



**Greenwich
Village
Society for
Historic
Preservation**

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January 9, 2013

Hon. Meenakshi Srinivasan, Chair
New York City Board of Standards and Appeals
250 Broadway, 29th floor
New York, NY 10007
delivered via e-mail to emjones@bsa.nyc.gov

Re: Calendar #289-12-BZ, 726-730 Broadway

Dear Chair Srinivasan:

I write to follow up on yesterday's hearing regarding the above-referenced item, and Vice-Chair Collins' question regarding our request that the Board require NYU to provide evidence that alternatives to the variance requested are not available to them.

In NYU's presentation to the board yesterday and in the materials they submitted, the university asserts that it has a "programmatic need for additional academic space" and that "such space must be located near existing facilities within and proximate to the University's Washington Square Core campus." And yet they provide no proof of these assertions, either that similar space which would not require a zoning variance is not located within the same geographic area, or that locating such facilities near their science-oriented campuses in Downtown Brooklyn and the East Side Medical Corridor would not be equally practical.

Additionally, the "E" finding, which requires the university to show that "the variance, if granted, is the minimum necessary to afford relief" also points to the appropriateness of asking the university to show that alternatives are not available to them. How can the variance being requested be proven to be the "minimum necessary" without demonstrating that there would be no other ways, without a variance or with a lesser variance, to meet the university's needs?

Finally, the university is required to demonstrate that "the variance, if granted, would not alter the essential character of the neighborhood or the zoning district within which the lot is located." As you know, the Greenwich Village Society for Historic Preservation, the NoHo Neighborhood Association, and the local Community Board have all asserted that allowing these currently prohibited uses would in fact "alter the essential character of the neighborhood." There can be no denying that allowing an increased presence of NYU in NoHo, which the precedent established by granting this variance would do, would in fact alter this neighborhood's essential character, which has only been saved from the onslaught of NYU expansion by the limitations imposed by its zoning.

It should also be noted that the standard of demonstrating “programmatic need” established by case law for allowing zoning variances for educational institutions is not dissimilar to the standard required for non-profit institutions seeking a hardship finding in relation to landmark regulation. In response to case law in those instances, the Landmarks Preservation Commission has required applicants to demonstrate a lack of reasonable alternatives to prove their case that an exemption from landmarks requirements is required to carry out their mission and needs.

For these and other reasons previously stated, I continue to urge the Board to require the university to prove and the “need” and lack of alternatives it claims in its application, and not to grant the variance requested.

Sincerely,



Andrew Berman
Executive Director

Cc: BSA Vice-Chair Christopher Collins
Members of the BSA
Community Board #2, Manhattan
NoHo Neighborhood Association