



Sheldon Lobel & Co.

ATTORNEYS AT LAW

122 East 42nd Street, Suite 2305

New York, New York 10168

212-725-2727 | FAX 212-725-3910

info@sheldonlobelpc.com

www.sheldonlobelpc.com

May 15, 2026

REVISED STATEMENT OF FACTS AND FINDINGS

BSA Calendar No: 2025-22-BZ
Premises: 51 Little West 12th Street
Block 645, Lot 21
New York, New York (the “Premises”)

PRELIMINARY STATEMENT

This variance application is filed pursuant to Section 72-21 of the Zoning Resolution of the City of New York, as amended (the “Zoning Resolution” or “ZR”), to permit the development of a nine (9) story mixed-use building in an M1-5 zoning district, contrary to ZR § 42-10 *et seq.*

EXISTING SITE CONDITIONS

The Premises is located within an M1-5 zoning district in the Meatpacking District neighborhood of Manhattan, within Community District 2. The Premises is known as Block 645, Lot 21 on the New York City Tax Map. The Premises is a small interior lot with 25 feet of frontage on Little West 12th Street, a narrow one-way street. The lot measures 25 feet by 103.25 feet with

a total area of 2,581 square feet. The Premises is currently vacant and has been unimproved since 2010, when DOB issued an emergency declaration to demolish the then-existing 3-story commercial building.

The immediate neighborhood is characterized by commercial uses, including a 3-story commercial building (53 Little West 12th Street) built in 1910 to the west, a single-story commercial building associated with the Standard Hotel to the east (848 Washington Street), and the 19-story Standard Hotel abutting the subject property to the north. Just east of the Premises is The Highline, a public NYC park; the Whitney Museum of Art is on the block facing the Premises.

PROPOSED SITE CONDITIONS

The applicant proposes a variance in order to permit a mixed-use building with a commercial use on floors one and three and residential use above on floors four through nine. The applicant proposes a nine (9) story plus cellar building (the “Proposed Building”) with 12,834.6 square feet of floor area (4.97 FAR). The proposed layout would include six (6), two-bedroom units on the 4th through 9th floors.

The Proposed Building would have a total building height of approximately 117’-6”’. The cellar of the Proposed Building would contain a utility room, a refuse room and a restaurant prep area. The first floor would contain a residential lobby and restaurant space. The second floor would contain an electrical room, a fire pump room, a boiler room and a bicycle parking room containing six bicycle parking spaces. The third floor would contain restaurant space and provide a 20-foot rear yard. The upper floors dwelling units (floors four through nine) would each contain two-bedroom units and provide a 23-foot residential rear yard. The two-bedroom units are 977 square

feet each and would also have balconies.¹ See Proposed Plans. However, as residential use is not permitted as-of-right within an M1-5 zoning district, a variance is required pursuant to ZR § 72-21.

The proposed 4.97 FAR is appropriate given the surrounding context and the evolving character of the neighborhood. As noted below, the existing M1-5 zoning district would permit greater bulk than is proposed. The hotel building directly adjacent to the rear of the Premises rises 19 stories. There is currently an active city-sponsored RFP proposal for a 600-unit residential development directly across the street, signaling a clear trend toward increased density and height in the immediate area. Just a few blocks away, The Highline has further transformed the neighborhood into a vibrant, mixed-use corridor. In this context, the proposed bulk is consistent with the scale and intensity of surrounding development and supports the continued growth and vitality of the area.

AS-OF-RIGHT SITE CONDITIONS

The maximum permitted FAR in an M1-5 zoning district is 5.0 for manufacturing and commercial uses and 6.5 FAR for buildings that contain community facility use. There is no side yard requirement in the M1-5 zoning district, but if an open area does extend along a side lot line, the open area must measure at least 8 feet wide, pursuant to ZR § 43-25. The M1-5 zoning district requires a rear yard with a depth of at least 20 feet pursuant to ZR § 43-26. The M1-5 zoning district permits industrial uses, commercial uses and certain community facility uses as set forth in ZR § 42-10. Such uses must meet the high-performance standards of M1 zoning as set forth in

¹ This instant application does not seek waivers for permitted obstructions to allow balconies.

ZR § 42-20 *et. seq.* In general, there is little construction of speculative community facility space unless there are large medical institutions in the immediate vicinity, or if the owner of the property is to be the end-user. Thus, the M1-5 zoning district requirements here would most likely result in an as-of-right building with up to a 5.0 FAR of commercial or manufacturing use.

An as-of-right scenario at the Premises would consist of a seven-story commercial building. The building would consist of 2,524 square feet in the cellar and on the first floor. The 2nd through 6th floors would each contain 2,009 square feet. The 7th floor would contain 1,277 square feet. *See As-of Right Plans.* This ground floor would likely contain commercial uses such as an eating and drinking establishment, while the upper floors would likely be used for office space.

As discussed below, the lot size of the Premises is uniquely small and narrow in relation to nearby lots within the M1-5 zoning district. Due to the small lot area and narrow width, the subject site is not well-suited for modern commercial and manufacturing operations; nearly all nearby conforming commercial uses that are not within an historic district are on properties that have greater lot areas and wider widths than the subject site and those that are the same size as the development site, such as the two adjacent lots to the west, have been built since the early 1900's².

A vacant, 25-foot-wide zoning lot at this location cannot feasibly accommodate a modern manufacturing or commercial building as-of-right. Little West 12th street is a side street roughly 108 feet from Washington Street. Little West 12th Street is a narrow one-way street and is burdened with unrestricted parking along the north side of the street, which hinders truck navigation. As

² The Gansevoort Market Historic District lies within one block east of the Premises and the Greenwich Village Historic District lies within two blocks east of the Premises.



discussed below, the Premises is too small for a viable as-of-right use and would not provide a reasonable return.

DEPARTMENT OF BUILDINGS OBJECTIONS

On June 12, 2025, the Department of Buildings issued the following objection:

“ZR §§ 42-12(d) & 42-314(b): Residential use is not permitted as of right within an M1-5 zoning district”

SECTION 72-21 OF THE ZONING RESOLUTION

Pursuant to Section 72-21 of the Zoning Resolution, the Board of Standards and Appeals has the authority to vary the strict application of zoning regulations provided that the five findings of said section are satisfied. We submit that those findings are satisfied in the subject application as follows:

(A) UNIQUE CONDITIONS

There are several factors making the Premises unique among other properties in the neighborhood. As a result, unnecessary hardship and practical difficulties in complying strictly with the provisions of the Zoning Resolution are created. As stated in ZR Section 72-21(a) the Board must find:

that there are unique physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to and inherent in the particular zoning lot; and that, as a result of such unique physical conditions, practical difficulties or unnecessary hardship arise in complying strictly with the use or bulk provisions of the Resolution; and that the alleged practical difficulties or unnecessary hardship are not due to circumstances created

generally by the strict application of such provisions in the neighborhood or district in which the zoning lot is located;

The following unique conditions pertaining to the Premises have been cited for uniqueness in previous applications before the Board:

Small and Narrow Lots

The Premises is uniquely small and narrow, with 2,581 square feet of lot area and 25 feet of width. As discussed in the Uniqueness Study cited below, as a vacant site, these small and narrow conditions make the Premises unique in relation to other lots within the M1-5 zoning district. Within the subject M1-5 zoning district and within 600 feet of the Premises, most conforming commercial uses are situated on larger lots with greater widths. *See generally* Radius Map.

The Premises is inadequate for modern manufacturing use, which requires large, uniform floor plates and wide frontages to accommodate loading, and conforming commercial uses at the site would have constrained floorplates given the required elevator core and egress. Manufacturing activities typically involve the use of large machinery and equipment. A small lot may not provide sufficient space to accommodate necessary tools and machinery, leading to congestion and hindered operations. A small lot also poses challenges for storage, and adequate storage space is crucial to store materials, work-in-progress inventory, and finished goods. Finally, the small lot size limits the rent potential of the Premises to a warehouse building, which is insufficient to offset development costs. As illustrated by the As-of-Right Plans, an as-of-right commercial building was unable to accommodate viable floorplates once elevator cores, egress stairs, and required setbacks were provided.

Vacant Lots

The Premises previously contained a three-story loft building constructed prior to 1961. In 2009, due to structural instability caused by the construction of the adjacent Standard Hotel and the high ground water in the area, the Department of Buildings issued an emergency demolition order. *See* attached order.

The site vacancy here underscores the hardship at the Premises, especially given the high cost of new construction and the presence of a high groundwater table in this area, which significantly increases foundation and waterproofing costs. These conditions render development particularly burdensome compared to nearby properties that were built before these constraints became as pronounced or costly to address.

In sum, the Premises presents a unique set of physical conditions that severely limit its reasonable use as-of-right. Its narrow 25-foot width and small lot size constrains functional layout and access, while the high groundwater table significantly increases construction complexity and costs. These challenges are compounded by the site's vacancy and the fact that it is the only undeveloped lot with these conditions present within the study area. Together, these factors make it impractical to support conforming manufacturing or commercial uses and warrant relief.

As per the Board's filing requirements, a Uniqueness Study prepared by Urban Cartographics, dated October 20, 2025 and updated on March 25, 2026 (the "Uniqueness Study") has been submitted with this application. Given the nature of the requested use waiver, the Uniqueness Study examined all M1-5 lots within the area south of West 17th Street and east of West Street, totaling 86 properties, between 500 to 1,400 feet from the Premises. The Uniqueness Study found that while 23 lots in the study area are as narrow and as small as the Premises, 10

such lots are in common ownership with an adjoining property such that when the several sites are combined, the small and narrow conditions complained of no longer exist. Of the remaining 13 properties, all but the Premises are improved upon with an existing building of 1.0 FAR or greater. The Uniqueness Study supports the applicant's contention that the Premises is the only small and narrow vacant lot not in common ownership with an adjoining lot in the study area.

BSA Precedent

A number of BSA cases provide useful precedent when analyzing the unique conditions at the Premises, and demonstrate why the Premises merits the use waiver requested in the instant application.

1. BSA Calendar No. 2017-295-BZ

The above-referenced case provides a close comparison to the instant application. The property at 128 West 26th Street, located in an M1-6 zoning district in Manhattan, was the focus of a variance application seeking permission to construct a fourteen-story mixed-use building with commercial space on the ground floor and residential use above, contrary to ZR §42-00. The Board found that the site possessed unique physical conditions that created practical difficulties and financial hardship under as-of-right zoning. Specifically, the lot was exceptionally small and narrow—measuring only 25 feet in width and 99 feet in depth, totaling 2,469 square feet—and was the only vacant, narrow lot in single ownership within the surrounding area. The prior five-story building on the site was demolished under a vacate and demolition order issued after excavation work at an adjacent property caused structural damage, establishing that the hardship was not self-created.

Due to the site's constrained dimensions, an as-of-right commercial or manufacturing building was unable to accommodate viable floorplates once elevator cores, egress stairs, and required setbacks were provided, rendering such a building functionally obsolete. A financial analysis demonstrated that an as-of-right commercial development would result in a substantial loss, while the proposed mixed-use building would yield only a modest positive return, representing the minimum necessary relief to make development feasible. The Board concluded that the hardship arose from the site's unique physical conditions rather than general district characteristics, and that permitting limited residential use would not alter the neighborhood's character, which already contained numerous similarly scaled mixed-use and residential structures. Accordingly, the variance was granted subject to various conditions.

The above-referenced case presents facts and circumstances substantially similar to the instant matter. The Premises here measures 25 feet by 103.25 feet with a total area of 2,581 square feet, almost identical to the lot in 2017-295-BZ. As in 2017-295-BZ, the applicant submitted a study demonstrating that of the surrounding lots within the study area, the Premises is the only small and narrow vacant lot held in single ownership and not used in conjunction with adjacent lots. As discussed herein, the applicant has also submitted a feasibility study demonstrating that an as-of-right restaurant/office rental building would not generate a reasonable return. And finally, similar to 2017-295-BZ, the Premises here previously maintained a commercial building that was demolished under a demolition order issued after excavation work at an adjacent property caused structural damage. The case of 2017-295-BZ thus provides strong support for the requested use waiver in the instant application.

2. BSA Calendar No. 77-05-BZ

The above-referenced case also presents a close comparison to the instant application. The subject property at 132 West 26th Street, located in an M1-6 zoning district in Manhattan, was the focus of a variance application seeking approval to construct a twelve-story mixed-use building with retail space on the first two floors and residential use above, contrary to ZR §42-00. The Board found that the lot possessed unique physical conditions that created practical difficulties and financial hardship under as-of-right zoning. The site was exceptionally narrow, at only 18 feet, 9 inches wide with a total lot area of 1,851.5 square feet, making it one of the narrowest parcels in the area. Unlike other similarly narrow lots nearby, which were contiguous and capable of assemblage into larger, more developable sites, this lot stood alone and could not be feasibly merged. The narrowness of the property prevented the creation of commercially viable floorplates once the required two means of egress and elevator core were accommodated, making an as-of-right commercial or manufacturing building functionally and economically infeasible.

A financial feasibility study demonstrated that a conforming commercial development would not yield a reasonable return, while the proposed mixed-use scheme would produce only a modest positive return, representing the minimum necessary relief to make the site economically viable. The Board further found that the hardship was not self-created, as it arose solely from the lot's unusual dimensions and isolation rather than any action by the owner. The proposed twelve-story building, with a total height of 135 feet and a floor area ratio of 8.76, was determined to be consistent with the existing built form and character of West 26th Street, where many buildings of similar or greater height rose without setback and a significant number of properties already contained residential use. The Board therefore concluded that allowing limited residential use

would not alter the essential character of the neighborhood or impair adjacent development. The variance was granted subject to customary conditions.

The above-referenced case also presents facts and circumstances substantially similar to the instant matter. The Premises here is a small and narrow lot, which would give rise to hardship if developed with a conforming use, similar to the lot in 77-05-BZ. As in 77-05-BZ, the applicant has demonstrated that the Premises is the only small and vacant narrow lot held in single ownership that cannot be used in conjunction with adjacent lots. The applicant here has also submitted a feasibility study demonstrating that an as-of-right building would not generate a reasonable return. The case of 77-05-BZ thus also provides strong support for the requested use waiver in the instant application.

3. Additional Cases

In BSA Cal. No. 2024-03-BZ (117 Spencer Street), the applicant requested a residential use waiver for a narrow, 25-foot-wide lot that was vacant. In that case, the Board found that the narrow width created a unique physical condition that rendered the lot unsuitable for modern manufacturing uses, due to limitations in accommodating necessary floorplates, circulation, and loading access. The Board also acknowledged that many similar-sized lots were either developed with nonconforming uses or were under common ownership, and that few truly comparable lots remained, highlighting the subject lot's uniqueness.

In the present case, the same small and vacant lot conditions are present as in the precedential cases cited above. Moreover, those same limiting factors are compounded by the presence of a high groundwater table, which further escalates construction costs, particularly for foundation work and waterproofing. Unlike 2017-295-BZ and 77-05-BZ, where the sites were

merely narrow and vacant, this Premises faces additional geotechnical challenges that materially increase the hardship in developing a conforming use. As such, the site not only meets but exceeds the threshold of uniqueness recognized by the Board in past precedent, warranting relief as permitted under ZR § 72-21.

(B) REASONABLE RETURN

Section 72-21(b) of the Zoning Resolution states:

that because of such physical conditions there is no reasonable possibility that the development of the zoning lot in strict conformity with the provisions of this Resolution will bring a reasonable return, and that the grant of a variance is therefore necessary to enable the owner to realize a reasonable return from such zoning lot; this finding shall not be required for the granting of a variance to a non-profit organization;

Because of the unique factors discussed above, unnecessary hardship arises in complying strictly with the use provisions of the Zoning Resolution, and the grant of a variance is therefore necessary to enable the owner to realize a reasonable return at the Premises. Submitted with this application is an economic analysis prepared by Barbara Cohen, Real Estate & Planning Consultant. The analysis examines two scenarios using a capitalization approach and concludes that as-of-right development is not financially feasible at the Premises. The two scenarios are as follows:

1. “As-of-Right” Commercial – FAR 5.0 (“AOR Scenario”): The construction of a seven-story restaurant/office rental-type building and containing 12,904 square feet of zoning floor area.

2. Proposed Nine-Story, Mixed-Use Elevator Bldg. – FAR 4.97 (“Proposed Scenario”):

The construction of a nine-story, mixed-use elevator building totaling 12,834.6 square feet of zoning floor area.

This pro forma analysis compares the two development scenarios outlined above. Under the AOR Scenario, the project yields a total zoning floor area of 12,904 sq. ft., primarily for office use, whereas the Proposed Scenario allows for a smaller 12,834.6 sq. ft. development with approximately 9,864.7 sq. ft. of residential space plus commercial restaurant space. However, the change in use comes with higher development costs, approximately 16.4 million for the proposed plan versus approximately 12.98 million for the AOR.

Despite the higher cost, the Proposed Scenario provides a financially viable development. The AOR Scenario results in an estimated project loss of approximately 1.5 million, with a negative annualized return of -5.1%. This poor outcome is due in part to low revenue potential from office use, even before accounting for high foundation costs. In contrast, the Proposed Scenario results in approximately \$3 million in profit and a positive 6.9% return, driven largely by residential condo sales and increased project value. These figures demonstrate that the AOR Scenario is not financially feasible, whereas the Proposed Scenario results in a reasonable return on investment.

Overall, the risk level of the Proposed Scenario is lower than the AOR Scenario, which is reflected in the lower capitalization rate for a commercial building. The economic study thus supports the finding required pursuant to ZR § 72-21(b), as the grant of a variance is necessary here to enable the Applicant to realize a reasonable return from development at the Premises. *See* Financial Report.

(C) CHARACTER OF THE NEIGHBORHOOD

As stated in ZR Section 72-21(c), the Board must find:

that the variance, if granted, will not alter the essential character of the neighborhood or district in which the zoning lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare;

Within the 600-foot study area, there is one manufacturing/transportation use located on the block to the west of the Premises, Pier 54. The prevailing built form in the area consists of commercial office buildings, surface parking lots, and mixed-use buildings with ground-floor commercial space and residential uses above. Building heights in the immediate vicinity vary significantly, and the subject block is dominated by the Standard Hotel directly north of the Premises, which rises to 19 stories.

The surrounding area has been subject to a number of land use approvals initiated by the NYC Department of City Planning (“DCP”). One of them was the Far West Village Rezoning. This rezoning, south of the Premises, rezoned approximately 14 blocks in the far western part of the West Village (known as the “Far West Village”). The rezoning area was bounded by Horatio Street to the north, Washington Street to the east, Morton Street to the south, and West Street to the west. The rezoning allowed for the continued development of residential buildings and neighborhood-oriented retail at densities and heights consistent with the existing scale of the neighborhood. The Far West Village was traditionally a manufacturing area that, for many years, was connected to the working waterfront along the Hudson River. The remaining loft buildings and smaller-scale hotels are remnants of the area’s industrial and maritime history. Over the last thirty years, the character of the area has become predominantly residential, with a diverse mixture

of residential buildings that included converted loft buildings, 19th-century row houses, the 42 six-story buildings in the West Village Houses complex, and more recently, taller residential buildings. Distinct clusters of lower-scale buildings are located along Christopher and Weehawken Streets, and Charles Lane, while medium-scale, street wall buildings are located along West and Washington Streets north of Bethune Street. Taller residential buildings are located along West Street between Charles and West 11th Street. Land uses in this area are primarily residential, with most of the lots developed with residential use and some with commercial uses.

Currently under review by the NYC Economic Development Corporation are development proposals for a parcel of about 10,000 square feet located at the corner of Little West 12th Street and 10th Avenue, opposite the subject site. The redevelopment of the corner parcel is to be a part of a larger, coordinated redevelopment of the majority of Block 644. It is contemplated that the entire block, bounded by Little West 12th Street, Washington Street, Gansevoort Street and 10th Avenue will be rezoned as part of a single, comprehensive Uniform Land Use Review Procedure (“ULURP”) process. The proposed Gansevoort Square project seeks to provide 600 residential units, thereby acknowledging that this neighborhood can benefit from additional housing, especially when considering that the area today features a vibrant blend of uses, including art galleries, fashion showrooms, design studios, and creative offices. Presentation materials have demonstrated a building height for Gansevoort Square, sitting across from the subject block, of close to 600 feet tall.

To supplement the character finding, a Neighborhood Character Study prepared by Urban Cartographics has been submitted. This study found that the proposed building’s use and bulk are consistent with the existing neighborhood. The study found that as there is not a single manufacturing use remaining in the surrounding M1-5 district (i.e., all conforming uses are

commercial uses), residential use is appropriate at the Premises. Furthermore, existing tall buildings include the adjacent 262-foot tall Standard Hotel, the 199-foot office building at 40 Tenth Avenue, the 174-foot office building at 860 Washington Street, the 204-foot office building at 450 West 14th Street, and the 271-foot office building at 412 West 15th Street. The proposed 117'-6" tall building is therefore not out of character with nearby buildings.

(D) SELF-CREATED HARDSHIP

The Board is further required to find:

that the practical difficulties or unnecessary hardship claimed as a ground for a variance have not been created by the owner or by a predecessor in title; however where all other required findings are made, the purchase of a zoning lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship; and

The practical difficulties encountered on this site are not caused by the owner of the site or a predecessor in interest. In 1961, the Premises was not larger nor was it connected to another lot. As the Premises maintains the same lot dimensions as existed in 1961, no self-created hardship exists regarding the configuration of the subject lot. We have included a deed chain chart below detailing the ownership history of the Premises.

<u>Owner</u>	<u>Year</u>
BERTHIS REALTY CORP	1960
GOLDEN PACKING CO INC	1977
UPSTREAM DVLPMT CORP,INC	1984
ARADAL SYNDICATIONS,INC	1984
LITTLE W 12TH ST INC.	1985

Importantly, the site’s vacant nature is not the result of a self-created hardship. The original three-story loft building, which predated 1961, was demolished in 2009 under an emergency order issued by the Department of Buildings due to structural instability caused by construction on the adjacent lot. The loss of the building was therefore involuntary and underscores the unique challenges the owner now faces in redeveloping the site.

A Common Ownership Report prepared by Urban Cartographics dated October 24, 2025, has also been submitted (the “Common Ownership Report”). This report found that the Premises has been owned separately and independently from all adjoining properties since 1961, with the exception of Former Lot 17’s brief common ownership with the Premises from 1977 to 1985. Based on the foregoing, the Premises is faced with a hardship that arises out of the existing lot conditions burdening the Premises and is not a self-created condition.

(E) MINIMAL VARIANCE NECESSARY

The Board must finally find:

that within the intent and purposes of this Resolution the variance, if granted, is the minimum variance necessary to afford relief; and to this end, the Board may permit a lesser variance than that applied for.

The extent of the variance request is no greater than is necessary to provide reasonable relief. The subject site is uniquely suited for the requested variance, which will enable this small and narrow vacant lot to be utilized for a practical purpose. The proposed development scenario enables feasible use of the lot without being overreaching or excessive and represents the minimum variance necessary to afford relief. The relief requested is well within BSA precedent for similar relief granted to other lots within the surrounding area. We therefore submit that the findings of ZR § 72-21(e) have been met.

CONCLUSION

The variance sought reasonably and minimally meets the needs of the applicant. We are confident that the findings of Section 72-21 have been satisfied in the instant matter and respectfully request that the Board approve the instant application in all respects.

Respectfully submitted,



Richard Lobel