view both into the plaza from the street and out from this plaza to see the streetscape is generally obstructed by parked motor vehicles at the curb.
- The views, both from the plaza and from the street, would be considerably improved if the curb adjacent to the gateway were to remain clear a greater amount of the time.
- Moving the northbound M10 bus stop located just north of W106 St southward to place it positioned directly at Strangers Gate would keep the curb clear at all times when the bus was not actually picking up or dropping off passengers.
- Parking originally at Strangers Gate can be moved to the original site of the bus stop being relocated, resulting in no net loss of parking in the neighborhood.

THEREFORE, BE IT RESOLVED THAT Community Board 7/Manhattan **approves** moving the M10 bus stop southward to place it directly in front of Stranger's Gate and moving the curbside parking originally located at Stranger's Gate to the location from which the M10 bus stop has been removed.

*Committee: 10-0-0-0. Non-Committee Board Member: 1-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Transportation**

**Re: Sam Schwartz/Move-NY's plan for funding the Metropolitan Region's transportation systems/roads/bridges.**

**Full Board Vote: 33 In Favor 0 Against 1 Abstention 0 Present**

This resolution is premised on the following facts and concerns:

- Traffic congestion continues to be a huge problem in many areas of New York City.
- Air pollution continues to be a problem, with harmful particulates in many areas of the City, especially around "free bridges".
- Our subway and bus system is consistently under-funded, with ridership at its highest levels since 1950. Only the MTA's current Capital Plan is funded, and it is unclear where the funding will come from for the next two Capital Plans.
- At a 7 1/2 % yield every other year, eventually our transportation system will become unaffordable for most riders. Some other method of funding the transportation system and highways must be found that re-distributes who pays and who benefits from the largest public transportation system in the nation.

THEREFORE BE IT RESOLVED THAT Community Board 7/Manhattan supports many of the concepts included in the Sam Schwartz/Move-NY Plan, which, among other things:

1. Increases funding for the capital needs of our transit system, and allows many new projects to be built.
2. Relieves pressure on the fare box, while allowing for many improvements in the subway/bus/commuter rail system.
3. Appeals to all areas of the City by taking into account where transit alternatives are, and where they aren't.
4. By applying increased tolls in some areas and lowering them in others, helps re-distribute traffic, saves fuel, and lowers air pollution.
5. Encourages the use of mass transit while maintaining roads and bridges with a predictable, inflation-sensitive reliable funding source.

*Committee: 8-0-1-0. Non-Committee Board Members: 2-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Transportation**

**Re: Pedestrian Safety - enforcement of moving vehicle violations.**

**Full Board Vote: 30 In Favor 2 Against 2 Abstentions 0 Present**

This resolution is premised on the following facts and concerns:

- The Working Principles of CB7 state: Every person feels safe and is safe walking across neighborhood streets, on sidewalks and in parks and other open spaces. Pedestrians are at their most vulnerable when crossing streets
- Motor vehicles caused 279 deaths and 54,000 injuries on New York City streets last year, and 20 pedestrians were killed by motor vehicles in January 2013.
- Seniors and others feel a very real sense of danger when bicycles are operated dangerously.
- Motor vehicles endanger, injure and kill pedestrians most often by: speeding, failure to yield to pedestrians, running red lights, jumping the curb and backing up dangerously. In addition, drivers of many large trucks and buses fail to see pedestrians due to poor design or equipment violations.
- Cyclists create dangerous situations when: riding the wrong way on one-way streets, riding too close to pedestrians attempting to cross a road, failing to yield to pedestrians at intersections and not stopping at red lights. These violations not only endanger pedestrians, but also other cyclists, motor vehicle operators and passengers.

THEREFORE, BE IT RESOLVED THAT Community Board 7/Manhattan: calls upon the 20<sup>th</sup> and 24<sup>th</sup> precincts of NYPD in our district to enforce those laws already in place to protect our pedestrians, prioritizing enforcement so that it targets those vehicle operators and behaviors that have the potential to cause the most harm; specifically those of speeding, failure to yield to pedestrians, failure to obey red lights, backing up dangerously and traveling the wrong direction on one-way streets, and

BE IT FURTHER RESOLVED THAT CB7 asks the mayor and the city council to immediately make any needed funds available to allow the NYPD or other appropriate agency to successfully enforce these laws without taking away from their other necessary duties, and

BE IT FURTHER RESOLVED THAT [to aid NYPD in this enforcement] CB7 asks the state legislature to release the funds to install speed and red light cameras at all major intersections on the Upper West Side to document and reduce speeding and red-light running by motorists, and

BE IT FURTHER RESOLVED THAT the City and State of New York review and update all laws pertaining to cyclists in order to allow increasing numbers of bicyclists to travel in a reasonable, safe manner on our streets.

*Committee: 9-0-0-0. Non-Committee Board Members: 2-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Preservation**

**Re: 205 Columbus Avenue, d/b/a/ Kate Spade (West 69<sup>th</sup> – 70<sup>th</sup> Streets.) Application to the Landmarks Preservation Commission for modifications to the existing storefront.**

**Full Board Vote: 34 In Favor 0 Against 0 Abstentions 0 Present**

The following facts and concerns were taken into account in arriving at our conclusions:

- The new storefront will have fixed glass panels with a center door.
- The fixed panels will inflect to create a slight indent off the street.
- The storefront materials will be clear glass panes set within thin light blue metal framing, with a short stone base.
- Signage includes a brass panel with white letters above the door, and polished brass letters on the lower portion of the fixed glass panes
- A black awning with gold company logo will be mounted above the storefront.

The Preservation Committee of Community Board 7/ Manhattan believes that the design of the new storefront is reasonably appropriate to the historic character of the Historic District.

THEREFORE, BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** the modifications to the existing storefront.

*Committee: 5-0-0-0. Non-Committee Board Member: 1-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Preservation**

**Re: 120 West 70<sup>th</sup> Street, PH (Broadway – Columbus Avenue.) Application to the Landmarks Preservation Commission for modification of roof-top addition.**

**Full Board Vote: 34 In Favor 0 Against 0 Abstentions 0 Present**

The following facts and concerns were taken into account in arriving at our conclusions:

- The overall height (12 feet) and square footage (1300 sf) of the existing penthouse will be maintained, but its massing will be reconfigured.
- The new penthouse facades will be composed of large expanses of clear tempered glass panes and tall glass doors set within clear anodized aluminum frames, as well as areas of solid stucco-faced walls with small “punched” window openings, all set on a black metal base.
- Deep roof overhangs and a trellis structure will provide shade for the large glazed areas.
- The new trellis structure will be minimally visible - from several blocks to the west, along the west side of Broadway.

The Preservation Committee of Community Board 7/ Manhattan believes that the design of the modified rooftop addition is beautiful and finds the design reasonably appropriate to the historic character of the Historic District. The Committee commends the applicant for creating a distinctive and aesthetically pleasing architectural composition.

THEREFORE, BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** the modification of the existing roof-top addition.

*Committee: 5-0-0-0. Non-Committee Board Member: 1-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Preservation**

**Re: 100 West 78<sup>th</sup> Street (Columbus Avenue.) Application # 13-6559 to the Landmarks Preservation Commission to install a pergola, and aluminum and glass railings at the roof.**

**Full Board Vote: 34 In Favor 0 Against 0 Abstentions 0 Present**

The following facts and concerns were taken into account in arriving at our conclusions:

- The existing roof terrace enclosure is “grandfathered” and is highly visible from the street
- The tall dark cedar fence will be removed, replaced by a new fence 42” high, the minimum required by code.
- The existing bulky triangle-shaped pergola will be replaced by a visually lighter, rectangular shaped pergola, framed with 6” x 6” natural cedar posts.
- Shallow self-sustaining vegetation as well as taller plants and bushes and trees will be planted on the rooftop

The applicant agreed to make the following revisions and modifications to the design presented:

- Install a new black metal railing in lieu of the frameless glass-panel railing originally proposed. The railing will be secured to the inner face of the existing parapet.
- Strip the dark paint off the existing bulkhead at the southeast corner, and repaint it using a color similar to the tawny beige brick of the building’s main street facades below.
- Strip and repair the existing dark-color clad chimney, repairing and restoring it to match the tawny brick color of the walls below and the other chimneys along the roof further west.

The Preservation Committee of Community Board 7/ Manhattan believes that the design of the reconfigured rooftop pergola and replacement railings at the roof, as modified, are all reasonably appropriate to the historic character of the Historic District.

**THEREFORE, BE IT RESOLVED THAT Community Board 7/ Manhattan approves the pergola and the replacement railings as modified.**

*Committee: 5-0-0-0. Non-Committee Board Member: 1-0-0-0.*



**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Preservation**

**Re: 421 Amsterdam Avenue, dba Monaco (West 80<sup>th</sup> Street.) Application #12-7550 to the Landmarks Preservation Commission to install storefront infill.**

**Full Board Vote: 34 In Favor 0 Against 0 Abstentions 0 Present**

The following facts and concerns were taken into account in arriving at our conclusions:

- The existing irregularly-sized glazed panels will be replaced by equal-width fixed and operable glazed wood panels and a new wood door, set within wood framing.
- New glazed transoms will replace the solid wood fascia band above the glazed panels and doors.
- Applied moldings on the wood column enclosures, and simply defined solid panels beneath the door and panel glazing will introduce a more traditional architectural vocabulary
- All woodwork will be painted matte black
- Signage will be backlit stainless steel lettering mounted on a solid black background.
- The new awning will be burgundy colored
- New lighting will be Mission-style fixtures mounted to the wood pilasters.

The Preservation Committee of Community Board 7/ Manhattan believes that the design of the storefront infill is reasonably appropriate to the historic character of the Historic District. The Committee strongly recommends that all the wood components be stained mahogany (as originally proposed by the Applicant) rather than painted matte black finish.

**THEREFORE, BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** the proposed storefront infill, with the strong recommendation that the woodwork be stained mahogany rather than painted matte black finish.**

*Committee: 5-0-0-0. Non-Committee Board Member: 1-0-0-0.*

RESOLUTION

**Date: April 3, 2013**

**Committee of Origin: Preservation**

**Re: 90-94 Riverside Drive, aka 307-319 West 81st Street (Riverside -West End Avenue.)**

**Application #14-0570 to the Landmarks Preservation Commission to install glass corner at penthouse.**

**Full Board Vote: 34 In Favor 0 Against 0 Abstentions 0 Present**

The following facts and concerns were taken into account in arriving at our conclusions:

- Plans have already been approved by LPC to enlarge the existing window and door opening to be 12 feet wide x 7 feet tall.
- The existing structural steel tube located at the Penthouse corner will be clad in black sheet metal, to match the black metal framework and mullions of the new door and window assembly.
- With the enlarged opening only 7 feet tall, the building's parapet blocks the view of the glass corner from the street almost completely; only a very small portion will be minimally visible.

The Preservation Committee of Community Board 7/ Manhattan believes that the design of the glass corner, in being minimally visible from the street, is reasonably appropriate to the historic character of the Historic District.

THEREFORE, BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** the glass corner.

*Committee: 5-0-0-0. Non-Committee Board Member: 0-0-1-0.*

RESOLUTION

**Date: April 3, 2013**

**Committee of Origin: Preservation**

**Re: 165 West 86<sup>th</sup> Street, West-Park Presbyterian Church Parish House (Amsterdam Avenue.) Application to the Landmarks Preservation Commission to remove two existing sign boxes on the West 86th Street façade, and to install new signage at the entry door, and an information box on existing mountings; and to install a canopy/awning at the entrance.**

**Full Board Vote: 34 In Favor 0 Against 0 Abstentions 0 Present**

The following facts and concerns were taken into account in arriving at our conclusions:

- To clean up the visual appearance of the Parish house entrance:
  - i. The existing dulled Plexiglas panel protecting the fanlight over the door will be replaced with a new clear Plexiglas panel.
  - ii. Two existing sign boxes will be removed
- To improve street presence for the new tenant (MJE), new signage is proposed, including:
  - i. Two lighted stainless steel metal plaques 1'-2" wide x 1'-4" high with the black metal letters, installed on either side of the entry doors. The plaques would have built-in indirect lighting at the top.
  - ii. A program box 4 foot wide x 3 foot high, installed to the right of the entry.
  - iii. A new dark navy Sunbrella canopy with white signage and brass support poles, extending out to the curb. The arch shape of the canopy will follow the outer line of the stone arch framing the entry, meeting the building at the joint lines to preserve the masonry
- To improve visibility into the tenant's space from the street, new clear glass interior doors with simple black metal pulls will replace the existing interior doors.

Following discussion with the Committee, the proposed design was modified as follows:

- In lieu of installing two metal plaques on the two rusticated piers on either side of the entry door, the letters will be individually pin-mounted to the piers (attempting not to bore into the masonry). The letters will be downlit by two surface-mounted light fixtures installed above..
- The single proposed 4 foot wide x 3 foot high program box will be replaced by two narrower vertical program boxes, installed in alignment with the two windows above.

The Preservation Committee of Community Board 7/ Manhattan believes that the design of the new entry signage as modified, program sign boxes as modified, new awning, interior doors and fanlight cover panel, and the removal of two existing sign boxes are all reasonably appropriate to the historic character of the Historic District.

THEREFORE, BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** the proposed signage, canopy, replacement of the interior doors and of the fanlight protective Plexiglas cover, and removal of two existing sign boxes.

*Committee: 5-0-0-0. Non-Committee Board Member: 1-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Preservation**

**Re: 325 West 86th Street (Riverside Drive – West End Avenue.) Application # 13-5497 to the Landmarks Preservation Commission to replace windows.**

**Full Board Vote: 34 In Favor 0 Against 0 Abstentions 0 Present**

The following facts and concerns were taken into account in arriving at our conclusions:

- Over the years, all the original multi-paned double-hung windows have been replaced with aluminum one-over-ones. These are in varying states of disrepair.
- New aluminum clad double-glazed one-over ones of similar color and profile will replace the four failing windows in this eighth floor apartment.

The Preservation Committee of Community Board 7/ Manhattan believes that the design of the replacement windows is consistent with the building's existing windows and is reasonably appropriate to the historic character of the Historic District.

THEREFORE, BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** the replacement windows.

*Preservation Committee: 5-0-0-0. Non-Committee Board Member: 1-0-0-0.*

*Land Use Committee: 8-0-0-0. Non-Committee Board Members: 2-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committees of Origin: Preservation and Land Use**

**Re: NY State Assembly Bill A02194.**

**Full Board Vote: 34 In Favor 0 Against 0 Abstentions 0 Present**

The following facts and concerns were taken into account in arriving at our conclusion:

- When seen as a whole, the adjoining rear yards and rear facades of 19<sup>th</sup> century rowhouse blocks common on the Upper West Side, often referred to as “the donut”, create a unique sense of place for the semi-public space of the block interiors. This historic character is being compromised with the construction of new rear yard additions even as they erode the open space of the donut.
- There are about 53,000 acres of residential open space in New York City located behind apartment buildings and rowhouses that can be revived to enhance quality of life while improving the environment.
- There are about 115 acres of residential open space on the Upper West Side.
- Living near “greener” urban settings is linked to improved quality of life and increased sense of well-being.
- Permeable urban open space is known to convey significant environmental benefits with regard to storm water runoff, summertime temperature reduction and air quality improvement.
- Tree planting in rowhouse and apartment courtyards and back, side and front areas would support PlaNYC’s “million trees” planting initiative.
- Contiguous backyards encourage biodiversity and supports bird migration patterns.
- Paving urban backyards costs more than keeping the area vegetated.<sup>1</sup>
- Such permeable surface encouragement could be employed at little upfront cost that would offer payback in reduced water treatment costs<sup>2</sup> and appraisal values.
- City trees reduce energy costs by \$11.2 million annually.<sup>3</sup> Trees growing on one NYC rowhouse block reduce energy costs by about \$950 annually.<sup>4</sup>
- On September 6, 2011, Community Board 7 passed a resolution calling on its elected representatives to initiate and support measures, including legislation, to encourage the preservation and creation of permeable urban land by establishing incentives to replace concrete and other impermeable surfaces with permeable surfaces.
- Consistent with and embodying CB7’s goals and concerns, Assembly Member Linda Rosenthal has introduced Assembly bill A2194 which would establish an open green space tax abatement for property owners in the City of New York who remove impermeable surfaces from residential yards and other open spaces and replace them with soil and vegetation.

THEREFORE, BE IT RESOLVED THAT Community Board 7/Manhattan expresses its strong support for Assembly Bill A2194 and calls upon the New York State Assembly, the New York State Senate and Governor Andrew Cuomo to enact A2194 into law.

*Committee: 4-0-1-0. Non-Committee Board Member: 1-0-0-0.*

<sup>1</sup> Recent estimate for the Olmsted Center project indicated asphalt at \$5/sf and landscape (including trees, topsoil and ground cover at \$2/SF. Cement concrete and pavers are much more expensive.

<sup>2</sup> Currently, the City pays for the treatment of water, passing on the cost to the property owner through maintenance, rent and other fee structures.

<sup>3</sup> Nowak, D.J., R. Hoehn, D.E. Crane, J.C. Stevens and J.T. Walton. *Assessing Urban Forest Effects and Values:*

*New York City’s Urban Forest. Northern Resource Bulletin.* Newtown Square, PA: U.S. Department of Agriculture, Forest Service, 2006.

<sup>4</sup> Mason, Evan, *Sustainable Yards*, Urban Field Station/NYC Parks & Recreation, 2009. Using Stratum computer modeling.

RESOLUTION

**Date: April 3, 2013**

**Committee of Origin: Parks & Environment**

**Re: NYC Department of Sanitation's proposed legislation to ban polystyrene restaurant containers and "peanuts" in NYC.**

**Full Board Vote: 29 In Favor 2 Against 0 Abstentions 0 Present**

The following facts and concerns were taken into account in arriving at our conclusion:

The New York City Council will imminently be considering proposed legislation that would ban the use of certain "Styrofoam" (polystyrene) products in New York City.

Polystyrene products constitute a significant percentage of the waste stream that New York City picks up and pays to send to landfills.

Such polystyrene products include food packaging from stores, take-out shops and restaurants and "peanuts" used as packing materials.

Polystyrene products are made from petroleum derivatives, a non-renewable energy source, and are inherently non-recyclable.

Polystyrene products, if mixed into New York City's materials that are being recycled, can pollute the waste stream and render it unusable as recycled material.

Community Board 7/Manhattan, **supports** legislation that would prohibit the use of polystyrene products as food packaging in New York City by commercial establishments and would prohibit the sale or purchase of polystyrene "peanuts" in New York City.

*Committee: 7- 0-0-0. Non-Committee Board Members: 3-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Business & Consumer Issues**

**Re: 466 Amsterdam Avenue (West 82<sup>nd</sup> Street.)**

**Full Board Vote: 29 In Favor 0 Against 1 Abstention 0 Present**

BE IT RESOLVED THAT Community Board 7/Manhattan **approves** the application to the SLA for a two-year liquor license by 466 Amaze Corp., d/b/a To Be Determined.

*Committee: 9-0-0-0. Non-Committee Board Member: 1-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Business & Consumer Issues**

**Re: 349 Amsterdam Avenue (West 77<sup>th</sup> Street.)**

**Full Board Vote: 31 In Favor 0 Against 1 Abstention 0 Present**

BE IT RESOLVED THAT Community Board 7/Manhattan **disapproves** the application to the State Liquor Authority for a two-year liquor licenses by BT Restaurant Enterprises LLC, d/b/a To Be Determined, unless the applicant incorporates the following in the Method of Operations:

- The applicant will amend his hours of operation as follows; Sunday – Thursday, closing at 2:00 AM, Friday and Saturday closing at 4:00 AM
- The rear portion (former courtyard) to be sound proofed, the exit door to have sign posted saying “**Fire Exit Only**” so as to prevent staff or customers from smoking outside of the rear courtyard dining room, and if there is any glass on the ceiling, to attempt to diffuse the light so as not to disturb the residents in the nearby buildings.

*Committee: 8-0-0-0.*

RESOLUTION

**Date: April 3, 2013**

**Committee of Origin: Business & Consumer Issues**

**Re: Unenclosed Café Renewal Applications:**

**Full Board Vote: 30 In Favor 0 Against 0 Abstentions 0 Present**

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** the following unenclosed café renewal applications:

- **279 Amsterdam Avenue** (West 73<sup>rd</sup> Street.) Renewal application DCA# 1369548 to the Department of Consumer Affairs by Manna Amsterdam Avenue LLC, d/b/a Gina La Fornarina, for a two-year consent to operate an unenclosed sidewalk café with 20 tables and 45 seats.  
*Committee: 9-0-0-0. Non-Committee Board Member: 1-0-0-0.*
- **2607 Broadway** (West 98<sup>th</sup> – 99<sup>th</sup> Street.) Renewal application DCA# 1345744 to the Department of Consumer Affairs by Workhorse Restaurant, Inc., d/b/a Regional, for a two-year consent to operate an unenclosed sidewalk café with 9 tables and 18 seats.  
*Committee: 9-0-0-0. Non-Committee Board Member: 1-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Business & Consumer Issues**

**Re: 2745 Broadway (West 105<sup>th</sup> – 106<sup>th</sup> Street.)**

**Full Board Vote: 31 In Favor 0 Against 0 Abstentions 0 Present**

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** renewal application and Petition of Modify Consent DCA# 1025180 to the Department of Consumer Affairs by Grillo, LTD, d/b/a Henry's, for a two-year consent to operate an unenclosed sidewalk café with 21 tables and 62 seats.

*Committee: 9-0-0-0. Non-Committee Board Member: 1-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Business & Consumer Issues**

**Re: 251 West 72<sup>nd</sup> Street (West End Avenue – Broadway.)**

**Full Board Vote: 30 In Favor 0 Against 0 Abstentions 0 Present**

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** new application DCA# 1455737 to the Department of Consumer Affairs by Yasaka, Inc., d/b/a Sushi Yasaka, for a two-year consent to operate an unenclosed sidewalk café with 9 tables and 20 seats.

*Committee: 9-0-0-0. Non-Committee Board Member: 1-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Business & Consumer Issues**

**Re: 466 Amsterdam Avenue (West 82<sup>nd</sup> – 83<sup>rd</sup> Street.)**

**Full Board Vote: 30 In Favor 0 Against 0 Abstentions 0 Present**

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** new application DCA#1458259 to the Department of Consumer Affairs by 466 Amaze Corp., d/b/a Amaze, for a two-year consent to operate an unenclosed sidewalk café with 8 tables and 18 seats.

*Committee: 9-0-0-0. Non-Committee Board Member: 1-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Business & Consumer Issues**

**Re: 658 Amsterdam Avenue (West 92<sup>nd</sup> Street.)**

**Full Board Vote: 30 In Favor 0 Against 0 Abstentions 0 Present**

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** new application DCA#1458528 to the Department of Consumer Affairs by 658-660 Amsterdam Corp., d/b/a Numero 28, for a two-year consent to operate an unenclosed sidewalk café with 8 tables and 18 seats.  
*Committee: 9-0-0-0. Non-Committee Board Member: 1-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Business & Consumer Issues**

**Re: 722 Amsterdam Avenue (West 95<sup>th</sup> Street.)**

**Full Board Vote: 30 In Favor 0 Against 0 Abstentions 0 Present**

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** new application DCA#1458675 to the Department of Consumer Affairs by Opai Thai, Inc., d/b/a Opai Thai Restaurant, for a two-year consent to operate an unenclosed sidewalk café with 8 tables and 17 seats.

*Committee: 9-0-0-0. Non-Committee Board Member: 1-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Business & Consumer Issues**

**Re: 936 Amsterdam Avenue (West 106<sup>th</sup> Street.)**

**Full Board Vote: 22 In Favor 4 Against 4 Abstentions 0 Present**

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** new application DCA#1458660 to the Department of Consumer Affairs by 106 Amsterdam Rest. Corp, d/b/a The Ellington Inn, for a two-year consent to operate an unenclosed sidewalk café with 34 tables and 72 seats. Applicant agrees to the following:

- To remove 7 tables from the café; and
- To close the café at 11:00 PM.

*Committee: 8-0-0-0. Non-Committee Board Member: 0-0-1-0.*

RESOLUTION

**Date: April 3, 2013**

**Committee of Origin: Business & Consumer Issues**

**Re: 173 West 78<sup>th</sup> Street (Amsterdam Avenue.)**

**Full Board Vote: 30 In Favor 0 Against 0 Abstentions 0 Present**

The applicant did not attend the committee meeting.

THEREFORE, BE IT RESOLVED THAT Community Board 7/ Manhattan **disapprove without prejudice** new application DCA# 1455060 to the Department of Consumer Affairs by Sugar and Plumm (Upper West), LLC, d/b/a Sugar and Plum, for a two-year consent to operate an unenclosed sidewalk café with 20 tables and 40 seats.

*Committee: 9-0-0-0. Non-Committee Board Member: 1-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Business & Consumer Issues**

**Re: 507 Columbus Avenue (West 84<sup>th</sup>- 85<sup>th</sup> Streets.)**

**Full Board Vote: 30 In Favor 0 Against 0 Abstentions 0 Present**

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** new application DCA#1460063 to the Department of Consumer Affairs by 507 Columbus Ave, LLC, d/b/a Casa Pomona, for a two-year consent to operate an unenclosed sidewalk café with 6 tables and 12 seats.  
*Committee: 8-0-0-0.*

**RESOLUTION**

**Date: April 3, 2013**

**Committee of Origin: Steering**

**Re: Request for a leave of absence.**

**Full Board Vote: 30 In Favor 0 Against 0 Abstentions 0 Present**

BE IT RESOLVED THAT Community Board 7/ Manhattan **approves** the request for a Leave of Absence by Elizabeth Starkey from March 2013 through May 2013.

*Committee: 11-0-0-0. Non-Committee Board Members: 2-0-0-0.*