

MINUTES OF THE
MEETING OF THE BOARD OF DIRECTORS
OF
BUILD NYC RESOURCE CORPORATION
HELD IN-PERSON AT THE ONE LIBERTY PLAZA OFFICES OF
NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
JULY 23, 2024

The following directors and alternates were present, constituting a quorum:

Andrew Kimball (Chairperson)
Ellen Baer
Nate Bliss, alternate for Maria Torres-Springer,
Deputy Mayor for Housing, Economic Development and Workforce
HeeWon Brindle-Khym
Francesco Brindisi
Richard W. Eaddy
Venetia Lannon
Randolph Peers
Douglas Rose, alternate for Dan Garodnick,
Chair of the City Planning Commission of The City of New York

The following directors and alternates were not present:

Felix A. Ciampa
Adam Friedman
Janet Mejia-Peguero
F. Jay Olson, alternate for Brad Lander,
Comptroller of The City of New York
James Prendamano
Shanel Thomas
Betty Woo, alternate for Hon. Sylvia Hinds-Radix,
Corporation Counsel of The City of New York

Andrew Kimball, President of New York City Economic Development Corporation (“NYCEDC”) and Chairperson of the Build NYC Resource Corporation (“Build NYC” or the “Corporation”), convened the meeting of the Board of Directors of Build NYC at 9:51 a.m., at which point a quorum was present.

1. Adoption of the Minutes of the June 11, 2024 Board Meeting

Mr. Kimball asked if there were any comments or questions relating to the minutes of the June 11, 2024 Board of Directors meeting. There were no comments or questions; a motion to approve such minutes was made, seconded and unanimously approved.

2. Financial Statements for May 31, 2024 (Unaudited)

Wilson Gao, a Senior Accountant for NYCEDC, presented the Corporation's Financial Statements for the eleven-month period ending May 31, 2024 (Unaudited). Mr. Gao reported that for the eleven-month period the Corporation recognized revenues from project finance fees from six transactions totaling \$1.2 million. Mr. Gao reported that for the eleven-month period the Corporation recognized revenues derived from compliance, application, post-closing and other fees in the amount of \$210,000. Mr. Gao also reported that \$2 million in operating expenses, largely consisting of the monthly management fee, were recorded for the Corporation for the eleven-month period that ended on May 31, 2024 (Unaudited).

3. Bay Ridge Preparatory School

Leyla Arcasoy, an Associate for NYCEDC, presented for review and adoption a bond approval and authorizing resolution for approximately \$29,850,000 in tax-exempt bonds for the benefit of Bay Ridge Preparatory School, recommended the Board Adopt a negative SEQRA declaration for the Facility 1 and Facility 2 aspects of the Project, pursuant to the review, analysis, and negative declaration adopted by the NYC Board of Standards and Appeals, attached to the Resolution as Exhibit A and the refinancing of outstanding debt for Facility 3 was determined to be a Type II action and will not require further environmental review and approve a partial waiver of Section VII of the Corporation's Private Schools Policy. Ms. Arcasoy described the project and its benefits, as reflected in Exhibit A.

On behalf of the Finance Committee, Mr. Eddy recommended the project for Board approval.

There being no further comments or questions, a motion to approve the bond approval and authorizing resolution, SEQRA declarations and partial waiver of Section VII of the Corporation's Private School Policy, attached hereto as Exhibit B, for the benefit of Bay Ridge Preparatory School, was made, seconded and unanimously approved.

4. Adjournment

There being no further business to come before the Board of Directors at the meeting, pursuant to a motion made, seconded and unanimously approved, the meeting of the Board of Directors was adjourned at 10:10 a.m.


Assistant Secretary

Dated: 9/24/24
New York, New York

Exhibit A

Project Summary

Bay Ridge Preparatory School (the “School” or “Bay Ridge Prep”), a New York not-for-profit corporation exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), a private co-educational, college preparatory school that provides an education for students in kindergarten through Grade 12, is seeking \$29,850,000 in tax-exempt bonds (the “Bonds”). As part of a plan of financing, proceeds from the Bonds will be used to: (i) refinance the \$17,000,000 outstanding principal balance of a taxable loan that was funded in the same original amount of \$17,000,000, the proceeds of which were used to (1) finance the acquisition of an approximately 1,890 square foot building located on an approximately 4,700 square foot parcel of land located at 7503 Shore Road, Brooklyn, New York 11209 (“Facility 1”) and an approximately 25,000 square foot building located on an approximately 22,000 square foot parcel of land located at 7509 Shore Road, Brooklyn, New York 11209 (“Facility 2”), (2) finance a portion of the cost of the renovation of Facility 2 and (3) refinance existing indebtedness of the School which financed the purchase of an approximately 21,000 square foot building located on an approximately 10,940 square foot parcel of land located at 8101 Ridge Blvd, Brooklyn, New York 11209 (“Facility 3”); (ii) finance the cost of constructing, developing, and equipping Facility 1 into a an approximately 7,300 square foot facility; (iii) finance the remaining cost of developing, converting, furnishing, and equipping Facility 2; (iv) fund debt service reserve fund(s), if any; (v) fund capitalized interest; and (vi) pay for certain costs related to the issuance of the Bonds ((i-vi) collectively, the “Project”). The School will operate Facility 1 as its gymnasium and event center, which will serve 380 students in kindergarten through Grade 12 and will serve as a large gathering space for student and alumni activities. Renovations to Facility 1 will include the demolition of the current structure and construction of the new gymnasium facility. The School will operate Facility 2 as its Upper School, which will serve approximately 200 students in Grades 9 through 12. Renovations to Facility 2 will include the conversion of the current structure into a three-story educational facility, including classrooms, science labs, common areas, and private outdoor spaces as well as improvements to make the facility energy efficient. The School will continue to operate Facility 3 as the Lower and Middle School, which serves approximately 170 students in kindergarten through Grade 8.

Project Locations

Facility 1

7503 Shore Road
Brooklyn, NY 11209

Facility 2

7509 Shore Road
Brooklyn, NY 11209

Facility 3

8101 Ridge Boulevard
Brooklyn, NY 11209

Action Requested

- Bond Approval and Authorizing Resolution.
- Adopt a negative SEQRA declaration for the Facility 1 and Facility 2 aspects of the Project, pursuant to the review, analysis, and negative declaration adopted by the NYC Board of Standards and Appeals, attached to the Resolution as Exhibit A. The refinancing of outstanding debt for Facility 3 was determined to be a Type II action and will not require further environmental review.
- Approve a partial waiver of Section VII of the Build NYC Private Schools Policy.

Anticipated Closing

Fall 2024

Bay Ridge Preparatory School

Impact Summary

Employment	
Jobs at Application:	50.5
Jobs to be Created at Project Location (Year 3):	7
Total Jobs (full-time equivalents)	57.5
Projected Average Hourly Wage (excluding principals)	\$65.15
Highest Wage/Lowest Wage	\$223.52/\$40.00
Construction Jobs to be Created (full-time equivalent)	110

Estimated City Tax Revenues	NPV 30 years @ 6.25%
Impact of Operations (NPV 30 years at 6.25%)	\$8,469,647
One-Time Impact of Renovation	\$709,069
Total impact of operations and renovation	\$9,178,716
Additional benefit from jobs to be created	\$1,032,238

Estimated Cost of Benefits Requested: New York City	NPV 30 years @ 6.25%
MRT Benefit	\$485,063
NYC Forgone Income Tax on Bond Interest	\$223,991
Corporation Financing Fee	(\$236,375)
Total Cost to NYC Net of Financing Fee	\$472,679

Costs of Benefits Per Job	
Estimated Net City Cost of Benefits per Job in Year 3	\$8,221
Estimated City Tax Revenue per Job in Year 3	\$177,582

Estimated Cost of Benefits Requested: New York State	
MRT Benefit	\$350,738
NYS Forgone Income Tax on Bond Interest	\$842,703
Total Cost to NYS	\$1,193,441
Overall Total Cost to NYC and NYS	\$1,666,120

Sources and Uses

Sources	Total Amount	Percent of Total Financing
Bond Proceeds	\$29,850,000	83%
Equity	\$6,200,000	17%
Total	\$36,050,000	100%

Uses	Total Amount	Percent of Total Costs
Refinancing of Acquisition	\$11,200,000	31%
Hard Costs	\$20,856,950	58%
Soft Costs	\$2,468,050	6.8%
FF&E and M&E	\$75,000	0.2%
Closing Fees	\$1,450,000	4%
Total	\$36,050,000	100%

Bay Ridge Preparatory School

Fees

	Paid At Closing	On-Going Fees (NPV, 30 Years)
Corporation Fee	\$236,375	
Bond Counsel	\$270,000	
Annual Corporation Fee	\$1,250	\$16,755
Bond Trustee Acceptance Fee	\$1,500	
Annual Bond Trustee Fee	\$750	\$6,702
Trustee Counsel Fee	\$8,000	
Total	\$517,875	\$23,457
Total Fees	\$541,332	

Financing and Benefits Summary

The Bonds are expected to be issued in two tax-exempt series. The Series 2024A Bonds issued in the amount of \$17,000,000 are expected to be directly purchased by ConnectOne Bank and will refinance an existing term loan with ConnectOne Bank. It is expected that this series will have a final maturity 27 years from closing and bear a fixed interest rate of 2.80% until October 28, 2041, at which point the interest rate will reset to the 10-year FHLBNY Advance Rate plus 425 basis points discounted at the Bank Federal Tax Rate. Interest only will be paid for the first three months followed by monthly principal and interest payments over the remainder of the 27-year term. The Series 2024A Bonds will be secured by a perfected security interest on all the Borrower's property and assets, a first mortgage on Facility 2, as well as an assignment of leases and rents from Facility 2. The Series 2024B Bonds are expected to be issued in the aggregate amount of \$12,850,000 for a term of 30 years pursuant to a limited public offering with Stifel, Nicolaus & Company, Inc. acting as the underwriter. Interest only will be paid for the first three years followed by monthly principal and interest payments over the remainder of the 30-year term. It is anticipated that the Series 2024B Bonds will bear interest at a fixed rate set at 5.75%. The Series 2024B Bonds will be secured by a perfected security interest in gross revenues and the Borrower's property and assets in parity with the Series 2024A Bonds, as well as a first mortgage on Facility 1 and Facility 3, and an assignment of leases and rents from Facility 1 and Facility 3. Based on an analysis of the School's projected operating income, there is an expected debt service coverage ratio of 2.05x commencing in Fiscal Year 2028, from which Fiscal Year the School will begin making monthly interest and principal payments on the Bonds.

Applicant Summary

Founded in 1998, Bay Ridge Prep is an independent, private college preparatory school with a current enrollment of approximately 360 students from kindergarten through Grade 12. The School maintains a differentiated academic program to adequately service the needs of three categories of students who differ in their need for academic assistance, the Mainstream Program, the Achieve Program, designed for students requiring an additional layer of academic support, and the Bridge Program, which creates a specialized learning environment for students who have one or more diagnosed learning differences. The School's curriculum aims to foster critical thinking, creativity, and academic excellence in an inclusive environment which prioritizes social-emotional learning. The curriculum is supplemented with a robust range of extracurricular activities, including arts, athletics, and a strong focus on community service and engagement. Touting small class sizes, Bay Ridge Prep is dedicated to developing a supportive atmosphere in which students at all levels can thrive, with students in its graduating class attending some of the top universities in the nation every year.

Bay Ridge Preparatory School

Dr. Charles Fasano, Head of School

Dr. Fasano is one of the founding Heads of Bay Ridge Prep and has worked in the educational field for over 30 years. Prior to founding Bay Ridge Prep, he served as Headmaster of Adelphi Academy of Brooklyn, where, during his three-year tenure, he was credited with dramatically improving the school's enrollment, retention, and financial stability. Outside of his position as Head of School, he has served as an adjunct professor at Lehman College, Hunter College, and Fordham University's Graduate School of Education. In 2014, he was invited by the New York State Association of Independent Schools to be a Commissioner on the Accreditation Council, responsible for conducting and accrediting independent schools across New York State. Dr. Fasano holds a B.A. from New York University as well as a Doctoral degree and a Professional Diploma in School Psychology from Fordham University.

Dr. Julie Mayring, Middle School Director

Dr. Mayring is part of Bay Ridge Prep's founding team and currently serves as the Middle School Director. In her tenure at Bay Ridge Prep, she has implemented several supplemental programs to bolster student wellbeing such as the RULER curriculum as well as a social media literacy program in partnership with The Social Institute. In 2013, she worked with the Yale University Center for Emotional Intelligence as a consultant, helping to develop their middle school curriculum and train others looking to develop emotional literacy programs. Dr. Mayring holds a B.S. from New York University Stern School of Business and a Ph.D. in school psychology from Fordham University as well as New York State certification as a special education teacher.

Sabina Clifford, Business Manager

Ms. Clifford has been part of Bay Ridge Prep's administration since its opening in 1998 and manages all financial matters for the School. Prior to this position, she was the Business Manager for Adelphi Academy for three years wherein she oversaw the school's return to good financial standing after it fell into significant debt. Ms. Clifford has held similar positions at Project Hospitality and various other organizations.

Employee Benefits

School employees receive employer-sponsored healthcare, employer contributions for retirement plans, professional development training, as well as reimbursement for education expenses.

Recapture

The mortgage recording tax benefit is subject to a 10-year recapture period.

SEQRA Determination

For the Facility 1 and Facility 2 aspects of the Project, Corporation staff determined that its actions are Unlisted actions, which, if implemented, will not result in significant adverse environmental impacts. Corporation staff further recommends adoption of the environmental review, analysis and negative SEQRA declaration that was issued by the NYC Board of Standards and Appeals, as Lead Agency, as set forth in its Resolution dated July 12, 2024, a copy of which is attached as Exhibit A to the Resolution. The completed Short Environmental Assessment Form for Facility 1 and Facility 2 has been reviewed and signed by Corporation staff.

For the refinancing of existing indebtedness with respect to the Facility 3 aspect of the Project, Corporation staff determined that its action is a Type II action, which does not require further environmental review.

Partial Waiver of Section VII of Build NYC Private Schools Policy

The School is requesting a partial waiver of parts a, b and c of Section VII of the Build NYC Private Schools Policy, which requires that Private Schools with maximum tuition greater than the Build NYC Tuition Threshold (currently \$18,340) meet certain financial aid requirements. Part a stipulates that financial aid equal to at least 12 percent of the Private School’s gross tuition revenues must be made available to, and used by, students who are City residents; Part b stipulates that at least 20 percent of students who are both City residents and recipients of financial aid must receive financial aid equal to or greater than 50 percent of tuition, and part c stipulates that at least 10 percent of students who are both City residents and recipients of financial aid must receive financial aid equal to or greater than 75 percent of tuition. The Corporation’s Private Schools Policy provides that the Board may approve a waiver of Section VII of the Policy in the case of higher tuition rates for special needs students due to higher expenses to serve such students. The highly specialized nature of education and the low student to teacher ratio of the School’s Achieve and Bridge Programs means that the average tuition for each program is \$54,777 and \$78,875, respectively, which is in line with other New York City independent schools that serve students with differentiated learning requirements. Tuition typically increases 5-6% per year.

Regarding tuition reimbursement, the Individuals with Disabilities Education Act (IDEA) gives parents the right to obtain funding for special education if their local school district fails to offer their child an appropriate public-school program. Every child is entitled to a “free and appropriate public education.” To be eligible for reimbursement, a family must successfully argue that the school district has failed to provide this for their child and so the family had to place the student at Bay Ridge Preparatory School. Virtually all families are successful at securing tuition funding, usually by settling with the New York City Department of Education (“NYCDOE”).

As of the 2024 academic year, there are 79 students enrolled in the Achieve Program and 96 students enrolled in the Bridge Program, for an aggregate of 175 students, making up nearly half of the School’s student population. In the Mainstream Program, for which the average tuition is \$37,442, there are 181 students enrolled as of the 2024 academic year. For this reason, the School is requesting a partial waiver of parts a, b and c of Section VII of the Build NYC Private School Policy. With regard to part a, the School’s gross tuition revenues will only be calculated based on students enrolled in the Mainstream program. With regard to parts b and c, Build NYC will reduce the percentage of students to whom the requirement applies by half to 10 percent and five percent, respectively, which reflects student enrollment.

Due Diligence

The Corporation conducted a background investigation of the School and its respective principals and found no derogatory information.

Compliance Check:	Not Applicable
Living Wage:	Exempt
Paid Sick Leave:	Compliant
Private Schools Policy:	Partial Waiver
Affordable Care Act:	Compliant
Bank Account:	ConnectOne Bank
Bank Check:	Relationships are reported to be satisfactory.
Supplier Checks:	Relationships are reported to be satisfactory.

Bay Ridge Preparatory School

Customer Checks: Not Applicable

Unions: Not Applicable

Background Check: No derogatory information was found.

M/W/DBE Participation: 30% goal (Construction)

Attorney: Russell A. Kivler, Esq.
Hirschen Singer & Epstein LLP
902 Broadway, 13th Floor
New York, NY 10010

Accountant: Chris Falco
Rogoff & Co.
355 Lexington Avenue, 6th Floor
New York, NY 10017

Community Board: Brooklyn Community Board #10

Board of Directors and Trustees:

Ms. Diane Baker	Mr. Amar Kuchinad
Mr. Jason Calacanis	Mr. Albert Solecki
Mr. Charles Fasano	Mr. Vincent Theurer
Mr. Ralph Fasano	Mr. Robert Townley



BAY RIDGE PREP

June 4, 2024
Ms. Emily Marcus
Executive Director
Build NYC Resource Corporation
New York City Economic Development Corporation
One Liberty Plaza
New York, NY 10006

Re: Application for refinancing / new money through the Build NYC Resource Corp. /
Not-For-Profit Bond Program on behalf of Bay Ridge Preparatory School

Dear Ms. Marcus:

Bay Ridge Preparatory School (“Bay Ridge Prep,” “BRP,” or “the School”) is an independent, co-educational, college preparatory day school enrolling students in kindergarten through twelfth grades. The School is located in Brooklyn, New York, at two locations, the Lower and Middle Schools and the Upper School, which are approximately 0.7 miles apart. The School was founded by Dr. Charles Fasano and Dr. Michael Dealy in 1998 to provide a fresh approach to education. Bay Ridge Prep explicitly teaches skills that build emotional and social intelligence to help students develop into compassionate and confident citizens. The School’s philosophy emphasizes innovation, creativity, practical application, social responsibility, athletics and the arts. The School is incorporated as a non-profit educational organization under Section 501(c)(3) of the Internal Revenue Code.

Bay Ridge Prep is one of the few schools in the Greater New York community providing a K-12 program which explicitly teaches skills that help build social and emotional intelligence. Research has demonstrated the effectiveness of these skills in helping students create healthy and satisfying relationships in and outside of school. Additionally, the School maintains a differentiated academic program serving the needs of three categories of students who differ in their need for academic assistance. For the current academic year, 183 students are enrolled in the School’s mainstream program and 174 students are enrolled in one of two programs for children with learning disabilities.

In 2021, the School purchased a new facility located at 7509 Shore Road and 7503 Shore Road in Brooklyn. The School is currently completing a gut renovation of the main building on this property which will provide new classrooms to enhance project based learning, new spaces to provide support for smaller group instruction, as well as modern specialized classroom and lab space. Once the main building on Shore Road is ready for occupancy, Grades 9-12 will move into the new facility that is just steps away from waterfront parkland. Music space, science labs and private outdoor spaces that will be part of the main Shore Road Building will be made

available for use by Lower and Middle School students to expand the teaching and learning opportunities for Grades K-8. In Phase II of the project, a residential building on the 75th Street/Bay Ridge Parkway side of the property will be removed to accommodate construction of a new gymnasium and additional classrooms that will connect with the main building. The gymnasium and additional classrooms are anticipated to open during the 2025-2026 school year.

In the plan of finance, BRP proposes the issuance of Series 2024 tax-exempt bonds in the estimated amount of \$29.85 million. \$17 million provided as a bank direct purchase will refinance the School's existing taxable debt which provided \$14.05 million towards the contemplated project (\$8.25 million for building purchase and \$5.8 million towards construction). Additionally, the new financing will include an incremental \$12.85 million issued in the public bond market to fund construction and a debt service reserve. But for lower tax exempt interest rate and other ancillary benefits offered by a Build NYC financing, BRP would not be in a position to realize debt service savings by refinancing the taxable loan or to affordably finance the project. Equally important, the savings allow BRP to grow its programs and academic offerings which results in the maintenance of existing full and part-time jobs and future sustainable workforce growth to match student headcount growth.

Thank you for your time and consideration in reviewing Bay Ridge Preparatory School's application. The BRP team looks forward to working with you.

Very truly yours,

/s/ 

Dr. Charles Fasano
Executive Director

Exhibit B

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF BUILD NYC RESOURCE CORPORATION REVENUE BONDS (BAY RIDGE PREPARATORY SCHOOL PROJECT), SERIES 2024A AND BUILD NYC RESOURCE CORPORATION REVENUE BONDS (BAY RIDGE PREPARATORY SCHOOL PROJECT), SERIES 2024B, AND THE TAKING OF OTHER ACTION IN CONNECTION THEREWITH

WHEREAS, Build NYC Resource Corporation (the “Issuer”) is authorized pursuant to Section 1411(a) of the Not-for-Profit Corporation Law of the State of New York, as amended, and its Certificate of Incorporation and By-laws, (i) to promote community and economic development and the creation of jobs in the non-profit and for-profit sectors for the citizens of The City of New York (the “City”) by developing and providing programs for not-for-profit applicants, manufacturing and industrial businesses and other entities to access tax-exempt and taxable financing for their eligible projects; (ii) to issue and sell one or more series or classes of bonds, notes and other obligations through private placement, negotiated underwriting or competitive underwriting to finance such activities above, on a secured or unsecured basis; and (iii) to undertake other projects within the City that are appropriate functions for a non-profit local development corporation for the purpose of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, carrying on scientific research for the purpose of aiding the City by attracting new industry to the City or by encouraging the development of or retention of industry in the City, and lessening the burdens of government and acting in the public interest; and

WHEREAS, Bay Ridge Preparatory School (the “Applicant”), a New York not-for-profit corporation exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), entered into negotiations with officials of the Issuer with respect to (i) the refinancing of the \$17,000,000 outstanding principal balance of a taxable loan that was funded in the same original amount of \$17,000,000, the proceeds of which were used to (1) finance the acquisition of an approximately 1,890 square foot building located on an approximately 4,700 square foot parcel of land located at 7503 Shore Road, Brooklyn, New York 11209 (“Facility 1”) and an approximately 25,000 square foot building located on an approximately 22,000 square foot parcel of land located at 7509 Shore Road, Brooklyn, New York 11209 (“Facility 2”), (2) finance a portion of the cost of the renovation of Facility 2 and (3) refinance existing indebtedness of the Applicant which financed the purchase of an approximately 21,000 square foot building located on an approximately 10,940 square foot parcel of land located at 8101 Ridge Blvd, Brooklyn, New York 11209 (“Facility 3”); (ii) the financing of the cost of constructing, developing, and equipping Facility 1 into an approximately 7,300 square foot facility; (iii) financing the remaining cost of developing, converting, furnishing, and equipping Facility 2; (iv) funding debt service reserve fund(s), if any; (v) funding capitalized interest; and (vi) paying for certain costs related to the issuance of the Bonds (hereinafter defined) ((i)-(vi) collectively, the “Project”); and

WHEREAS, in connection with the Project, the Applicant will operate Facility 1 as its gymnasium and event center, which will serve 380 students in kindergarten through grade twelve and will serve as a large gathering space for student and alumni activities; renovations to Facility 1 will include the demolition of the current structure and construction of the new gymnasium facility; the Applicant will operate Facility 2 as its Upper School, which will serve approximately 200 students in grades nine through twelve; renovations to Facility 2 will include the conversion of the current structure into a three-story educational facility, including classrooms, science labs, common areas, and private outdoor spaces as well as improvements to make the facility energy efficient; the Applicant will operate Facility 3 as the Lower and Middle School, and will serve approximately 170 students in kindergarten through grade eight; and

WHEREAS, the Applicant has submitted an Application (the “Application”) to the Issuer to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Applicant and the Project, including the following: that the financing of the Project with the Issuer's financing assistance will provide savings to the Applicant which will allow it to redirect financial resources to further its capacity to teach skills that build emotional and social intelligence to help students develop into compassionate and confident citizens; and that, therefore, the Issuer's financing assistance is necessary to assist the Applicant in proceeding with the Project; and

WHEREAS, the Issuer desires to further encourage the Applicant with respect to the refinancing and financing of the facilities, if by so doing it is able to induce the Applicant to proceed with the Project; and

WHEREAS, in order to finance a portion of the cost of the Project, the Issuer intends to issue its Revenue Bonds (Bay Ridge Preparatory School Project), Series 2024A, in the aggregate principal amount of approximately \$17,000,000 (or such greater amount not to exceed such stated amount by more than 10%, as may be determined by a certificate of determination of an authorized officer of the Issuer (the "Series 2024A Certificate of Determination")) (the "Series 2024A Bonds"), all pursuant to an Indenture of Trust (the "Series 2024A Indenture") to be entered into between the Issuer and The Bank of New York Mellon, as trustee (the "Trustee"); and

WHEREAS, in order to finance a portion of the cost of the Project, the Issuer intends to issue its Revenue Bonds (Bay Ridge Preparatory School Project), Series 2024B in the aggregate principal amount of approximately \$12,850,000 (or such greater amount not to exceed such stated amount by more than 10%, as may be determined by a certificate of determination of an authorized officer of the Issuer (the "Series 2024B Certificate of Determination" and, together with the Series 2024A Certificate of Determination, the "Certificate of Determination")) (the "Series 2024B Bonds" and, together with the Series 2024A Bonds, the "Bonds"), all pursuant to an Indenture of Trust (the "Series 2024B Indenture" and, together with the Series 2024A Indenture, the "Indentures" and each an "Indenture") to be entered into between the Issuer and the Trustee; and

WHEREAS, the Issuer intends to loan the proceeds of the Series 2024A Bonds to the Applicant pursuant to a Loan Agreement (the "Series 2024A Loan Agreement") to be entered into between the Issuer and the Applicant, and (ii) the Applicant will execute one or more promissory notes in favor of the Issuer and the Trustee (collectively, the "Series 2024A Promissory Note") to evidence the Applicant's obligation under the Series 2024A Loan Agreement to repay such loan; and

WHEREAS, the Issuer intends to loan the proceeds of the Series 2024B Bonds to the Applicant pursuant to a Loan Agreement (the "Series 2024B Loan Agreement" and, together with the Series 2024A Loan Agreement, the "Loan Agreements" and each a "Loan Agreement") to be entered into between the Issuer and the Applicant, and (ii) the Applicant will execute one or more promissory notes in favor of the Issuer and the Trustee (collectively, the "Series 2024B Promissory Note" and, together with the Series 2024A Promissory Note, the "Promissory Notes" and each a "Promissory Note") to evidence the Applicant's obligation under the Series 202B Loan Agreement to repay such loan; and

WHEREAS, the Bonds may be secured by one or more leasehold and/or fee mortgages from the Applicant, as mortgagor, to the Issuer and the Trustee, as mortgagees, pursuant to one or more Mortgage and Security Agreements with respect to the certain of the Applicant's facilities (collectively, the "Mortgage"), which Mortgage may be assigned by the Issuer to the Trustee pursuant to one or more Assignment of Mortgage and Security Agreements from the Issuer to the Trustee (collectively, the "Assignment of Mortgage"); and

WHEREAS, the Bonds may also be (1) secured by, if determined by the Certificate of Determination: (i) a collateral assignment of leases and rents (the "Assignment of Leases and Rents"); (ii)

the revenues of the Applicant pursuant to an Account Control Agreement among the Applicant, a depository bank, and the Trustee (the “Account Control Agreement”); and (iii) an Assignment of Contracts, Licenses and Permits (the “Assignment of Contracts”) from the Applicant to the Trustee, and (2) subject to, an intercreditor agreement (the “Intercreditor Agreement”); and

WHEREAS, the Series 2024A Bonds are expected to be directly purchased by ConnectOne Bank (the “Initial Purchaser”) and the Applicant retained Stifel, Nicolaus & Company, Inc. to serve as underwriter (the “Underwriter”) in connection with the sale of the Series 2024B Bonds to the purchasers of the Series 2024B Bonds; and

WHEREAS, the Issuer, the Applicant, the Underwriter and/or the Initial Purchaser will enter into one or more bond purchase agreements (the “Bond Purchase Agreement”) in connection with the sale of the Bonds; and

WHEREAS, it is necessary in connection with the offering and sale of the Series 2024B Bonds for the Underwriter to distribute a Preliminary Limited Offering Memorandum and a Limited Offering Memorandum (collectively, the “Offering Memorandum”) relating to the Series 2024B Bonds;

NOW, THEREFORE, BE IT RESOLVED BY BUILD NYC RESOURCE CORPORATION, AS FOLLOWS:

Section 1. The Issuer hereby determines that the financing of the costs of the Project by the Issuer will promote and is authorized by and will be in furtherance of the corporate purposes of the Issuer.

Section 2. The Issuer hereby approves the Project and authorizes the Applicant to proceed with the Project as set forth herein, which Project will be financed in part through the issuance of the Bonds of the Issuer, which Bonds will be special limited revenue obligations of the Issuer payable solely from the revenues and other amounts derived pursuant to the applicable Loan Agreement and the applicable Promissory Note.

Section 3. To provide for the financing of the Project, the issuance of the Bonds by the Issuer is hereby authorized subject to the provisions of this Resolution and the applicable Indenture hereinafter authorized.

The Series 2024A Bonds shall be issued as fully registered bonds and as tax-exempt bonds, shall be dated as provided in the Series 2024A Indenture, shall be issued as one or more serial and/or term bonds, and in an aggregate amount of approximately \$17,000,000 (or such greater amount not to exceed such stated amount by more than 10% as may be determined by the Series 2024A Certificate of Determination), shall be payable as to principal and redemption premium, if any, at the principal office of the Trustee, shall be payable as to interest by check, draft or wire transfer as provided in the Series 2024A Indenture, shall bear interest initially at variable and/or fixed interest rates not to exceed ten percent (10.00%) (such final rate to be determined by the Series 2024A Certificate of Determination), shall be subject to redemption as provided in the Series 2024A Indenture, shall be payable as provided in the Series 2024A Indenture until the payment in full of the principal amount thereof and shall mature not later than December 31, 2051 (or as determined by the Series 2024A Certificate of Determination), all as set forth in the Series 2024A Bonds. The provisions for signatures, authentication, payment, delivery, redemption and number of Series 2024A Bonds shall be set forth in the Series 2024A Indenture hereinafter authorized.

The Series 2024B Bonds shall be issued as fully registered bonds and as tax-exempt bonds, shall be dated as provided in the Series 2024B Indenture, shall be issued as one or more serial and/or term bonds, and in an aggregate amount of approximately \$12,850,000 (or such greater amount not to exceed such

stated amount by more than 10% as may be determined by the Series 2024B Certificate of Determination), shall be payable as to principal and redemption premium, if any, at the principal office of the Trustee, shall be payable as to interest by check, draft or wire transfer as provided in the Series 2024B Indenture, shall bear interest initially at variable and/or fixed interest rates not to exceed ten percent (10.00%) (such final rate to be determined by the Series 2024B Certificate of Determination), shall be subject to redemption as provided in the Series 2024B Indenture, shall be payable as provided in the Series 2024B Indenture until the payment in full of the principal amount thereof and shall mature not later than December 31, 2054 (or as determined by the Series 2024B Certificate of Determination), all as set forth in the Series 2024B Bonds. The provisions for signatures, authentication, payment, delivery, redemption and number of Series 2024B Bonds shall be set forth in the Series 2024B Indenture hereinafter authorized.

Section 4. The Bonds shall be secured by the pledge effected by the applicable Indenture and shall be payable solely from and secured by a pledge of the loan payments, revenues and receipts of the Applicant to the extent set forth in the applicable Loan Agreement and the applicable Indenture hereinafter authorized. The Bonds, together with the interest thereon, are special limited revenue obligations of the Issuer, payable solely as provided in the applicable Indenture, including from moneys deposited in the applicable Bond Fund, the applicable Project Fund, the applicable Debt Service Reserve Fund (if any) and such other funds as established under the applicable Indenture (subject to disbursements therefrom in accordance with the applicable Loan Agreement and the applicable Indenture), and shall never constitute a debt of the State of New York or of the City, and neither the State of New York nor the City shall be liable thereon, nor shall the Bonds be payable out of any funds of the Issuer other than those pledged therefor. The payment of the principal of, redemption premium, if any, and interest on the Bonds may be further secured by the Mortgage, and, if determined by a Certificate of Determination, the Assignment of Leases and Rents, the Account Control Agreement and/or the Assignment of Contracts. The Bonds may be subject to the Intercreditor Agreement.

Section 5. The Series 2024A Bonds are hereby authorized to be directly purchased by the Initial Purchaser or any other financial institutions to be approved by the Series 2024A Certificate of Determination, at a purchase price as shall be approved by the Series 2024A Certificate of Determination. The Series 2024B Bonds are hereby authorized to be sold by the Underwriter, at a purchase price as shall be approved by the Series 2024B Certificate of Determination. The Issuer hereby authorizes the distribution of the Offering Memorandum relating to the Series 2024B Bonds.

Section 6. The execution and delivery of the Indentures, the Loan Agreements, the endorsement of the Promissory Notes to the Trustee, the Mortgage, the Assignment of Mortgage, the Offering Memorandum, the Bond Purchase Agreement and one or more Tax Certificates from the Issuer and the Applicant to the Trustee (the documents referenced in this Section 6 being, collectively, the "Issuer Documents"), each being substantially in the form approved by the Issuer for prior financings, are hereby authorized. The Chairperson, Vice Chairperson, Executive Director, Deputy Executive Director and General Counsel of the Issuer are hereby authorized to execute, acknowledge and deliver each such Issuer Document. The execution and delivery of each such Issuer Document by said officer shall be conclusive evidence of due authorization and approval.

Section 7. All covenants, stipulations, obligations and agreements of the Issuer contained in this Resolution and contained in the Issuer Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Issuer and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or the members thereof by the provisions of this Resolution and the Issuer

Documents shall be exercised or performed by the Issuer or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in any of the Issuer Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, director, officer, agent or employee of the Issuer in his individual capacity, and neither the members of the Issuer nor any officer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 8. The officers of the Issuer are hereby designated the authorized representatives of the Issuer, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Issuer Documents and the issuance of the Bonds.

Section 9. The Issuer is hereby authorized to cause the Applicant to proceed with the Project, the agreed costs thereof to be paid by the Issuer by the application of the proceeds of the Bonds, all as particularly authorized by the terms and provisions of the Loan Agreements. The Applicant is authorized to proceed with the Project; provided, however, that it is acknowledged and agreed by the Applicant that neither the Issuer nor any of its members, directors, officers, employees, agents or servants shall have any personal liability for any action taken by the Applicant for such purpose or for any other purpose.

Section 10. Any expenses incurred by the Issuer with respect to the Project and the financing thereof shall be reimbursed out of the proceeds of the Bonds or, in the event such proceeds are insufficient after payment of other costs of the Project or the Bonds are not issued by the Issuer due to inability to consummate the transactions herein contemplated, shall be paid by the Applicant. By accepting this Resolution, the Applicant agrees to pay such expenses and further agrees to indemnify the Issuer, its members, employees and agents and hold the Issuer and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Issuer in good faith with respect to the Project and the financing thereof.

Section 11. In connection with the Project, the Issuer intends to grant the Applicant financing assistance in the form of issuance of the Bonds and, to the extent required, an exemption from mortgage recording taxes.

Section 12. This Resolution is subject to the approval of a private investigative report with respect to the Applicant, which approval shall be conclusively evidenced by the delivery of the Issuer Documents authorized pursuant to Section 6 hereof. The provisions of this Resolution shall continue to be effective until one year from the date hereof, whereupon the effectiveness of this Resolution shall terminate (except with respect to the matters contained in Section 10 hereof) unless (i) prior to the expiration of such year the Issuer shall (x) have issued the Bonds for the Project, or (y) by subsequent resolution extend the effective period of this Resolution, or (ii) the Applicant shall be continuing to take affirmative steps to secure financing for the Project.

Section 13. This Resolution constitutes “other similar official action” under the provisions of Treasury Regulation 1.150-2 promulgated under Section 103 and related sections of the Code. This Resolution is subject to further compliance with the provisions of Sections 141 through 150 and related provisions of the Code.

Section 14. SEQRA Findings Relating to Facility 1 and Facility 2

The New York City Board of Standards and Appeals (“BSA”) assumed Lead Agency status for the review of the School’s application for a variance to permit enlargement of a Use Group 3 school contrary to regulations for front yard depth at Facility 1 and Facility 2 and determined that the proposed actions to be Unlisted actions pursuant to 6 NYCRR, Part 617.2.

A Final Environmental Assessment Statement (“FEAS”; CEQR No. 24BSA004K) was prepared pursuant to the methodology of the 2021 CEQR Technical Manual.

The Issuer finds that, with respect to the findings and resolution of the BSA with respect to the proposed actions at 7503 Shore Road and 7509 Shore Road, Brooklyn, New York, the FEAS (CEQR No. 24BSA004K) has made a thorough and comprehensive analysis of the relevant areas of concern under the SEQRA and its implementing regulations, considered a reasonable range of alternatives, appropriately assessed the potential environmental and land use impacts of the FEAS Proposed Action, identified measures to avoid or mitigate adverse impacts to the extent practicable and set forth appropriate conditions to be imposed as conditions of approval.

Furthermore, the Issuer has carefully considered the Lead Agency’s Negative Declaration and finds that this document is an accurate reflection of the FEAS findings related to the Issuer Proposed Actions. The Board of Directors of the Issuer hereby adopts and incorporates by reference the Lead Agency’s Resolution and Findings Statement dated May 21, 2024, and filed on June 28, 2024, attached hereto as Exhibit A (including the conditions therein).

Further, an updated Phase I Environmental Site Assessment (“Phase I”) was completed for 7503 Shore Road and 7509 Shore Road, Brooklyn, New York, in July 2024. The Phase I did not identify any current, historic, or connected Recognized Environmental Conditions (“RECs”). It found that at 7503 Shore Road, there is a possibility of Asbestos Containing Materials (“ACM”) and Lead Based Paint (“LBP”) on site. It is recommended that during demolition, ACM, LBP, and other regulated materials are properly handled and disposed of in accordance with applicable regulations.

Having considered the FEAS and the Lead Agency’s Negative Declaration, the Issuer certifies that:

- (i) The requirements of SEQRA, including 6 NYCRR § 617.2 have been met and fully satisfied.
- (ii) The Issuer has considered the relevant environmental assessment, facts and conclusions disclosed in the FEAS and in the Lead Agency’s Negative Declaration and weighed and balanced relevant environmental assessment with social, economic, and other considerations.

SEQRA Findings Relating to Facility 3

The Issuer has determined that the proposed action associated with Facility 3, located at 8101 Ridge Boulevard, Brooklyn, New York, is a Type II action, pursuant to 6 NYCRR Part 617.5(c)(29), “investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;” which would not result in adverse environmental impacts requiring the preparation of an Environmental Impact Statement.

Section 15. The Issuer recognizes that due to the unusual complexities of the financing it may become necessary that certain of the terms approved hereby may require modifications which will not affect the intent and substance of the authorizations and approvals by the Issuer herein. The Issuer hereby

authorizes the Chairperson, Vice Chairperson, Executive Director, Deputy Executive Director or General Counsel to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution.

Section 16. This Resolution shall take effect immediately.

Adopted July 23, 2024

Accepted: _____, 2024

BAY RIDGE PREPARATORY SCHOOL

By: _____
Name:
Title:

Exhibit A

NYC Board of Standards and Appeals Resolution

Note. —This resolution is final but subject to formal revision before publication in the Bulletin. Please notify the General Counsel of any typographical or other formal errors so that corrections may be made before the Bulletin is published.

BOARD OF STANDARDS AND APPEALS

MEETING OF: May 21, 2024
CALENDAR NO.: 2023-48-BZ
PREMISES: 7509 Shore Road, Brooklyn
Block 5936, Lots 16 and 34

ACTION OF BOARD — Application granted on condition.

THE VOTE —
Affirmative: Chair Chanda, Vice-Chair Scibetta,
Commissioner Ottley-Brown, Commissioner Sheta, and
Commissioner Yoon.....5
Negative:.....0

THE RESOLUTION —

The decision of the Department of Buildings (“DOB”), dated July 12, 2023, acting on Alteration CO Application No. B00879256-I1, reads in pertinent part:

- Requesting final determination of the following objections.
1. Proposed enlargement does not comply with front yard requirement of ZR 24-34...
 2. Proposed enlargement does not comply with height regulations of ZR 114-22....

This is an application for a variance, pursuant to Z.R. § 72-21, to permit the enlargement of a Use Group (“UG”) 3 school contrary to regulations for front yard depth (Z.R. § 24-34). This application is brought on behalf of Bay Ridge Prep (the “School”).

A public hearing was held on this application on November 28, 2023, after due notice by publication in *The City Record*, with continued hearings on June 23, 2024 and February 27, 2024, and then to decision on May 21, 2024. Vice-Chair Scibetta and Commissioner Yoon performed inspections of the site and surrounding neighborhood.

Community Board 10, Brooklyn, recommends approval of this application on condition that Bay Ridge Prep consider and explore options for adding more green space on the Shore Road side.

I.

The Premises are located at the southeast corner of the intersection of Shore Road and Bay Ridge Parkway, within an R4A zoning district and the Special Bay Ridge District, in Brooklyn. With approximately 174 feet of frontage along Shore Road, 125 feet of frontage along Bay Ridge Parkway, and 29,899 square feet of lot area, the Premises are currently improved with a vacant, three-story former rectory, a vacant two-story residence, also formerly used for the rectory, and a one-story, 1,185 square-foot, accessory garage.

III.

The applicant represents that it purchased the subject property for the purpose of consolidating its Upper School operations into a single location and plans to demolish the two-story residence and construct an enlargement to accommodate a double height gym at the cellar and first floor levels, and additional classrooms and offices on the second floor. Originally, the applicant proposed to enlarge the existing, three-story building from a rectory to a high school with a two-story addition containing a gymnasium and additional classrooms, requiring a waiver of the front yard provisions of Z.R. § 24-34 and the maximum building height provisions of Z.R. § 114-22(b). The applicant stated that the proposed enlarged portion of the building containing the gymnasium with classrooms above would be built to the street line on both Shore Road and Bay Ridge Parkway, in order to maximize the size of the gymnasium, resulting in front yards measuring 0'-0" on both street frontages. Furthermore, the applicant represented that the proposed building would also comprise of an access ramp linking the roofs of the existing portion and the enlarged portion, and although the roof of the enlargement would comply with the 32-foot height restriction of Z.R. §114-22(b), an accessibility ramp connecting the existing building to the enlargement would extend above the maximum permitted building height and would not qualify as a permitted obstruction.

Additionally, the applicant noted that the proposed work would take place in a Phase 1 stage (from 2025-2026) followed by a Phase 2 (from 2027-2028) wherein the School would address its programmatic needs based on its anticipated enrollment. The applicant stated that Phase 1 would provide a gymnasium for physical education classes and after-school athletics, and Phase 2 would provide additional classrooms and offices to meet the needs of its Bridge and Achieve programs and allow for an increase in the number of students.

In response to Board comments, the applicant revised its proposal to reduce the encroachment of the enlargement into the front yard on Shore Road by three feet and to eliminate the open use on the roof of

the enlargement and thus the need for an access ramp connecting the two roofs.

In the subject R4A zoning district, for a corner lot, Z.R. § 24-34 requires a minimum depth of 15 feet for front yards. Accordingly, the applicant seeks the relief requested herein.

IV.

The Zoning Resolution vests the Board with wide discretion to “vary or modify [its] provision[s] so that the spirit of the law shall be observed, public safety secured and substantial justice done,” Z.R. § 72-21.

A.

First, the applicant submits that there are unique physical conditions inherent in the Premises — namely, its programmatic needs and the restrictive bulk regulations — that create practical difficulties or unnecessary hardship in complying strictly with applicable zoning regulations that are not created by general circumstances in the neighborhood or district. Here, the applicant states that it seeks this variance to provide an adequately sized gymnasium to provide a proper physical education (“PE”) program with locker rooms and storage, classrooms, and other facilities as upon completion of the Phase 2 enlargement, the School would contain 9 classrooms, ranging in size from 528 square feet to 692 square feet, each capable of accommodating project-based learning for up to 18 students at a time.

First, the applicant describes the current structure of the School’s programming: 1) The Upper School is currently located in a building owned by the Church of the Good Shepherd at 7420 Fourth Avenue, which contains an undersized 38 by 62-foot gymnasium. Specifically, the applicant notes that a high school regulation size basketball court is 50 feet wide and 84 feet long, according to standards set by the National Federation of State High School Associations (“NFSHA”). The applicant argues that the narrowness of the existing gym presents an unsafe condition because the sidelines of the basketball court are inches from the walls, risking injury to students who could potentially slam into the walls during participation in athletic programs, and also lacks showers, locker rooms and storage for athletic equipment. As such, the applicant states that students currently change in the lavatories, thereby restricting other students’ access to a bathroom during the periods between classes. Furthermore, the applicant claims that athletic equipment has been stored in the hallways, creating a fire hazard, but the proposed enlargement would contain a 119-foot-long and 51-foot-wide gymnasium, with an 84-foot-long and 44-1/2-foot-wide basketball court, allowing for clearance space of about 3 1/2 feet on the sidelines and about 5 feet and 6 feet on the baselines.

2) Next, the School provided a growth chart, showing that it anticipates a total enrollment of 202 students with a faculty and staff of 39 for the 2024-25 school year and 240 students and 44 faculty and staff during completion of Phase 2 during the 2027-28 school year. The applicant represents that, in addition to the current space being overcrowded, the School requires additional space to administer its Achieve and Bridge Programs, which assist students with diagnosed learning differences and those who need extra attention to study skills, organization, reading, and writing and is administered either in specialty sections of primary courses or in small group work and individualized instruction, and upon completion of the Phase 2 enlargement, the proposed building would have 8 dedicated spaces for psychologists and speech and language therapists. Moreover, the applicant posits that the additional classroom space would be used to provide dedicated space for Science, Technology, Engineering and Mathematics (“STEM”), arts, and dance courses. Here, the applicant states that the proposed building would have 28 classrooms, 2 multipurpose rooms, 2 art rooms, a music room, and 2 science labs, in addition to a teacher’s lounge and 16 offices.

3) Finally, the applicant claims that the provision of outdoor roof and yard space, as well as its proximity to Shore Road Park would serve for use by students and faculty. The applicant describes that the front yard between the Premises and Shore Road ranges at its closest points from 50 to 58 feet, with portions as deep as 75 feet and would provide the School with on-site, outdoor space for passive recreational use by students and school personnel. Furthermore, the applicant states that the existing building extends approximately 116 feet from side to side and its southern side wall is located just over 20 feet from the side lot line, with the accessory garage building located approximately 15 feet behind, alongside the easterly side lot line. Additionally, the applicant claims the residential building has a 29-foot-deep front yard on Shore Road and a noncomplying, 2-foot front yard on Bay Ridge Parkway. As such, the applicant states that the proposed enlargement would extend to the front lot lines on both Shore Road and Bay Ridge Parkway, and the existing garage would be used for two accessory parking spaces, with access via a curb cut on Bay Ridge Parkway, with seven more parking spaces to be in an open area behind the garage, with access via a driveway just north of the southerly lot line and a curb cut on Shore Road.

The applicant claims that the School is unable to construct an enlargement that complies with the requirement for a 15-foot front yard on both the Shore Road and Bay Ridge frontages and also meet the School’s programmatic needs. In support, the applicant submitted as-of-right plans which demonstrate that an enlargement which complies with the 15-foot front yard requirement on Shore Road and Bay Ridge Parkway would result in a distance from exterior wall to exterior wall measuring 39 feet 2 inches in width. The applicant claims

that a gymnasium within this as-of-right, enlargement would measure 36 feet 5 inches wide, with a basketball court of a width of 29 feet 6 inches, which is not wide enough to be functional, must less wide enough for participation in the School's basketball league. Accordingly, the Board finds that the above unique physical conditions create practical difficulties or unnecessary hardship in complying strictly with applicable zoning regulations that are not created by general circumstances in the neighborhood or district.

B.

Next, the applicant submits, and the Board concurs that, because the applicant is a nonprofit institution, no showing need be made with respect to realizing a reasonable return.

C.

The applicant further represents that the requested variance would not alter the essential character of the neighborhood, impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. First, the applicant notes that the proposed UG 3 school use is a conforming use in the underlying residential zoning district. Furthermore, the applicant argues that the proposed building, with a floor area ratio ("FAR") of 1.05, would be substantially smaller than the maximum permitted FAR of 1.65 applicable to community facility uses in the R4A zoning district within the Special Bay Ridge District. Moreover, the applicant points out that the surrounding area is comprised of three, six-story apartment buildings on Shore Road, north of the subject property which provide landscaped front yards, and the area within 400 feet of the subject Premises is primarily a residential neighborhood comprised mostly of detached, semi-detached, and attached, two-story, single- and two-family residences, including the adjacent residential property on Bay Ridge Parkway to the east, which is improved with a two-story residence with a non-complying front yard measuring 5'-8".

Next, the applicant claims that the subject Premises, as a corner lot, shares side lot lines with the two adjacent properties, both of which are improved with single-family residences. Wherein the existing side yard between the south side lot line and the existing building would remain unchanged at 20.3 feet wide, and the proposed side yard between the enlarged building and the east side lot line would be 21.75 feet wide, the applicant concludes that the proposed front yard variance would enable the enlarged building to extend to the street line of Bay Ridge Parkway and be 3 feet shy of Shore Road. The applicant submitted a Front Yard and Height Graphic Study which demonstrated that the enlarged building would be located over 120 feet from the shared side lot line on Shore Road and demonstrated that the

impact on the adjacent property on Shore Road to the south would be minimal. Here, the applicant reasons that the built condition of the street mitigates against any impact on the use of the adjacent property to the east, as it does not correspond to the legal street lines and property lines. Moreover, the applicant finds that the adjacent property's de facto front yard and short brick fence and the subject Premises' lawn and retaining wall extend into the mapped street of Bay Ridge Parkway by approximately 8.5 feet, a condition that has existed for years and would provide a visual buffer in front of the enlarged building.

Finally, the applicant argues that the proposed project meets the goals and specific purposes of the Special Bay Ridge District provided in Z.R. § 114-00 as the design of the proposed local school complex that of three stories, has substantial green open space and less floor area than permitted, the proposal would meet the Special District's twin purposes of: (a) preserving, protecting and maintaining the existing scale and character of the surrounding residential and commercial community, and (b) encouraging the design of community facility development which is in character with the neighborhood and surrounding community. Furthermore, the applicant claims that by locating the school on Shore Road, in the heart of a residential neighborhood and across the street from Shore Park and its available athletic facilities, the School would meet the Special District's purpose of promoting the most desirable use of land in the area and thus conserving the value of nearby land and buildings.

Accordingly, the Board finds that the proposed variance would not alter the essential character of the neighborhood or district in which the Premises are located; would not substantially impair the appropriate use or development of adjacent property; and would not be detrimental to the public welfare.

D.

The applicant represents that the above practical difficulties or unnecessary hardship have not been created by the applicant or by a predecessor in title. Instead, the applicant contends that the practical difficulties encountered on the subject Premises are inherent in the site and arise out of its programmatic needs. In support, the applicant submitted a Lot Ownership Chart for lots 16 and 24 and adjacent tax lots 14, 31, 36, 38, 40, 40, and 42, along with the deeds for lots 16 and 24, demonstrating that the subject zoning lot consisting of tax lots 16 and 24, has been in single ownership since 1966. Accordingly, the Board finds that the above practical difficulties or unnecessary hardship have not been created by the applicant or by a predecessor in title.

E.

The applicant notes that the variance request is the minimum necessary to develop a community facility use at the Premises. The applicant claims that the extent of the requested variance is no greater than is necessary to afford relief as the requested front yard waiver is needed to meet the School's programmatic needs in an efficient and cost-effective design, and any lesser variance would result either in a building that does not meet those programmatic needs or would be cost-prohibitive design. Accordingly, the Board finds that the proposed variance is the minimum necessary to afford relief within the intent and purposes of the Zoning Resolution.

V.

Over the course of hearings, the Board requested that the applicant address issues raised by the New York City Department of Transportation ("DOT"), Office of School Safety in its review of the School's arrival and dismissal plans and analyze the potential change in vehicular and pedestrian traffic from the School use in line with the relevant City Environmental Quality Review ("CEQR") Manual standards.

In response the applicant submitted an operational plan for the School's arrival and dismissal times:

School Safety Access Study & Arrival and Dismissal Operations Plan (including students and staff)

During the AM arrival period for the principal access intersections, no intersection would experience an incremental increase of over 200 project-generated pedestrian trips CEQR Manual threshold during the AM arrival period. In addition, no intersection would experience an incremental increase of 200 or more project-generated pedestrian trips CEQR threshold during the PM dismissal and after-school periods as less than 200 total project generated pedestrian trips are generated during these periods. Although no intersections would experience an incremental increase of over 200 project-generated pedestrian trips during the AM arrival, PM dismissal, and after-school dismissal periods, two key study intersections are identified due to the immediate vicinity to the Project Site, which are the intersections of Shore Road at Bay Ridge Parkway and Narrows Avenue at Bay Ridge Parkway. These two intersections define an access area located directly to the north and east of the Project Site. After a review of these intersections and a description of both personnel and physical safety plans for these locations, a protocol for site access and processing of student trips at the school frontages is discussed. Considering the pedestrian, transit, and vehicular modes of arrival and assignment of access

characteristics for students, there is a clear, direct access structure for the Proposed Project. The pedestrian entrance would be located along Shore Road.

School Safety Access Study & Arrival and Dismissal Operations Plan

1. Supporting safe pedestrian access to and from the school.
2. Supervised access and egress from the school building—students would have a supervised entry/exit point at the Proposed Project. The ability to safely steward arriving and departing students is based on the consideration of the following:
 - The modes of student arrival and departure; whether pedestrian—either direct to and from a student's home or via transit and then walking to and from the school—or by private automobile;
 - The volume of students using these modes for arrival and departure; and
 - The routes by which student pedestrian or vehicular trips arrive at the school.

Supporting Safe Pedestrian Access to and from the School

- Safe walking routes to the school from area transit stops and residential areas were identified. The “Access Area” is defined as the sidewalk network within an area generally bounded by 72nd Street to the north, Colonial Road to the east, 78th Street to the south, and Shore Road to the west.
- The School should provide, at school year initiation and at various points of the year, an orientation for safe walking routes for each student based on their route to and from home and applying these basic rules in terms of access to and from the School.
- The School administration should provide a regular (monthly) in-field audit during arrival, and dismissal on the pedestrian and vehicular access patterns and behavior associated with the school and nearby businesses to provide for continuous safety improvement as the school becomes a part of the neighborhood.
- The School administration should communicate regularly with its business neighbors to provide foresight and understanding with respect to their coexistence in the neighborhood.

Ingress and Egress

The entrance to the school would be located along the east sidewalk of Shore Road between Bay Ridge Parkway and 77th Street. All students and staff would enter and exit through this entrance. The Ingress and Egress Plan would ensure that arriving and departing student pedestrians and vehicular drop-off and pickup traffic are manageable, coordinated, and focused on safely

and efficiently stewarding students to and from the Project Site. Further, the Ingress and Egress Plan would help to minimize the potential for disruptions by ensuring that students exit the building directly and do not congregate in the main lobby or other areas of the building.

Arrival and Dismissal Staffing at Entry/Egress Locations

Dedicated staff would be assigned at the entry/egress location during the arrival and dismissal periods. A minimum of two staff members would be present at the entrance throughout these periods—one to manage and provide security at the entrance and a second to steward pickups and drop-offs along the Shore Road and Bay Ridge Parkway frontages. It should be noted that steward pickups and drop-offs at the Project Site would be minimal as the Proposed Project is for high school students. Therefore, no designated pickup/drop-off zone is provided. During the arrival period from 7:45 a.m. to 8:30 a.m., at least one of the two dedicated staff members would greet arriving students and provide overall AM period management at the entrance. This staff coordinator would direct and assist with special needs access and oversee students' movement from the arrival/drop off point. The dismissal period from 2:40 p.m. to 3:00 p.m. would mirror the staffing plan for the arrival period.

Additionally, the applicant conducted a Transportation Survey to analyze the most common means of transportation used by teachers and staff to arrive and depart from the School in conjunction with its potential effects on traffic:

Methodology

The transportation survey was distributed electronically by BRPHS to the students (Grades 9-12) and staff at the existing high school. The survey for the students included nine questions about the student's trip to school that day, including mode of travel, point of origin, arrival and dismissal times, and enrollment in after-school programs. A total of 187 student responses were returned (almost a hundred percent response rate), of which 185 were included in the analysis of mode choice. The survey for the staff included eight questions about the staff's trip to school that day, including mode of travel, point of origin, and arrival and dismissal times. A total of 52 staff responses were returned (a hundred percent response rate), of which all the responses were included in the analysis of mode choice.

Mode Choice

A summary of the findings derived from the mode choice survey data shows that in the morning, approximately 22.7 percent of

high school students traveled to school via private auto (auto drop-off), while 5.4 percent used taxis or rideshare services (e.g., Uber, Lyft, Via, etc.) as their primary mode of travel. Approximately 65.9 percent of students used transit, including 57.3 percent who traveled by subway and 8.6 percent who traveled by bus. In addition, approximately 5.9 percent of students either walked and no students biked to school. In the afternoon, the mode choice during dismissal is similar to the arrival, where approximately 22.7 percent of high school students traveled from school via private auto (auto drop-off), while 4.3 percent used taxis or rideshare services (e.g., Uber, Lyft, Via, etc.) as their primary mode of travel. Approximately 64.9 percent of students used transit, including 57.3 percent who traveled by subway and 7.6 percent who traveled by bus.

Staff

A summary of the findings derived from the mode choice survey data shows that approximately 50.0 percent of high school staff traveled to school via private auto, while 3.8 percent used taxis or rideshare services (e.g., Uber, Lyft, Via, etc.) as their primary mode of travel. Approximately 30.8 percent of staff used transit, including 26.9 percent who traveled by subway and 3.8 percent who traveled by bus. In addition, approximately 13.5 percent of staff walked and 1.9 percent of staff biked to school. In the afternoon, the mode choice during dismissal is the same to the arrival for all modes except for taxis or rideshare services and subway. During the dismissal period, approximately 1.9 percent used taxis or rideshare services to travel from school (compared to approximately 3.8 percent in the AM period) and approximately 28.8 percent traveled by subway, resulting in approximately 32.7 percent of staff to use transit (compared to approximately 26.9 percent in the AM period). Vehicle Occupancy and Parking Location, and based on the survey data, the vehicle occupancy (number of persons per vehicle) for staff commuting by private auto averages approximately 1.11. In addition, all staff who commuted via private auto parking on-street. For those using taxi/rideshare services, the vehicle occupancy is approximately 1.00.

VI.

The project is classified as an Unlisted action pursuant to Section 617.2 of 6 NYCRR. The Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final EAS CEQR No. 24BSA004K, dated May 21, 2024. The EAS documents that the project as proposed would not have significant adverse impacts on land use, zoning, and public policy;

socioeconomic conditions; community facilities and services; open space; shadows; historic resources; urban design and visual resources; neighborhood character; natural resources; waterfront revitalization program; infrastructure; hazardous materials; solid waste and sanitation services; energy; traffic and parking; transit and pedestrians; air quality; noise; or public health.

By correspondence dated April 20, 2023, the Landmarks Preservation Commission (“LPC”) states that the properties located at 7509 Shore Road and 7503 Shore Road have no architectural or archeological significance.

By correspondence dated November 27, 2023, the New York City Department of Parks, Department of Environment and Planning states that upon review of the applicant’s EAS Shadow Chapter, it agrees with the conclusion that there would be no impacts on Shore Road Park.

No other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable. Based on the foregoing, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Based on the foregoing, the Board finds that the evidence in the record supports the findings required to be made under Z.R. § 72-21 and that the applicant has substantiated a basis to warrant exercise of discretion.

Therefore, it is Resolved, that the Board of Standards and Appeals does hereby *issue* a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1997, as amended, and make each and every one of the required findings under Z.R. § 72-21 to *permit* the enlargement of a UG 3 school, contrary to regulations for front yard depth (Z.R. § 24-34); *on condition* that all work and site conditions shall conform to drawings filed with this application marked: “Approved Plans” received May 21, 2024 — Forty (40) sheets; and *on further condition*:

THAT the bulk parameters of the building shall be as follows: two front yards along the Shore Road and Bay Ridge Parkway street frontages each measuring 0'-0" in depth, as per the BSA-approved plans;

THAT the access to the roof of the building on Lot 16 shall be limited to only classes and for annual parent functions;

THAT the maximum capacity shall be limited to 120 for parent functions and 56 for class seating;

THAT a sound absorbing barrier of minimum four feet above the roof terrace along the eastern parapet shall be installed and planter

2023-48-BZ

boxes, of minimum four feet in height shall be located six feet from the eastern parapet wall;

THAT there shall be no sound amplification on the roofs of either building;

THAT the above measures shall be in place prior to obtaining a temporary certificate of occupancy (“TCO”);

THAT the applicant is required to submit a Builder’s Pavement Plan (“BPP”) and all required drawings as per DOT specifications and requirements for NYC DOT review and approval;

THAT all improvements shown on BSA-approved plans are for illustrative purposes only and will require DOT review and approval post-BSA approval;

THAT the above conditions shall appear on the certificate of occupancy;

THAT a certificate of occupancy, also indicating this approval and calendar number (“BSA Cal. No. 2023-48-BZ”), shall be obtained within four years, by May 21, 2028;

THAT the proposed curb cut on Shore Road shall be compliant with zoning regulations;

THAT there shall be 7'-0" spacing between street trees and the outside edge of any curb;

THAT the sidewalk along Shore Road shall have a minimum width of 17'-6”;

THAT all existing plant encroachments on the sidewalk must be removed;

THAT the sidewalk shall be reconstructed to the standard of New York City concrete sidewalk regulations, in accordance with New York City DOT standards and fully accessible to the public;

THAT the existing curb cut on Shore Road shall be removed and rebuilt as a full height curb;

THAT final dimensions and locations of curb cuts shall be reviewed and approved by NYC DOT;

THAT pedestrian ramps shall be upgraded at all four corners at the intersection of Shore Road and Bay Ridge Parkway to the latest ADA standards acceptable by the NYC DOT;

THAT upon completion of construction, a “No Standing, School Zone from 7 a.m. to 4 p.m.” signage shall be installed along curb adjacent to the new school frontages, with final locations to be determined by NYC DOT;

THAT the applicant shall notify NYC DOT six months prior to opening the school so that DOT can install all necessary signage;

THAT this approval is limited to the relief granted by the Board in response to objections cited and filed by the Department of Buildings;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the

Administrative Code, and any other relevant laws under its jurisdiction irrespective of plans or configurations not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 21, 2024.

CERTIFICATION

This copy of the resolution
dated May 21, 2024
is hereby filed by the
Board of Standards and Appeals
on June 28, 2024.



Carlo Costanza
Executive Director