

Coalition for a Livable West Side

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How Out-of-Scale Buildings Get Built On Your Block Legal Shenanigans And The New York City Bureau of Standards & Appeals

BSA Approves 'Spot' Zoning On West 60th Street

On October 28, 2003, the Bureau of Standards and Appeals (BSA) approved a new out-of-scale, 20-story mid-block building proposed by Touro College, for the north side of West 60th Street, between West End Avenue and Amsterdam Avenue - 225-227 West 60th Street.

The proposal was rejected by the NYC Planning Commission and Community Board 7.

Despite those rejections, the BSA approved the proposal and granted variances for an increase in residential space; an increase in the height of the building; and a decrease in open space. All are *more* than the existing zoning would allow.

Plans call for a mid-block tower to contain the Touro College for Women and 95 luxury residential units.

Variances are really a form of "spot zoning". Rather than attempt to change zoning regulations, developers do an "end-run" by requesting and receiving variances.

The BSA in this ruling, is as usual, on the side of developers and their attorneys.



The Powerful Bureau of Standards and Appeals

What is the Bureau of Standards & Appeals (BSA)? The BSA is a quasi-judicial body created to address unique circumstances not anticipated by the city zoning law.

It has 5 members, all appointed by the mayor for a 6 year term.

Can BSA decisions create problems for a neighborhood? Yes! Here's how Professor Tom Angotti (Hunter College) explains it in *Variances: How To Undermine Zoning and Make a Profit*. (10/10/03. Gotham Gazette.com)

"BSA can grant exceptions to the zoning law known as variances, if property owners can show that they meet the following five conditions.

- 1) that there are unique physical conditions on the site;
- 2) the variance is needed so the property owners can get a "reasonable return" on their investment;
- 3) the variances won't alter the "essential character" of the neighborhood;
- 4) the economic hardship wasn't created by the owner; and
- 5) the change being requested is the minimum necessary to relieve the owner of their hardship.

In addition, the BSA grants special permits in a wide array of cases."

"Neighborhoods throughout the city have complained long and hard about the ability of the BSA to hand out variances. Lawyers use their knowledge of the BSA arcane language to know what to say as "proof" that each one of the five conditions set out in the law have been met.



The main problem is that there's no limit to the variances that the board can dole out in any neighborhood.

As a result, entire neighborhoods have been developed in ways not allowed in the zoning.

The BSA, although not a planning body, engages in ad hoc planning, or planning by variance.

Planning on land use belongs to the City Planning Commission and its support agency, the Department of City Planning.

Unfortunately there are too many examples where zoning rules get changed to accommodate development that is already taking place.

...The reliance of the Department of City Planning on zoning also lends itself to an ad hoc approach. It would be far better to have community plans that reflect a consensus about what the future neighborhood should look like. That way 'neighborhood character' would be more clearly defined and could guide both the BSA and the City Planning Commission."

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At a Bureau of Standards and Appeals Hearing on August 11, 1998, the Coalition for a Livable West Side presented incontrovertible facts in its environmental case against Trump building Riverside Boulevard on landfill instead of on a platform/viaduct.

But facts did not matter. The BSA ruled in favor of Trump. "Standards" in the BSA name is really a misnomer. It does not really uphold standards.

More On the Arcane World of Zoning And How It Affects Your Neighborhood

New Tower
106th-107th and Broadway
Taller and Bulkier
Under Special Program

A new 24-story luxury condominium will be built between 106th-107th Street on the eastside of Broadway.

It will contain 64 apartments with an average size of approximately 1700 square feet.

The building is “as-of-right” . But because the developer is participating in NYC’s *Inclusionary Housing Program** the building will be 20 % bigger and bulkier than allowed under the zoning law.

In exchange for the additional 20% , the developer will build 5 low-income apartments (approximately 700 sq. ft. each) in a new 6-story building at 220 W. 108 Street. That is a very small number when compared to the number of huge luxury units the developer can build.

The developer is calling the new building, “Opus Condos At Strauss Park”. That is truly ironic, because the building will have a negative impact - less sunlight - on the restored, beautiful Strauss Park (W. 105th -W. 107th St., Broadway and West End Ave.).

Construction is expected to take 16 months.

* The Inclusionary Housing Program’s goal is to rehabilitate or build affordable housing near a development site.

When the program was passed in 1987, Community Board 7 asked for an expiration provision and review process of the implementation of the Inclusionary Housing Program . It once again, has asked that the City review the Program to determine if its benefits have been realized compared to its costs.



Community Facilities -The Zoning Resolution and Its Impact

A *Community Facility (CF)* is a zoning term in the NYC Zoning Resolution (ZR) that recognizes certain type of uses that serve the general welfare.

CFs include houses of worship, libraries, schools, community centers, museums, hospitals, residential facilities, dormitories and hospital staff housing. and are generally located in residential areas.

Because of the services they provide, *CFs* receive as-of-right bonuses which allow them to build bigger facilities which may or may not be in scale with surrounding properties. (see articles on Tuoro College and the Cathedral of St. John the Divine). No consideration is given to the number of *CFs* in a particular neighborhood either.

The existing *CF* provisions are being used by institutions and developers as a means to achieve “as-of-right” status for developments, that would otherwise be reviewed - thwarting the goals of a rational planning process, and skirting the public review process which should be in place.

The unforeseen consequences of those provisions have had deleterious effects on neighborhood character throughout the five boroughs.

The Citywide Coalition for Community Facility Reform

The Citywide Coalition for Community Facility Reform (CCCFR) is a consortium of civic groups (including CLW) and Community Boards in the 5 Boros. Its goal is to radically reform the Community Facilities provisions and the definition of a community facility in the Zoning Resolution. Those reforms would allow New York City’s vibrant and diverse neighborhoods to retain their character while they grow and develop in the 21st Century.

If you would like to help reform the *CF* section of the Zoning Resolution, please contact the CCCFR, c/o Greenwich Village Society for Historic Preservation, 232 E. 11th St., NY, NY 10003 or call 212-475-9585 . Send them a SASE #10 envelope for a copy of their recommendations.

Let your City Council member know that you support *Community Facility* reform in the Zoning Resolution .

Contact: Speaker A. Gifford Miller, City Council, City Hall, NY, NY 10007 , 212-788-7210; 212-535-6098; e-mail Miller@council.nyc.ny.us

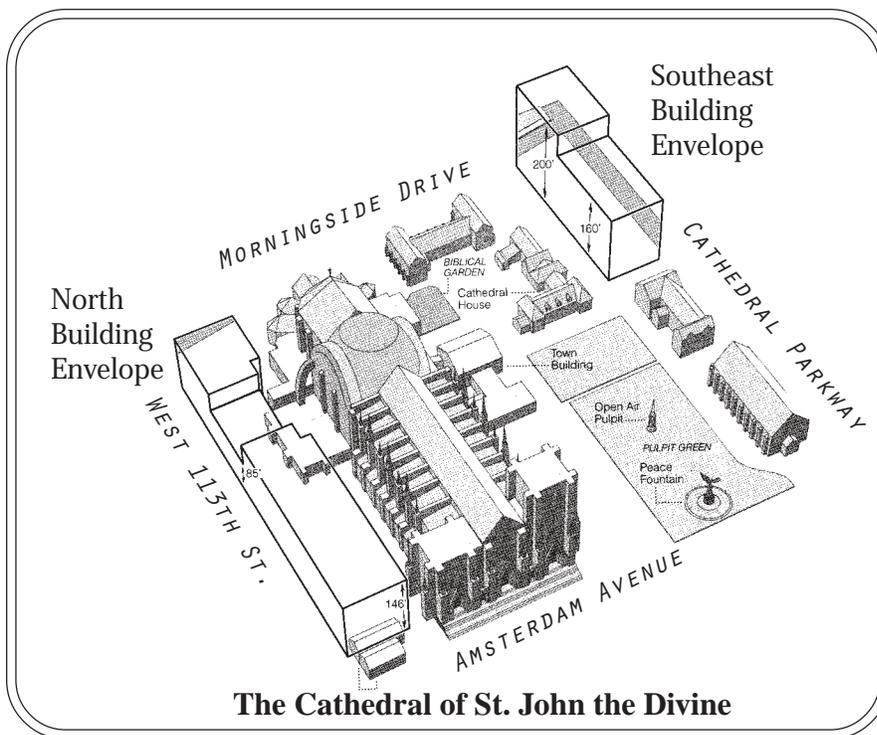
Council member Gail Brewer, 522 Amsterdam Ave., NY, NY 10024, 212-873-0282, e-mail Brewer@council.nyc.ny.us



BSA To Get Request For Variance 110th St. NE Corner, Broadway

In order to build a 15-story residential building on top of the 2-story terra-cotta building on the *NE corner of 110th St. and Broadway*, the owners are applying to BSA for variances for height, set back and bulk.

Without the variances, the owners would be able to build an as-of-right 11-story building.



On Oct. 24th, the New York City Council unanimously rejected landmark status for the Cathedral of St. John the Divine because the 11-acre ground surrounding the church was not included. The members urged the Landmarks Commission to start their process again .

The Church can still develop the two sites. They are in a R7-2 *Community Facilities* (CF) District.

What does that mean? If an ordinary site is zoned R7-2, it would mean that approximately a 7-story residential building could be built on the site. However, in a *CF* district, a much bigger building can be built (see article on p.2). The drawing (left) shows Columbia University's plan for the two sites on the Cathedral Close (grounds). (From: NY Times, 6/27/03),

It has been reported that Columbia University has plans to build a 20-story residential tower on the *Southeast Building Envelope* on 110th Street (Cathedral Parkway) and Morningside Drive. The building, because it is on a hill, would rise 235 feet above Morningside Drive.

The second site, the *North Building Envelope*, is on West 113th Street from Morningside Drive to Amsterdam Avenue. The proposed Columbia building would rise to 146 feet on the Amsterdam Avenue side. Columbia has not indicated what that building would be used for.

“The Rev. James Kowalski, Dean of St. John the Divine, said the projected rental income from the two sites is crucial for completing \$20 million in deferred restoration work, supporting its depleted operating budget and endowment to renew construction on the cathedral itself, which began in 1892 but is only three-fifths complete.

...I do think it's very controversial whether those sites should be built on at all, and it's my belief that the entire cathedral grounds should be landmarked,” said Andrew Dolkart, a professor at Columbia's School of Architecture and the author of a history on Morningside Heights.” Ritu Kalir. WS Spirit. 10/23/03

A Better Preservation Way - Development Not The Only Option

Shareholders of the 176 W. 87th St. co-op have voted to offer \$1.5 million to a nonprofit group that was set up to prevent the **West-Park Presbyterian Church** next door from being demolished for an apartment building.

“If the congregation agrees to the deal, the coop would receive an easement guaranteeing its view over the church on W. 86th Street and Amsterdam Avenue. The money would go toward refurbishing the French Romanesque-style church, which was completed in the 1890's

with a sanctuary designed by the architect who finished the Tweed Courthouse behind City Hall.

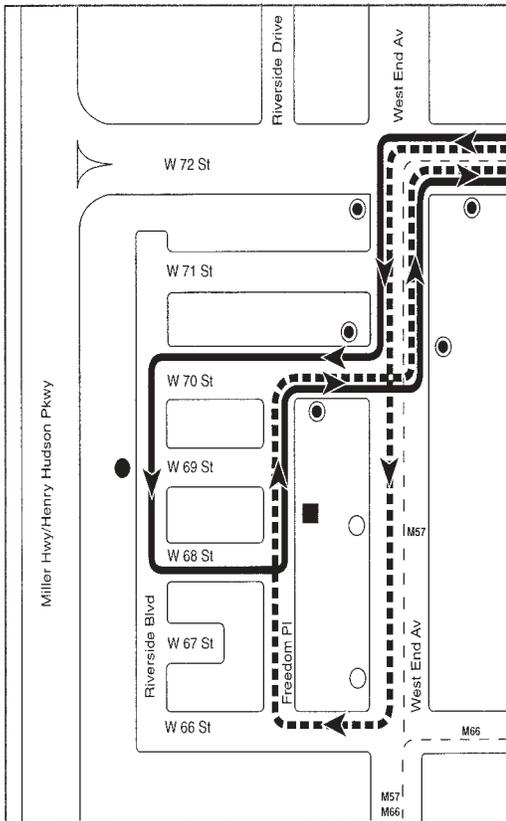
“We want the church to remain there because it's been a pillar of the community,” said Mitchell Schamroth, the president of the 176 West 87th Street Owners Corp.”

The pastor, the Rev. Robert L. Brashear, called the vote by the co-op “a very positive step” toward “a preservation-and-restoration model....The kind of thing I've tried to say all along is our primary goal is to

continue a mission at this corner in this neighborhood, and we've developed one means to do that,” he said.

The building would borrow the \$1.5 million and would increase residents' maintenance to cover the payments.” Co-op Seeks to Raise Money to Preserve Nearby Church. James Barron. NY Times. 10/24/03

M72 Former Route and Detour Route



- M72 Detour Route Path
- - - M72 Former Route Path
- - - M57, M66
- Existing M72 Bus Stop
- New M72 Bus Stop
- M72 Bus Stop to Be Discontinued
- M72 Terminal

The MTA's Promise on the M72 Must Be Kept

- For years, the M72 bus had served senior citizens who live on or near on West End Avenue.
- During construction of Trump buildings, the NYC Transit Authority (TA) “temporarily” re-routed the M-72 bus. But there *was* a specific promise to restore the original route (see diagram). That promise has not been kept.
- Urgent requests for returning the M-72 to its original route has come from Congressman Jerrold Nadler, Assemblyman Scott Stringer and Council member Gail Brewer and area residents. All request have fallen on deaf ears.
- In an Oct. 3, 2003 letter to Lawrence Reuter, President, NYCMTA, the Association of Tenants of Lincoln Towers (ATLT) requested the return of the M-72 bus stops on West End Avenue.
- The MTA’s Director, Government and Community Relations Oct. 22, 2003 response to the ATLT’s request stated “.. there are a number of new streets and residential complexes in the area between 70th and 72nd Streets, which present several potential options for the rerouting of the M72 bus route...”
- No MTA response as to ATLT’s , “...why the NYC Transportation Authority is favoring the new Trump Buildings, where there is virtually no ridership on this bus route (from the mouths of the bus drivers themselves on the route).”
- MTA stated “approximately 50 customers travel on the M72 each day, from the corner of 66th Street and West End Avenue..” No date or other information was given for the survey. The “statistic” is spurious. Most of the elderly citizens who depended on the M72, could not use the rerouted M72.
- The M57 and M66 bus routes are not a substitute for the elderly riders who live near or on West End Avenue.
- The MTA stated that the new route would service residents both east and west of Freedom Place. West of Freedom Place are the Trump buildings.
- At a recent CB7 meeting, a young resident of a Trump building complained that it was too cold in the winter to walk from Riverside Boulevard to Freedom Place (1 block). It is an even greater hardship for senior citizens who have lost their bus stops on West End Avenue.

All the stops on West End Avenue can be restored and the Trump buildings can be served , once W. 66th Street (between West End and Riverside Boulevard) is opened.

The NYC Transit Riders Council is a legislatively mandated, permanent citizens advisory council to the MTA. We should try to obtain their assistance for the return of the M-72 bus stops on West End Avenue. Write or e-mail the New York City Transit Riders Council, 347 Madison Ave. (8th fl.), New York, NY 1007, e-mail mail@nyctrc.org

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