



DEPARTMENT OF CITY PLANNING
CITY OF NEW YORK
OFFICE OF THE DIRECTOR

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BOARD OF STANDARDS AND APPEALS

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April 22, 2009

Honorable Meenakshi Srinivasan, Chair
Board of Standards and Appeals
40 Rector Street, 9th Floor
New York, NY 10006

Re: BSA Application 314-08-BZ (437 West 13th Street)

Dear Chair Srinivasan:

The Department of City Planning has reviewed the above-referenced application submitted by Kramer Levin Naftalis & Frankel LLP on behalf of the applicant, 437-51 West 13th Street LLC, seeking the approval of four zoning variances to facilitate a commercial development at 437 West 13th Street, which is located on the northwest corner of West 13th Street and Washington Street. The site is zoned M1-5, which has a maximum FAR of 5.0. The High Line elevated structure, which is currently being developed as a public park, transverses the western-most portion of the subject site. The Gansevoort Market Historic District lies immediately to the north and east of the site.

To facilitate the development proposal, the applicant seeks relief from Zoning Resolution (ZR) Section 43-12 (to exceed the maximum allowed FAR), Section 43-43 (to permit the proposed building to project into required setback and sky exposure planes), Section 43-26 (to permit the proposed building to encroach into a required rear yard) and Section 42-12 (to permit retail uses over 10,000 square feet in size in the M1-5 district where such use is not permitted). The variances would enable construction of the project at 7.73 FAR--a 54.6% increase over the maximum permitted FAR allowed by the M1-5 district.

The zoning lot comprises 15,178 square feet of lot area with approximately 147 feet of frontage on West 13th Street and 103 feet of frontage on Washington Street. The High Line transverses the western-most portion of the site, covering 27% of the lot area. The bottom of the High Line is approximately 20 feet above grade, which permits the construction of ground floor and sub-grade space below the structure. As proposed, the project would develop a 12-story, 215-foot tall commercial office building with retail on the ground, first and second floors. The proposed building would be approximately 117,390 square feet in size (7.73 FAR, excluding mechanicals).

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The Department believes the 437 West 13th Street application raises serious issues relating to the proposed FAR, the resulting building form, and the use variance for retail, which have the potential to alter the essential character of the neighborhood, and have a negative impact on the High Line.

The existing buildings on the subject block are built to maximum FARs that range from 2.0 to 5.0, which is consistent with the area's context of low, two- to six-story brick buildings. Blocks to the north, south and west of the subject block have similar density, with the highest built FAR reaching 6.6 in a building constructed before the 1961 zoning regulations were put into effect. New construction in the area has been developed at 5.0 FAR, the maximum FAR permitted in the M1-5 district. For example, the Gansevoort Hotel at 10 Ninth Avenue (built in 2003), the Theory headquarters at 831 Greenwich Street (2005), the Standard Hotel at 848 Washington Street (2009), and the High Line Building at 450 West 14th Street (2010) have all been built or will be built at 5.0 FAR.

In addition, new development in the M1-5 districts adjacent to the High Line in the Special West Chelsea District is also limited to a maximum 5.0 FAR. These sites, as well as the above-mentioned Standard Hotel and High Line Building, have similar at-grade and below-grade conditions including constructing foundations adjacent to High Line columns and piles, and they are not permitted additional FAR for this condition. In fact, these sites have responded in creative ways to the unique opportunities afforded by the High Line structure. Therefore, the Department believes any increase of FAR above the maximum 5.0 FAR permitted is not warranted on this site.

While the Department believes no additional FAR is warranted on this site, the Department does believe that the building form responds appropriately to the site configuration. The High Line structure covers approximately one-quarter of the subject site at a height of 25 feet above grade. This limits the floor plate size that can be achieved above the ground floor. By waiving the required rear-yard, the required 20-foot setback on West 13th Street, and a portion of the required 15-foot setback on Washington Street, the proposed building would have greater flexibility and more opportunities to provide efficiently-sized floor plates.

However, the Department believes that with or without these waivers, the building should not cantilever over the High Line at any height. The cantilever currently proposed adds very little square footage to the floor plate size and adds nothing to the overall design of the building, yet significantly diminishes the amount of light and air that reaches the High Line. The building should set back from the High Line five feet, and then rise to the maximum height without setback or cantilever. It should be noted that new development adjacent to the High Line within M1-5 districts in the Special West Chelsea District must set back 15 feet from the High Line at a point no higher than 3'-6" from the bed of the High Line.

The Department acknowledges that the diagonal setback from Washington Street responds creatively to the unique architecture of the Diane Von Furstenberg Studio building to the north of the site. The proposed setback, though not permitted as-of-right, does provide light to reach the glass dome on the roof of the building; a distinctive architectural element on this historic building.

The Department supports the development of office space in an area that predominantly serves

small firms working in the arts, architecture, fashion and non-profit fields. However, the Department is opposed to the use variance as the allowance for retail uses of approximately 32,000 square feet on this site would alter the essential character of the Meatpacking District neighborhood. The Meatpacking District is known for boutiques that are generally 2,000 to 3,000 square feet in size, though there are some stores in the range of 10,000 square feet and larger. Larger stores in the area include Jeffrey, which is a 12,000 square foot department store on West 14th Street, and Theory, which is an approximately 10,000 square foot clothing store on Ninth Avenue. Both of these stores are located on wide streets. In contrast, the proposed use would be located on the corner West 13th Street, which is a narrow street, and Washington Street, which is not a narrow street, but is certainly a local street with limited vehicular traffic. In addition to bringing more cars and trucks to these narrow, local streets, the size of this retail use is unprecedented in the immediate area, and would greatly impact the essential character of the area.

In view of the concerns expressed herein regarding the proposed bulk of the building and the retail use, we respectfully urge you to deny the above application.

Sincerely,



Amanda M. Burden, FAICP, Director
New York City Department of City Planning