

BSA Cal. No____ -11-BZ

STATEMENT OF FACTS IN SUPPORT
OF CERTAIN VARIANCES
FROM THE PROVISIONS OF
THE NEW YORK CITY ZONING RESOLUTION

Affected Premises:

The Spence School
22 East 91st Street
17 East 90th Street
Block 1502 Lots 59 & 12
Manhattan

Filed: May 3, 2011

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A. The Application

This Statement of Facts is filed in support of the application of Friedman & Gotbaum LLP pursuant to Section 72-21 of the Zoning Resolution of the City of New York (the "Zoning Resolution" or "Z.R.") and Section 666 of the New York City Charter on behalf of the Trustees of the Spence School, Inc. ("Spence" or the "School"), a nonprofit private educational institution for young women in continuous operation since 1892.

The Application seeks primarily a variance to rear yard equivalency and lot coverage requirements to construct on a single zoning lot the School's proposed two-storey connecting structure (the "Connector") within the existing non-complying rear yard equivalent between the rear elevations of the two buildings. The Connector has a footprint of 751 sf and a height of 29.75 ft above mean curb level. It is located entirely within the R8B portion of the Site. Adequate unused zoning floor area exists.

The School proposes to build the Connector on a new zoning lot comprised of (a) Tax Lot 59 on Block 1502 in Manhattan ("Lot 59"), improved with a 10-storey Use Group 3 school building with an address of 22 East 91st Street (the "Main Building Site" and the "Main Building") that it has occupied since 1929 and (b) Tax Lot 12 on Block 1502 ("Lot 12"), which shares its rear lot line with Lot 59, which is improved with a five-storey Use Group 3 school building with an address of 17 East 90th Street (the "E90th Site" and the "E90th Building" and the two lots collectively the "Site"), which it purchased in 2008.

The creation of a single zoning lot will convert what had been two interior lots with two facing non-complying rear yards into a through lot for the width of Lot 12 with one non-complying rear yard equivalent between the two buildings.

In addition, neither lot currently complies with required lot coverage. Hence, even with no new development the single zoning lot will not comply with required lot coverage.

Where the height of the Connector no more than 23 ft above mean curb and where it only one storey, the Connector would qualify as a permitted rear yard obstruction and would neither increase the extent of the non-complying lot coverage nor increase the extent of the non-complying rear yard equivalent. **In essence, this Application for a variance is filed to permit the upper 6.75 ft in the height of the Connector and to permit the 5.5 ft-wide second floor passageway within it.**

This application also requests the continuation of two previous variances granted in 1987 as 390-86-BZ in association with an expansion of the Main Building when it was a separate zoning lot. 390-86-BZ (the "1987 Variance"), which applies only to Tax Lot 59, the Main Building Site, modified lot coverage and rear yard regulations to permit Spence to construct a three-storey and cellar wing (the "Osborne Wing") on the site of what was then a playground on the Site's easternmost portion, an area of the Site that is unrelated to the presently proposed Connector.¹ This Application assumes that the 1987 lot coverage waiver for the Osborne Wing will be subsumed and continued with the Board's approval of the lot coverage waiver requested in this Application. In addition to the requests for waivers of lot coverage and rear yard equivalent for the Connector, this Application requests that the Board in its resolution re-affirm its waiver of the rear yard objection for the Osborne Wing provided in the 1987 Variance.

The Site and all work requested in this Application are subject to the jurisdiction of the Landmarks Preservation Commission ("LPC"). As further discussed, the Commission recently unanimously approved all of the work requested in this Application.

B. The Connector

The Connector will increase the overall development footprint on the zoning lot by 751 sf. It has four levels. Two of the levels are below grade and provide much-needed additional academic spaces for the physical educational departments and for facilities support space. These are important and essential educational spaces, but they do not serve as conduits for the passage of the School's students, faculty, administrators or visitors.

The Connector's two levels above grade will replace a noncomplying rear yard extension to the E90th Building that is currently built to the E90th Site's rear lot line, thereby filling in with a full lot coverage structure its last two remaining open spaces: an existing 55 sf lightwell/side yard and a 420 sf open space serving as a non-complying rear yard. The Connector will also fill in a 330 sf portion of the Main Building's non-complying rear yard, creating an atrium with a height of 29.75 ft between the two buildings. This atrium will house the ground floor connection between the two buildings for the full 28 ft width of the E90th Site and a 5.5 ft-wide passageway connecting the buildings' second floors. The Connector will contain 1,031 sf of new zoning floor area (750 sf on the ground floor and 280 sf on the second floor passageway.)

¹ The 1987 Variance permitted the lot coverage on the Main Building Site to be increased for construction of the Osborne Wing from 41.9 percent to 86.5 percent on the R8B portion of the zoning and from 87.4 percent to 90 percent on the R10 portion of the Main Building Site. The 1987 Variance also permitted the increase in the extent of the pre-existing rear yard noncompliance caused by constructing the Osborne Wing with a 17 ft rear yard consistent with the then-existing Main Building's rear yard.

In addition to serving as a connection between the two buildings, the ground floor of the Connector will provide activities space and contribute to a ground level floorplan that will link facilities common to both buildings, such as dining space, the medical office and club spaces. Above this ground floor will be a 51 ft long by 5.5 ft wide passageway connecting the second floors of each building. This second floor passageway within the Connector is the essential educational link, serving as the main academic conduit between the classrooms, teachers' offices, library and arts, media and drama facilities. The Connector's dimensions, and in particular its height, have been carefully designed to protect distinctive architectural features of both landmarked buildings.

The Connector provides multi-level connectivity between the two buildings that is essential to their functioning as a single school. The ground floor and the second-storey passageway serve distinct but complementary functions. The functional purpose of the Connector's ground floor is to provide a common platform for egress into and out of the School from the Main Building door, for associative common and administrative areas and for use as a gateway for the school community and visitors to access the physical education facilities below grade. This floor will serve as the School's commons, separate from the academic centers above it on floors 2 through 10 of the Main Building and floors 2 through 5 of the E90th Building. The functional purpose of the second floor passageway is to serve as the academic spine of the building, permitting students and faculty improved access to the upper floor classrooms and specialized rooms in both buildings as well as improved access to each other. Spence estimates that there will be close to four thousand "trips" between the two buildings on a normal day. To require that all of these trips occur at the ground floor or below grade presents grave practical difficulties in formulating class schedules and maintaining educational focus. The academic "expressway" on the second floor addresses these concerns by (1) significantly reducing the travel distances and times between the academic floors of the Main Building and those of the E90th Building and (2) allowing students to avoid the more communal areas on the ground floor programmed for secured arrivals and departures, meals, social interaction and school activities.

The importance of this second floor academic spine is so critical to the School's overall space programming that without the Connector's second-storey passageway Spence believes that travel between the buildings would be so compromised that it would be forced to build redundant program spaces in both buildings, thereby triggering physical enlargements to one or both buildings that would more than likely require variances greater than those requested in this Application.

While essential to the educational programmatic use of the two buildings, the Connector is a relatively minor aspect of a much larger project that includes significant renovations within both buildings' interiors both above and below grade. As a percentage of overall gross floor area to be added or renovated, the Connector represents only 1.65 percent of the floor area of the entire project. Nonetheless, it is the *sine qua non* for Spence's programmatic utilization of the Site for educational purposes and the core architectural detail around which the entire project revolves. As discussed below, there are no as-of-right alternatives by which to connect the two buildings that will address the School's needs for adequate passage between them.

C. The New Zoning Lot

This Application treats the Main Building Site (Lot 59) and the E90th Site (Lot 12) as a single zoning lot. The School has occupied Lot 59 since 1929. It purchased Lot 12 in 2008. Combined, the newly established zoning lot has an area of 15,642 sf with a 28 ft frontage on East 90th Street and a 127 ft frontage on East 91st Street. The new zoning lot is located partially within an R10A district and partially within an R8B district, with all of the variances associated with the Connector occurring within the R8B portion of the zoning lot. The creation of the new zoning lot converts what had been two interior lots into a lot which for a 28 ft width (the width of the E90th Site) becomes a through lot.

1. Lot 59 – the Main Building Site. Lot 59 is an unusually wide lot with a frontage of 127 ft on the southern side of East 91st Street between Fifth and Madison Avenues. Its depth is a uniform 100.71 ft. Of Lot 59's 12,823 sf lot area, approximately 11,224 sf, or 87.5% percent, is presently improved with a ten-storey occupied school building designed by John Russell Pope completed in 1929 and the three-storey Osborne Wing added in 1987. The 1987 Variance increased Lot 59's lot coverage from 55 percent of the lot to 87.5% percent of the lot. It also allowed the Osborne Wing to provide only a 17 ft rear yard so as to align programmatically with the Main Building's rear yard, a legal pre-existing noncompliance. The use and bulk conditions have remained constant as a private school in continuous operation since the approval of the 1987 Variance.

A zoning district boundary runs north/south through Lot 59, separating it into an R10A (29.7 percent) and an R8B (70.3 percent). R10A (high density residential/community facility) permits a maximum FAR 10 for residential and community facility development. R8B (medium density residential/community facility) permits residential development to a maximum of FAR 4 and community facility development to FAR 5.1 when the zoning lot is to be used exclusively for Use Group 3 or 4 community facility uses. If calculated as its own zoning lot, the Main Building Site is developed to FAR 5.6, with approximately 71,851 sf of zoning floor area.

If calculated as its own zoning lot, the Main Building currently does not comply with the Zoning Resolution because it covers 87.5 percent of the lot, which exceeds the permitted lot coverage of 70 percent for community facilities on an interior lot in both R10A and R8B districts. While the 1987 Variance permitted an increase in lot coverage for the Osborne Wing, the Connector will increase the extent of this waived noncompliance by approximately 330 sf. In addition, the Main Building fails to provide a 30 ft rear yard. While the 1987 Variance waived rear yard requirements for the Osborne Wing, it did not address the remainder of the Main Building's rear yard because it was a legal pre-existing noncompliance. The Connector increases the extent of that noncompliance; however, a rear yard waiver is no longer relevant because due to the Lot 59's merger with Lot 12, the E90th Site, the condition becomes a through-block condition for the newly merged zoning to the extent of the full width of Lot 12. The existing through-lot equivalent formed by this merger is non-complying. All of the work associated with the Connector will occur within this non-complying rear yard equivalent, which for Lot 59 represents a footprint of approximately 330 sf. The Connector will increase the extent of that noncompliance.

2. Lot 12 - the E90th Site. The E90th Site lot is a narrow parcel with a frontage of 28 ft on the northern side of E90th Street between Fifth and Madison Avenues. Its depth is a uniform 100.71 ft. Of Lot 12's 2,819 sf lot area, approximately 2,515 sf, or 89 percent, is presently improved with a five-floor vacant building. The existing building was constructed on or around 1917 as a private residence and it does not appear to have been enlarged since its construction. It is an individually designated New York City landmark and is located within the Carnegie Hill Historic District.

Lot 12 is located entirely within an R8B (medium density residential/community facility) district, which permits development to a maximum of a FAR 4 for residential use and FAR 5.1 for community facility use when the zoning lot is to be used exclusively for Use Group 3 or 4 community facility uses. If calculated as its own zoning lot, the E90th Building Site is developed to FAR 2.8, with approximately 7,881.48 sf of zoning floor area.

If calculated as its own zoning lot, the E90th Building currently does not comply with the Zoning Resolution because it covers 89 percent of the lot, which exceeds the permitted lot coverage of 70 percent for community facilities on an interior lot in an R8B district. The Connector will increase the extent of this noncompliance. In addition, the current E90th Building fails to provide a 30 ft rear yard. The Connector also increases the extent of that noncompliance; however, a rear yard waiver is no longer relevant because due to Lot 12's merger with Lot 59, the Main Building Site, the condition becomes a through-block condition for the newly merged zoning to the extent of the full width of Lot 12. The existing through-lot equivalent formed by this merger is non-complying. All of the work associated with the Connector will occur within this non-complying rear yard equivalent, which for Lot 12 represents a footprint of approximately 420 sf. The Connector will increase the extent of that noncompliance.

3. The New Single Zoning Lot. The resulting zoning analysis for the merger of Lots 12 and 59 into a single zoning lot results in the following noncompliances associated with the Connector requested in this Application:

- The footprint of the Connector increases the extent of an existing lot coverage noncompliance for a community facility in the R8B portion of the zoning lot by increasing lot coverage above the first storey (full lot coverage on the ground floor to a height of 23 ft above the zoning lot's curb level is permitted as-of-right.)
- The Connector does not qualify as a complying permitted rear yard obstruction within the Site's rear yard equivalent because its overall height is 6.75 ft over the 23 ft limit for such permitted obstructions and because a portion of the proposed enlargement is two stories, thereby exceeding the one-storey limit.
- The merger of the Main Building Site and the E90th Site into a single zoning lot calls into question the continued effectiveness of the 1987 Variance with regard to the rear yard waiver provided for the Osborne Wing.

In essence, this variance is filed to permit the upper 6.75 ft in the height of the Connector and to permit the 5.5 ft-wide second floor passageway within it. While both buildings are also non-complying with regard to their base building heights and height and setback, no waivers are required because the conditions are legal pre-existing noncompliances attributable to the original construction of those buildings in the early 20th Century.

D. The DOB Objections

The Department of Buildings ("DOB") has issued two Objections Sheets dated April 28,

2011 with regard to this Zoning Lot because the Main Building and the E90th Building are being permitted under separate DOB Applications (Nos. 103426892 and 120504418 respectively). The objections for each are identical but for the fact that DOB cites an objection regarding the 1987 Variance that is applicable only to Lot 59.

The Lot 12 (E90th Site) objections are as follows:

1. ZR 74-11: Proposed extension of building portion exceeding 23 ft above curb level in R8B district increases degree of non-compliance with respect to lot coverage; contrary to ZR 24-11 and ZR 54-31.

2. ZR 24-382: Proposed extension of building portion exceeding 23 ft above curb level in R8B district increases degree of rear yard equivalent non-compliance for through lot portion; contrary to ZR 24-382 and ZR 54-31.

The Lot 59 (Main Building) objections are as follows:

1. ZR 74-11: Proposed extension of building portion exceeding 23 ft above curb level in R8B district increases degree of non-compliance with respect to lot coverage; contrary to ZR 24-11 and ZR 54-31.

2. ZR 24-382: Proposed extension of building portion exceeding 23 ft above curb level in R8B district increases degree of rear yard equivalent non-compliance for through lot portion; contrary to ZR 24-382 and ZR 54-31.

3. Proposed new construction is contrary to plans approved by BSA Cal No. 390-86-BZ.

E. The LPC Approvals

As previously noted, the new zoning lot is located within the boundaries of the Carnegie Hill Historic District. In addition, the E90th Building is an individually designated New York City landmark. All of the exterior work proposed by Spence to alter and restore the buildings, including the addition of the Connector requested in this Application, has received by unanimous vote the required Certificates of Appropriateness from the Landmarks Preservation Commission.² In adopting its resolution with respect to Lot 12, the Landmarks Commission noted:

With regard to the proposal, the commission found that the removal of the entrance stairs and lowering the entrance landing to grade will not result in the destruction of significant architectural features of the building; that the work will allow for barrier-free access to the building in the least intrusive manner; that the removal of the spiral stair at the areaway and its replacement with a straight stair with a simple picket handrail and an expanded landing will not result in the destruction of or detract from significant architectural features of the building; that

² C of A 11-5477 adopted on December 14, 2010 with respect to Lot 12; C of A 11-5480 adopted on December 14, 2010 with respect to Lot 59.

the historic, decorative wood entrance doors will be reinstalled at grade and the decorative wood transom will remain in place, thus preserving these significant architectural features; that the new wood paneled transom between the relocated doors and existing transom will be in keeping with the style of the existing doors and transom and will not detract from these features; that the new security cameras will be discretely installed in areas of plain masonry and their installation will not result in damage to significant architectural features of the building; that the new handrail at the perimeter of the roof will be simply designed, will be only minimally visible from the street, and will not detract from any significant architectural features of the building; that the installation of new metal and glass infill at the lightwell and brick infill at the rear of the building on the east lot line façade will not result in the destruction of significant architectural features of the building; that the new lightwell infill and brick infill at the rear will be obliquely visible across an alleyway at the lot line and will not detract from the significant architectural features of the front façade; that the new metal and glass connector at the rear façade will enclose six special window and door assemblies at the first and second floors of the historic rear extension, and that these significant architectural features will be preserved; that the preservation of these special windows and doors will offset the removal of one special window at the rear façade to provide a pathway to the new connector; that the building is built out to the rear lot line at the first floor and there is no central greenspace within the interior of the block, therefore the construction of the connector will not result in the loss of any greenspace; that the work will enable the removal of the existing visible stair and elevator bulkhead at the roof, will not result in the destruction of any significant architectural features of the building, and will restore the historic roofscape at the west lot line façade; and that the new connector, visible from a far distance over the neighboring connector at the Cooper Hewitt Museum and within a gap in the streetwall on Madison Avenue, will not overwhelm any significant architectural features of the building or detract from the streetscape of the Historic District. (Emphasis supplied.)

F. The Surrounding Neighborhood

The neighborhood in the vicinity of the School and this zoning lot is atypical of the Upper East Side's midblocks. Inasmuch as most of the Site's Block 1502 was developed with specialized buildings long before the adoption of the 1961 Zoning Resolution, most of this block's buildings are noncomplying. Indeed, not one of the zoning lots located within the R8B district of Block 1502 complies with the lot coverage or rear yard requirements that are at issue in this Application.

Uses in this neighborhood are uniquely skewed toward community facility use. Within the 400 ft radius of this zoning lot are such important institutions as The Jewish Museum, The Cooper-Hewitt Museum of Design, The Convent of the Sacred Heart School, the Day School, St. David's School, Trevor Day School, Dalton School, Nightingale-Bamford School and the Church of the Heavenly Rest and its Parish House.

The Cooper-Hewitt Museum, including its grounds and accessory buildings on East 90th Street, which shares Spence's western and a portion of its southern lot lines, occupies 54.87 percent of its block. As a further example of the built environment surrounding this lot, there are only seven zoning lots on Block 1502 and of those only one building remains in private residential use. To further characterize the neighborhood, there are only two zoning lots on Block 1501 facing the E90th Site, of which only one (Tax Lot 56) is residential, and only three zoning lots on Block 1503 facing the Main Building Site of which again only one (Tax Lot 14) is residential.

G. The Spence School

The School is one of New York's most distinguished private girls' schools. From its founding in 1892, the School has traditionally encouraged its students to meet the highest standards of academic achievement. At a time when many educational institutions for girls were mere finishing schools, the School required Latin and math as part of the curriculum and exhorted its young women to be serious scholars. The School's history thus reflects the changing status of women in this country and the importance of educational institutions in promoting this change.

The first location of Miss Spence's School for Girls was a leased brownstone at 6 West 48th Street in the middle of the then fashionable Fifth Avenue residential district. Other schools in the vicinity included Miss Gardner's and Miss Brearley's. It was a common sight in the neighborhood to see chaperoned groups of young women from the various schools marching uptown two-by-two to Central Park for afternoon outings. Within the first year of the School's existence the brownstone became too small and a second brownstone for the School's boarders was leased at 43 West 48th Street.

Clara Spence's experience at other girls' schools and her own independent spirit made her disdainful of the lackadaisical educational standards found in many girls schools of the era. The school motto, "Non Scholae Sed Vitae Discimus" ("Not for School but for Life We Learn") meant more than just the acquisition of a finishing school veneer. A member of the Class of 1897 remarked that "Miss Spence did not consider embroidering an essential part of the training of a girl's mind, for which many were thankful." Upon finishing school, girls could receive College Preparatory Diplomas, School Diplomas or a Certificate. A rigorous curriculum covering literature, French, Latin, geography, mathematics, English, elocution, history of art, history, and science was required for these degrees. Exercise was provided by a daily forty-minute brisk walk since the School lacked a formal playground or gym.

Civic responsibility was fostered by Miss Spence's insistence on student participation in charitable activities such as collecting food for Thanksgiving baskets and Christmas presents for the less fortunate. In 1898, Miss Spence's School Society was founded to aid crippled tubercular children. The Society later became an adoption agency and exists today as Spence-Chapin Services to Family and Children.

Clara Spence died in 1923 but her school continued to flourish. The new headmistress, Charlotte Baker, followed Miss Spence's educational philosophy and added a few touches of her own. These included the establishment of a school bank designed to teach the students financial independence and responsibility by requiring them to keep their own banking accounts. By 1928, it became clear that a new building and location was needed for the School and a group of alumnae, parents and friends raised \$660,500 for the purchase of a lot on which the Main Building now stands. It was sold to the School by Mrs. Andrew Carnegie, who at the time was residing in the mansion now occupied by the Cooper-Hewitt. Mrs. Carnegie later willed the side yard next to the School which was used as a playground until construction of the Osborne Wing in 1987. The School thus followed the northern migration of upper middle class residential development in New York City. A "zoning expert" of the time declared that the new location was ideal for a girls' school and he sagely predicted that it "would keep its character for nearly half a century even in this city of swift movement."

The original Main Building was designed by the noted architect John Russell Pope. The ten-storey structure was constructed of Harvard brick and designed in the "Georgian style" according to the School fundraising statement which heralded "a new era for the Spence School." More recently, however, architectural historians would characterize the building's style as "neo-Federal," an eclectic style typical of the era and favored by Pope. The new building included boarding facilities and provided innovations, at least for girls' schools, including laboratories for chemistry, physics and biology. Continuing its tradition of promoting personal financial education, the new building contained a miniature bank complete with gridded windows and long desks to add a touch of realism to the School's banking instruction.

In 1952, the School ended its boarding department on the upper floors of the Main Building and renovated those floors to accommodate the Lower School. By adding the Osborne Wing in 1987 pursuant to the 1987 Variance, the School undertook its first and to date only major expansion of its facilities since the Main Building opened in 1929. It added a three-storey and one-cellar wing with approximately 13,430 sf of zoning floor area on the playground site to its west which had been bequeathed by Mrs. Carnegie in 1928.

In 2003, the Lower School, never well-situated given the original configuration of the upper floors of the Main Building for boarding, de-camped for new quarters at 56 East 93rd Street, which was the subject of a variance³ to permit adaptive re-use of an historic mansion that was in poor physical condition and had stood empty for many years.

H. The Development Program

Presently, Spence's physical plant in the Main Building for the Middle and Upper Schools is in excellent condition, but its configuration severely limits its ability to grow into the 21st Century. The School is at a critical stage in its history. For its first 70 years, it had been able to accommodate the changes in its education programming through interior renovations, elimination of on-site boarding facilities, addition of the three-storey Osborne Wing in 1987 and through locating some administrative offices off-site. Its 1999 purchase of the East 93rd Street building for the purpose of establishing a separate building for the Lower School was its first acquisition since site acquisition of the Main Building in the 1920's, borne of the reality that the entire Spence program could no longer be contained in the Main Building as it then existed without significant erosion of its educational mission. Then and now, comprehensive expansion of the Main Building, as opposed to the constant *sturm and drang* of small but constant renovation projects, comes at a very high price: highly visible floors would need to be added over the Osborne Wing or over the John Russell Pope building, raising complex landmarks and land use issues, and Spence would need to effectively shut down the building and relocate for the period of construction.

The 2003 opening of the Lower School building therefore accomplished two important educational objectives. First, it provided a more focused, distinctive and age-appropriate home base environment for the Lower School, which until then had to share many of its facilities with the upper divisions. Also, parenthetically, it proved to be a successful adaptive re-use of an elegant and important New York City Landmark that had fallen on hard times as an unsuccessful drug rehabilitation clinic and that had languished on the real estate market for years. While deemed controversial at the outset, the building has now been restored and operates unobtrusively.

The opportunity to re-program the space in the Main Building due to the re-location of the Lower School was the second important educational achievement, but it did not result in creating large tracts of vacant space in the building. Rather, with few exceptions, rooms once shared by

³ 237-01-BZ

three divisions could now be shared by two, reversing an unwanted compression of programmatic uses throughout the building that had been accelerating since the 1987 expansion. As the programmatic educational requirements for young women in the upper divisions continues to increase, the School has been under more or less continual internal renovation since 2003 to provide modernized classrooms, scientific laboratories and accessory facilities to meet the evolving and expanding curricular needs at all levels of the School's education program and of college placement activities.

By 2008, the Spence Trustees and Administration faced difficult choices. Given educational trends at both the secondary school and college levels, the School recognized that it could no longer maintain its programmatic objectives for the Middle and Upper Schools within the massing and configuration of the Main Building. Although enrollments in these divisions had held relatively steady in recent years, there was a critical need to address growing programmatic deficiencies at current levels of enrollment in the areas of science, physical education, athletics, media and the arts, all of which required more and better space than the Main Building was capable of providing.

The School's leadership concluded that the Main Building was no longer capable of serving the School's educational mission due to the following major deficiencies:

- There was a significant shortfall of properly sized and furnished classroom, meeting and common social spaces, due in large part to the fact that the existing rooms could serve either the Upper School or the Middle School, but not both (*i.e.*, classroom configurations, furniture and equipment cannot be appropriately sized to satisfy the needs of age groups ranging from fifth grade to twelfth grade students).
- There was a lack of a clear and distinct identity for the Upper School and for the Middle School, weakening and drawing into conflict the considerable differences in the pedagogical approach to secondary education spanning eight developmental years of student growth.
- There were inadequate facilities to support the Performing Arts curriculum. There are presently too few spaces for the performing arts and the spaces that do exist were not designed for such use. For example, dance is now taught in the Main Building's former dining room, which lacks the requisite ceiling height and the appropriate floor or wall materials to support this function. A dedicated and properly designed room for dance was deemed essential to the Performing Arts

Department's educational mission. Similarly, the current Assembly/Theater space does not support the goals of the Drama/Theater Department for the performance of multiple yearly plays and other performances. A new and updated space, incorporating current technologies for these uses is required to redress the existing flat floor with no audience seating.

- Faculty work spaces outside the classroom were undersized and there were little or no facilities for meetings between students and faculty for academic advisement or for group study with or without faculty.
- Physical Education spaces were scattered throughout the Main Building creating a lack of a logical sequence of coherent spaces that serve this important function especially in its urban context where accessible outside space is scarce. The Osborne Gym, Physical Education Practice Room, Cardiovascular Fitness Room, Taping Room, Locker Rooms and Physical Education Faculty space need to be clustered together.
- Inadequate facilities and lack of specifically identified spaces for the Upper and Middle Schools in the 80-year old Main Building undercut support technologies and programmatic requirements across all academic departments, but especially in the areas of math and sciences, which continue to diversify and grow.

Addressing these deficiencies through further physical reconfiguration of the Main Building is both insufficient and impractical. The type and extent of work required to rectify these qualitative and quantitative programmatic deficiencies would require periodically moving at least portions of the School off-site, or its temporary closure altogether. Accordingly, in 2008 the Trustees authorized studies for expansion of the Main Building. The central question before the Trustees in 2008 was to identify how to deploy the approximately 12,267 sf of unused zoning floor area on the Main Building Site for either additional floors over the three-storey Osborne Wing, or for adding additional floors above the 10th floor of the Main Building. Aside from the impracticalities of such construction, both from logistical and educational standpoints, the necessarily massive interventions in the John Russell Pope Main Building, and the visibility of such an undertaking (site lines would extend to Central Park West) in a neighborhood of not simply significant but extremely important historic buildings raised extensive zoning and landmarks issues.

Thus, the School took immediate notice when the contiguous E90th Site was listed for

sale. While acquisition of the E90th Building would add far less square footage than it had available for development on the Main Building Site, it provided important relief from two of the most pressing hardships. It could both adequately address the programmatic deficiencies within the Main Building and it could do so without raising the significant zoning and landmarks issues created by building highly visible additional floors on John Russell Pope's Main Building. It also would permit preparation of new space without interfering with the ongoing use of the Main Building. After considerable discussion and negotiation, Spence acquired the Site in 2008.

The development plans drawn by the project architects, Kliment Halsband Architects, have successfully addressed the School's deficiencies with a minimum amount of adjustment to the massing and envelope of the buildings. The proposed enlargement represents only a small portion of the overall modernization program designed to address the programmatic deficiencies and maintain the high caliber of the School's educational program. The overall project involves internal alterations to all of the E90th Building, approximately 16,649 gross sf, and to 59,501 gross sf, or approximately 65 percent, of the Main Building. Of the combined total of 18,676 sf of unused zoning floor area available to the new zoning lot, the proposed enlargement calls upon only 1,071 sf⁴ to successfully address correcting the School's programmatic deficiencies, with no increase in the height of either building and with only minimal visibility.

Increasing the School's enrollment is not a motivating factor for this Application. Historically, enrollment has increased only slightly in the last quarter century. Spence stated publicly throughout the LPC review process that it is committed to maintaining its present enrollment. Rather than support increased enrollment, the overall project of which the Connector is but a small part will address the qualitative deficiencies identified by Spence as hindering its educational mission. The overall project will create the following new conditions and facilities:

- Consolidation of the Upper School. Approval of this Application and the multi-level connectivity it will provide will create a "home base" for the Upper School in the E90th Building that will include five "collegiate style" seminar classrooms, administrative offices for the Upper School and a college counseling office. There will also be spaces for seniors and Upper School interaction, an Upper School Student Activities Center and locker areas on each of the top four floors for Grades 9, 10, 11 and 12. A renovated terrace on the fourth floor will provide much needed access to outdoor space.

⁴ Additional 40 sf occur at floors 3, 4, and 5 of E90th Building.

- Consolidation of the Middle School. Approval of this Application and the multi-level connectivity it will provide will also create a "home base" for the Middle School in the Main Building on its top three floors including eight new homerooms, a dedicated science lab for Grades 5 and 6 and dedicated classrooms for Grades 7 and 8 along with locker/break areas for each grade on Floors 8, 9 and 10. Administrative offices for the Middle School as well as an office for Middle School Guidance Counseling are provided. Two generous existing terraces at the west edge of the tenth floor will serve as dedicated play spaces and science education spaces.
- Strengthened Performing Arts. Approval of this Application and the multi-level connectivity it will provide will also generate spaces in both buildings for a center for the performing arts with a new theater/assembly room and dance studio. These spaces, as well as new faculty spaces in the Main Building and music rooms in the E90th Building will be located on each Building's second floor and are wholly dependent on the second floor passageway between the two buildings to bind them into a robust performing arts center.
- Properly Aligned Faculty Spaces. Approval of this Application and the multi-level connectivity it will provide will eliminate inadequate and overcrowded faculty spaces on the second floor of the Main Building. Faculty offices will now include expanded faculty workspaces and meeting spaces for student/faculty as well as group study rooms. This second floor location will place the majority of the faculty on the same level as the second floor passageway between the two buildings making faculty easily accessible to both Upper and Middle School students in the new two-building complex.
- Improved Physical Education Facilities. Approval of this Application and the multi-level connectivity it will provide will create a well-functioning cluster of physical education and training facilities beneath the footprint of the Connector and in the cellar and sub-cellar levels of both buildings, linked by underground room-to-room connections. The Osborne Gym, Physical Education Practice Room, Cardiovascular Fitness Room, Taping Room, Locker Rooms and Physical Education faculty space will now be in close proximity and fully accessible to all students, faculty and visitors.

I. Mission-critical Interconnectivity

The School realized from the outset that the opportunities to significantly alter the height of the E90th Building would be minimal. The Building was itself an individually designated

landmark and already noncomplying in several respects. The recent LPC approval commending Spence for its sensitive approach to the preservation of both buildings had validated that initial concern. While the E90th Building's existing floor area is less than the Main Building's remaining development rights, satisfactory programmatic use of the building could nonetheless be achieved through sufficient interconnectivity between the two buildings. .

This Application requests the minimum level of interconnectivity in the form of the Connector, which provides conduits for passage between the two buildings at both ground and second floor levels. This multi-level connectivity, and in particular the interconnectivity at the second floor which only approval of this Application can provide, is essential to the spatial continuum supporting the School's educational mission. Each level of the Connector will be heavily used for two distinctly different educational purposes. The ground floor connects the buildings at their entrance levels and provides not only smooth egress into and out of the buildings on East 91st Street lobby but provides a rational configuration of non-academic facilities such as administrative, dining and group activities offices. It also provides a rational gateway to the athletic spaces below grade. The second floor passageway will be the critical link between Upper School classrooms, which in the proposed plan will be housed in the upper floors of both buildings, and the Main Building's 4th floor library, 5th floor art room and 6th floor science rooms. Conversely, Middle School students will be moving back and forth on a daily basis from the Main Building to the E90th Building to access the music room on its second floor.

The critical need for multi-level connectivity is more fully described in the letter from Bodie Brizendine, Head of School included with this Application. She points out that the second floor connection is actually more important to the School's educational objectives than the ground floor connection. She states:

"[Spence'] defining continuum is physically embodied through the construction of our new Connector in our buildings' rear yards that will provide two levels of interconnectivity, each serving very different functions. The primary means of connectivity, a 51 ft passageway passing through the Connector at the second floors, will serve as the all-important pathway for the academic life of students and faculty as they move between the 91st and 90th Street buildings."

Ms. Brizendine's identification of the critical need for multi-level interconnectivity between the two buildings is based on nearly two decades of experience as a private school chief executive officer. Her evaluation is supported by the quantitative analyses of Kliment Halsband Architects, which working closely with Spence's classroom scheduling group, has determined that there will be as many as 3,200 student crossings between the two buildings each day for Upper School students and an additional 540 crossings between the two buildings each day for Middle

School. Many of these crossings will be access the stairways leading to the academic floors above.⁵ The pace of these transitions peak within the 5 minutes allotted for between classes, which must be kept to a reasonable minimum to ensure adequate time per period to meet academic goals. In light of the remarkably high daily volume and velocity of student as well as faculty/staff crossings, a second floor connection is critical to the proper circulative needs of Spence' program, to the daily life of all those teaching, working and learning within it and therefore to the educational mission of the School as a whole.

J. Development Alternatives

In analyzing the potential for any type of enlargement that would create the necessary interconnectivity between the two buildings, the only two areas within which new development can occur are in their rear yards. Theoretically, suitable interconnectivity between the two buildings could be developed through one or more "sky bridges" at any of the third, fourth or fifth floors of the buildings in lieu of the second floor passageway. However, any such sky bridge or bridges would require zoning waivers far larger and more extensive than those requested in this Application. Moreover, the respective floor elevations of each building do not change in unison as the buildings rise, resulting in widely divergent floor elevations above the second storey. Thus the only location on the zoning lot for the type of connection required by the School is at the lowest possible elevation, in this case the second floor.

1. An As-of-Right Connector. An as-of-right Connector would consist of a one-storey connection in the rear yard that would not rise more than 23 ft above the zoning lot's mean curb level. The currently open area on the side yard of the E90th Site that is not within its rear yard could also be built up to the same limitations pursuant to Z.R. Sec. 24-12. There would be no connectivity at the second floor, which will fail to address the School's needs to provide an effective means for students and faculty to move between the upper academic floors of the both buildings. A ground floor connection on its own cannot provide the required travel times between classes and, standing alone, does not have the capacity to handle the estimated "peaks" in the number of trips back and forth during critical times in the academic day. Utilization of a below

⁵ As with many of New York's vertically-challenged schools, most students are not permitted to use school elevators and are instead required to take various stairways between classes. The architects estimate that in this case there is an estimated 118 ft of stairways for students to negotiate each day.

grade connection cannot address this hardship. In fact, elongating the travel route through underground passageways will only serve to exacerbate the problem. Moreover, conversion of underground space for the purposes of passage between the buildings would require the elimination of important program space now proposed for those areas.

K. Open Department of Buildings Violations

There are three open DOB violations, all related to elevators that are either in the process of being decommissioned due to the extensive alterations at the E90th Building or are currently under repair in the Main Building. It is expected that all three will be cleared by the end of 2011.

1. Violation No 00538 [Private Residential Elevator, Lot 12]
2. Violation No. 9011/212087 [Lot 59]
3. Violation No. 9011/291958 [Lot 59]

CONCLUSION

The Spence School is substantially reconfiguring its Main Building for the first time since its original construction in 1929. Its acquisition and incorporation of the E90th Building as an important academic facility for its upper divisions are at the heart of the School's long-range plan and its educational mission. The Connector that is the subject of this Application is modest by any standard but nonetheless critical to the School's perpetuation as an institution offering the finest in scholastic training to young women. The Application seeks minimal variances from lot coverage and rear yard equivalent requirements on a block in which the rear yards and lot coverage of every midblock building fails to comply with lot coverage and rear yard requirements. Moreover, but for 6.75 ft of additional height and inclusion of a 5.5 ft second floor passageway, the structure would qualify as a permitted rear yard obstruction. It requires this additional height because the structure's most important function is to serve as the academic spine uniting the academic cores of the two buildings at their second floors.

The fundamental land use condition that was before the Board in 1987 is once again before the Board. Spence is an educational institution pursuing minimal physical changes in order to maintain its educational mission and, in the words of the 1987 Resolution, satisfy "the programmatic needs of the School in a functionally efficient manner." The Connector is the functional lynchpin to the renovation of all of the usable space in the E90th Building as well as to the renovation of over half (59,501 sf) of the Main Building. It is at the heart of the School's most significant programmatic overhaul of the Main Building since its construction in 1929.

Faced with the requirements that have become the rapidly advancing benchmarks for superior educational programming, Spence must both make better use of its existing facilities and develop additional educational spaces. The need for programs in science and mathematics, the performing arts and physical education for women to remain current and competitive for college entry are as pressing now as they were in 1987. Prior to 2008, the Spence Trustees had been carefully investigating expansion on the only developable portion of the Main Building, *i.e.*, adding additional floors to the Osborne Wing. The availability in 2008 of 17 East 90th Street at a purchase price within the School's range provided an important new option that the School acted upon in a deliberate and well-reasoned manner. Without this acquisition, Spence would have drawn down on the 12,267 sf of available zoning floor area to create highly visible floors over Osborne. With the approval of the Connector, Spence is in position to achieve its educational goals with an increase in zoning floor area of only 1,071 sf almost all of which (1,031 sf) will occur in its rear yard.

These modifications will permit Spence to build the Connector between its two buildings in order to make more efficient use of its facilities, overcome the practical difficulties associated with the Main Building and 17 East 90th Street remaining unattached or inadequately interconnected and improve its programmatic content in furtherance of its educational mission.

On the basis of the foregoing, the Applicant respectfully requests that the Board make the requisite findings and grant the requested variances.

Respectfully submitted,

FRIEDMAN & GOTBAUM, LLP

By:



Shelly S. Friedman, Esq.

New York, New York
May 3, 2011