
BULLETIN

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326-14-A

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327-14-A

105 Ridgeway Avenue, East side of Ridgeway Avenue, Block 2610, Lot(s) 50, Borough of **Staten Island, Community Board: 2**. GCL 36 Waivers: proposed construction of two buildings that do not front on a legally mapped street, contrary to Article 3 Section 36 of the General City Law. M1-1 district.

328-14-BZ

921 East 23rd Street, East side of east 23rd Street between Avenue I and Avenue J, Block 7587, Lot(s) 38, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to proposed a special permit to allow the enlargement of an existing single family residence located in a residential R2 zoning district. R2 district.

329-14-BZ

1316 Avenue S, South side of Avenue S between East 13th Street and East 14th Street, Block 7292, Lot(s) 7, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to allow the enlargement of an existing single family semi-detached residence located in residential (R4-1) zoning district. RA4-1 district.

330-14-BZ

1746 East 21st Street, West side of East 21st Street between Kings Highway and Quentin Road, Block 6783, Lot(s) 18, Borough of **Brooklyn, Community Board: 15**. Special Permit (73-622) to allow the enlargement of an existing two family residence located in a residential R3-2 zoning district. R3-2 district.

331-14-BZ

2171 Ocean Parkway, East side of Ocean Parkway between Avenue U and Avenue V, Block 7133, Lot(s) 45, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to allow the enlargement of an existing single family residence located in a residential (R5) zoning district. R5(OP) district.

332-14-BZ

2912 Avenue N, South side of Avenue N between East 29th and No strand Avenue, Block 7683, Lot(s) 45, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area and open space ratio (ZR 23-141), side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R2 & R4/C2-2 zoning district. R2 district.

333-14-BZ

2323 East 5th Street, East side of East 5th Street between Gravesend Neck Road and Avenue W, Block 7157, Lot(s) 60, Borough of **Brooklyn, Community Board: 15**. Special Permit (73-622) to all the enlargement of an existing single family residence located in a residential R4 zoning district. R4(OP) district.

334-14-A

11-27 Foam Place, Located between Smith Place and Beach 18th Street, Block 15559, Lot(s) 58, Borough of **Queens, Community Board: 14**. GCL 36 to permit the construction of a nine-story transient hotel at the premises which does not appear on a legally mapped street, pursuant to Section 36 Article 3 of the General City Law. C4-2 district.

335-14-BZ (12/31/2014)

1065 Avenue of the Americas, Northwest Corner Avenue of the Americas and West 40th Street, Block 993, Lot(s) 29, Borough of **Manhattan, Community Board: 5**. Special Permit (§73-36) to allow for a physical culture establishment within portions of an existing commercial building, located within an C5-3(MID)(T) zoning. C5-3(MID)(T) district.

1-15-BZ (1/2/2015)

150 West 85th Street, Southerly side of West 85th Street between Columbus Avenue and Amsterdam Avenue, Block 1215, Lot(s) 53, Borough of **Manhattan, Community Board: 7**. Variance (§72-21) proposed enlargement of an existing school structure to be used by the Manhattan Country School which will exceed permitted floor area and exceeds the maximum height, located within an R8B zoning district. R8B district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

JANUARY 27, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, January 27, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

44-14-BZ

APPLICANT – Sheldon Lobel, P.C., for AA Olympic LLC., owner;
The Live Well Company LLC., lessee.
SUBJECT – Application March 17, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Live Well*) on the first floor of the existing building. C6-3A & C6-2A zoning districts.
PREMISES AFFECTED – 92 Laight Street aka 256 West Street, 416 Washington Street, block bounded by Washington Street, West Street, and Vestry Street, Block 218, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #1M

148-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 11 Avenue A Realty LLC, owner.
SUBJECT – Application June 24, 2014 – Variance (§72-21) to permit multi-family residential use at the premises. R8A/C2-5 zoning districts.
PREMISES AFFECTED – 11 Avenue A, west side of Avenue A between East 1st Street and East 2nd Street, Block 429, Lot 39, Borough of Manhattan.

COMMUNITY BOARD #3M

175-14-BZ

APPLICANT – Greenberg Traurig, LLP, for 1162 Broadway LLC, owner.
SUBJECT – Application July 24, 2014 – Variance (§72-21) proposed the construction a new 14-story hotel building seeking waivers for setback and side yard requirements. M1-6 zoning district.
PREMISES AFFECTED – 1162 Broadway, east side of Broadway between W 27th Street and W 28th Street, Block 829, Lot 28, Borough of Manhattan.

COMMUNITY BOARD #5M

216-14-BZ

APPLICANT – Law Office of Stuart Klein, for 150 Amsterdam Avenue Holdings LLC, owner; Flywheel Sports Inc., lessee.
SUBJECT – Application September 4, 2014 – Special Permit (§73-36) to permit the legalization of a physical

culture establishment (*Flywheel*) located on portions of the first floor and cellar of the existing building. R8 zoning district.

PREMISES AFFECTED – 150 Amsterdam Avenue, northwest corner of Amsterdam Avenue and West 66th Street, Block 1158, Lot 7507/129, Borough of Manhattan.

COMMUNITY BOARD #7M

217-14-BZ

APPLICANT – Law Office of Stuart Klein, for NY REIT, Inc., owner; Flywheel Sports Inc., lessee.
SUBJECT – Application September 4, 2014 – Special Permit (§73-36) to allow for the legalization of a physical culture establishment (*Flywheel*) on a portion of the first floor of the building and a portion of the cellar. C6-2A zoning resolution.

PREMISES AFFECTED – 245 West 17th Street, north side of W. 17th Street, 325' east of 8th Avenue, between 7th and 8th Avenue, Block 767, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #4M

222-14-BZ

APPLICANT – Sheldon Lobel, P.C., for GP NY Partners LLC, owners.
SUBJECT – Application September 5, 2014 – Special Permit (§73-36) to allow for physical culture establishment (*Envy Spa*) on a portion of the ground floor and cellar of the existing building. C2-8 and R8B zoning districts.

PREMISES AFFECTED – 344 East 63rd Street, bounded by East 63rd Street and 1st Avenue, Block 1437, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #8M

246-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for NYC DCAS, owner; SoulCycle, Joralemon Street, LLC, lessee.

SUBJECT – Application October 10, 2014 – Special Permit (§73-36) to operate a physical culture establishment (*Soul Cycle*) within an existing building. C5-2A (DB), C5- zoning districts.

PREMISES AFFECTED – 210 Joralemon Street aka 45/63 Court Street, southwest corner formed by Joralemon Street and Court Street, Block 266, Lot 7501, Borough of Brooklyn.

COMMUNITY BOARD #2BK

Ryan Singer, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, JANUARY 6, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson and Commissioner Montanez.

Absent: Commissioner Ottley-Brown.

SPECIAL ORDER CALENDAR

76-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Alexander and Inessa Ostrovsky, owners.

SUBJECT – Application April 25, 2014 – Amendment to modify the previously granted special permit (§73-622) for the enlargement of an existing single-family detached residence. R3-1 zoning district.

PREMISES AFFECTED – 148 Norfolk Street, west side of Norfolk Street between Oriental Boulevard and Shore Boulevard, Block 8756, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to January 27, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

65-14-A thru 88-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP., for Block 7092 LLC, owner.

SUBJECT – Application April 29, 2014 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-1(SRD) zoning district.

PREMISES AFFECTED – Lemon Drop and Apricot Court, Block 7105, Lots 148 thru 171, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson and Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Ottley-Brown.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated March 31, 2014 acting on DOB Application Nos. 520188449, 430, 421, 412, 403, 323, 387, 582, 396, 573, 564, 378, 298, 289, 314, 270, 305, 369, 350, 476, 467, 458, 332, 341, reads in pertinent part:

The street giving access to the proposed building is not duly placed the official map of the City of New York, therefore,

A) No Certificate of Occupancy can be issued

pursuant to Article 3, Section 36 of the General City Law;

B) Proposed construction does not have at least 8% of the total perimeter of building fronting directly upon a legally mapped street or frontage space contrary to section 502.1 of the 2008 Building Code; and

WHEREAS, this is an application to allow the construction of 24 , two-story, one and two family buildings not fronting a mapped street, contrary to General City Law (“GCL”) § 36; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, hearing closed, and then to decision on January 6th; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Montanez; and

WHEREAS, the subject site is located on the at the northwest corner of the intersection of Turner Street and Crabtree Avenue, within an R3-1 (SRD) zoning district; and

WHEREAS, the applicant proposes to construct 24, two-story, one and two-family dwellings and, on Lot 151, a three story, two-family home on the site; and

WHEREAS, seven of the aforesaid dwellings do not front a legally mapped street, thereby necessitating a GCL waiver; and

WHEREAS, the applicant represents that the dwellings will be fully sprinklered; and

WHEREAS, a DEC permit has been obtained as this site is adjacent to Freshwater Wetlands; and

WHEREAS, by letter dated December 12, 2014, the Fire Department states that it has no objection to the proposal under the following conditions; (1) minimum curb to curb street width shall be 34 feet; (2) all buildings must be fully sprinklered; (3) the main entrance to all dwellings shall be located upon the side of the building facing the street with no rear main entrances; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant approval of the application subject certain conditions.

Therefore it is Resolved, that the decision of the DOB, dated March 31, 2014, acting on DOB Application Nos. 520188449, 430, 421, 412, 403, 323, 387, 582, 396, 573, 564, 378, 298, 289, 314, 270, 305, 369, 350, 476, 467, 458, 332, and 341, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received December 31, 2014”- one (1) sheet; that the proposal will comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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THAT building shall be fully-sprinklered;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals January 6, 2015.

665-39-A & 107-14-A

APPLICANT – Jesse Masyr, Esq/Fox Rothschild, for City Club Realty, LLC., owner.

SUBJECT – Application May 22, 2014 – Amendment to a previously approved waiver of a non-complying exit stair; and an Appeal filed pursuant to MDL Section 310(2)(a) proposed an addition to the existing building which will require a waiver of MDL Section 26(7)pursuant to Section 310. C6.45 SPD zoning district.

PREMISES AFFECTED – 55-57 West 44th Street, between 5th Avenue and Avenue of the Americas, Block 1260, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson and Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Dara Ottley-Brown.....1

ACTION OF THE BOARD – Laid over to January 27, 2015, at 10 A.M., for decision, hearing closed.

192-14-A thru 198-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Thomas Mantione, owner.

SUBJECT – Application August 15, 2014 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-2(SRD) zoning district.

PREMISES AFFECTED –

10 Winslow Place, Block 6373, Lot 40

12 Winslow Place, Block 6373, Lot 42

18 Winslow Place, Block 6373, Lot 43

20 Winslow Place, Block 6373, Lot 45

26 Winslow Place, Block 6373, Lot 145

30 Winslow Place, Block 6373, Lot 146

32 Winslow Place, Block 6373, Lot 147

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for continued hearing.

ZONING CALENDAR

328-13-BZ

CEQR #14-BSA-090K

APPLICANT – Eric Palatnik, P.C., for Patti, owner.

SUBJECT – Application December 26, 2013 – Special Permit (§73-36) to legalize the operation of physical culture establishment (*Brooklyn Athletic Club*) on the cellar, first, second, and third floors in a five-story building. M1-1 zoning district.

PREMISES AFFECTED – 8 Berry Street, northeast corner of Berry Street and North 13th Street, Block 2279, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson and Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Ottley-Brown1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated December 12, 2013, acting on DOB Application No. 320330209, reads, in pertinent part:

Proposed Physical Culture or Health Establishment (PCE) requires BSA special permit; contrary to ZR 42-31; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, the operation of a physical culture establishment (“PCE”) in portions of the cellar, first, second and third stories of a five-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on July 20, 2014 after due notice by publication in the *City Record*, with a continued hearing on October 21, 2014, and then to decision on January 6, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioners Montanez and Ottley-Brown performed an inspection of the site and premises, as well as the surrounding area and neighborhood; and

WHEREAS, Community Board 1, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site, located within an M1-1 zoning district, is a corner lot with approximately 125 feet of frontage along Berry Street and approximately 225 feet of frontage along North 13th Street, consisting of approximately 25,000 sq. ft. of lot area; and

WHEREAS, at the site is a five-story commercial building; and

WHEREAS, the PCE will occupy a total of 10,155 sq. ft. of floor space, consisting of 2,315 sq. ft. of floor space in the cellar, 2,861 sq. ft. of floor area on the first story, 2,844 sq. ft. of floor area on the second story, and 2,135 sq. ft. of floor area on the third story; and

WHEREAS, the PCE will operate as Brooklyn Athletic Club, Inc.; and

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WHEREAS, the PCE's hours of operation will be Monday through Friday, 5:30 a.m. to 10:30 p.m., Saturday and Sunday, 8:00 a.m. to 9:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, at hearing, the Board inquired as to the PCE currently occupied at the subject site; and

WHEREAS, in response, the principal of Brooklyn Athletic Club, Inc. submitted an affidavit in which he averred that his current operation of a training facility on a building located at the subject site would be discontinued, and that the building in which such use was conducted would be torn down, upon the opening of the subject PCE; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 14BSA090K, dated December 26, 2013; and

WHEREAS, the EAS documents that the operation of the facility would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the operation of the facility will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, the operation of a PCE in portions of the cellar, first, second and third stories of a five-story commercial building, contrary to ZR § 42-10; *on condition* that all work will substantially conform to drawings filed with this application marked "Received December 18, 2014"- Six (6) sheets; *on further condition*:

THAT the term of the PCE grant will expire on January 6, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by January 6, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 6, 2015.

183-14-BZ
CEQR #15-BSA-040M

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Ann/Nassau Realty LLC, owner; Blink Nassau Street, Inc., lessee.

SUBJECT – Application August 6, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Blink Fitness*) within portions of an existing mixed use building, C5-5(LM) zoning district.

PREMISES AFFECTED – 113 Nassau Street aka 6 Theater Alley, northwest side of Nassau Street, 35.02' north of Ann Street, Block 90, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Application granted on

MINUTES

condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson and Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Ottley-Brown1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated July 29, 2014, acting on DOB Application No. 104735912, reads, in pertinent part:

The proposed physical culture establishment, in a C5-5 (LM) zoning district, is contrary to section 32-10 ZR...

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-5 zoning district, within the Lower Manhattan Special Purpose District, the operation of a physical culture establishment (“PCE”) in portions of the first, second and third stories of a 30-story mixed residential and commercial use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on December 9, 2014 after due notice by publication in the *City Record*, and then to decision on January 6, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioners Montanez and Ottley-Brown performed an inspection of the site and premises, as well as the surrounding area and neighborhood; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

WHEREAS, the subject site, located within a C5-5 zoning district, is a through/corner lot with approximately 123.75 feet of frontage along Theater Alley, approximately 35.6 feet of frontage along Ann Street, and approximately 75 feet of frontage on Nassau Street, consisting of approximately 9,317 sq. ft. of lot area; and

WHEREAS, at the site is a 30-story commercial building; and

WHEREAS, the PCE will occupy a total of 18,369 sq. ft. of floor area, consisting of 1,515 sq. ft. of floor area on the first story, 8,008 sq. ft. of floor area on the second story, and 8,846 sq. ft. of floor area on the third story; and

WHEREAS, the PCE will operate as Blink Fitness; and

WHEREAS, the PCE’s hours of operation will hours be Monday through Saturday, 5:30 a.m. to 11:00 p.m., and Sunday, 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this

action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-040M, dated August 6, 2014 ; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-5 zoning district, within the Special Lower Manhattan District, the operation of a PCE in portions of the first, second and third stories of a 30-story mixed residential and commercial use building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to drawings filed with this application marked “December 11, 2014, Five (5) sheets; *on further condition*:

THAT the term of the PCE grant will expire on January 6, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by January 6, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

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Adopted by the Board of Standards and Appeals,
January 6, 2015.

153-11-BZ

APPLICANT – Eric Palatnik, P.C., for Theodoros Parais, owner.

SUBJECT – Application September 21, 2011 – Reinstatement (§§11-411 & 11-412) to permit the continued operation of an automotive repair use (UG 16B); amendment to enlarge the existing one story building; Waiver of the Board's Rules. C1-3 zoning district.

PREMISES AFFECTED – 27-11 30th Avenue, between 27th Street and 39th Street. Block 575, Lot 23. Borough of Brooklyn.

COMMUNITY BOARD #4BK

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

65-13-BZ

APPLICANT – Eric Palatnik, Esq., for Israel Rosenberg, owner.

SUBJECT – Application February 12, 2013 – Variance (§72-21) to permit a residential development, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 123 Franklin Avenue, between Park and Myrtle Avenues, Block 1899, Lot 108, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for deferred decision.

225-13-BZ

APPLICANT – Eric Palatnik, P.C., for Yitta Neiman, owner.

SUBJECT – Application July 25, 2013 – Variance (§72-21) to permit the development of a three-family, four-story residential building, contrary to use regulations (§42-00). M1-2 zoning district.

PREMISES AFFECTED – 810 Kent Avenue, east Side of Kent Avenue between Little Nassau Street and Park Avenue, Block 1883, Lot 35, 36, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for continued hearing.

254-13-BZ

APPLICANT – Law Office of Marvin B. Mitzner, for Moshe Packman, owner.

SUBJECT – Application August 30, 2013 – Variance (§72-21) to permit a residential development, contrary to floor area (§23-141(a)), dwelling units (§23-22), lot coverage (§23-141(a)), front yard (§23-45(a)), side yard (§23-462(a)), and building height (§23-631(b)) regulations. R3-2 zoning district.

PREMISES AFFECTED – 2881 Nostrand Avenue, east side of Nostrand Avenue between Avenue P and Marine Parkway, Block 7691, Lot 91, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for deferred decision.

271-13-BZ

APPLICANT – Eric Palatnik, P.C., for Viktoriya Midyany, owner.

SUBJECT – Application September 17, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and lot coverage (§23-141); side yard (§23-461) and rear yard (§23-47) regulations. R3-1 zoning district.

PREMISES AFFECTED – 129 Norfolk Street, Norfolk Street, between Shore Boulevard and Oriental Boulevard, Block 8757, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson and Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Dara Ottley-Brown.....1

ACTION OF THE BOARD – Laid over to January 27, 2015, at 10 A.M., for decision, hearing closed.

26-14-BZ

APPLICANT – Francis R. Angelino, Esq., for The Hewitt School, owner.

SUBJECT – Application February 6, 2014 – Variance (§72-21) to permit the enlargement of an existing community facility (*Hewitt School*), contrary to maximum building height (24-591); street wall height (§24-592); and rear yard requirements (§24-36). R8B zoning district.

PREMISES AFFECTED – 45 East 75th Street aka 42-76 East 76th Street, north side, East 75th Street through block to south side E 76th between Park & Madison Avenues, Block 1390, Lot(s) 28, 46, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Deferred until LPC approval is received.

31-14-BZ

APPLICANT – Moshe M. Friedman, PE, for Bnos Square of Williamsburg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-19) to allow a conversion of an existing Synagogue (*Bnos Square of Williamsburg*) building (Use Group 4 to (Use Group 3). M1-2 zoning district.

PREMISES AFFECTED – 165 Spencer Street, 32'6" Northerly from the corner of the northerly side of Willoughby Avenue and easterly side of Spencer Street, Block 1751, Lot 3, Borough of Brooklyn.

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COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

38-14-BZ

APPLICANT – Eric Palatinik, P.C., for Yury Dreysler, owner.

SUBJECT – Application February 28, 2014 – Special Permit (§73-622) for the enlargement of single family home, contrary to floor area, lot coverage and open space (§23-141), side yard (§23-461) and less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 116 Oxford Street, between Shore boulevard and Oriental Boulevard, Block 8757, Lot 89, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson and Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Dara Ottley-Brown.....1

ACTION OF THE BOARD – Laid over to January 27, 2015, at 10 A.M., for decision, hearing closed.

45-14-BZ

APPLICANT – Eric Palatinik, P.C., for Athina Orthodoxou, owner.

SUBJECT – Application March 18, 2014 – Special Permit (§73-622) to enlarge an existing semi-detached two story dwelling and to vary the floor area ratio requirements, and to convert the one family home into a two family home. R4-1 zoning district.

PREMISES AFFECTED – 337 99th Street, between 3rd and 4th Avenues, Block 6130, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #10BK

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for continued hearing.

56-14-BZ

APPLICANT – Walter Gorman, P.E.P.C., for Leemilts Petroleum Ink., owner; Capitol Petroleum Group, lessee.

SUBJECT – Application April 10, 2014 – Re-Instatement (§11-411) of a variance which permitted an auto service station (UG16B), with accessory uses; Waiver of the Rules. C1-3/R3-A zoning district.

PREMISES AFFECTED – 161-51/6 Bailey Boulevard, northwest corner of Guy Brewer Boulevard, Block 12256, Lot 36, Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

114-14-BZ

APPLICANT – Eric Palatinik, P.C., for Boris Vaysurb, owner.

SUBJECT – Application May 30, 2014 – Special Permit (§73-622) for enlargement of an existing two story single family dwelling contrary to floor area ratio, open space and lot coverage (ZR 23-141); side yard (ZR 23-461) and less than the rear yard requirements (ZR 23-47). R4 zoning district.

PREMISES AFFECTED – 2442 East 14th Street, between Avenue X and Avenue Y, Block 7415, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for continued hearing.

122-14-BZ

APPLICANT – Lewis E Garfinkel, for Ariel Boiangiu, owner.

SUBJECT – Application October 21, 2014 – Special Permit (§73-622) for the enlargement of an existing single family semi-detached home contrary to floor area and open space ZR 23-141; side yards ZR 23-461 and less than the required rear yard ZR 23-47. R2 zoning district.

PREMISES AFFECTED – 1318 East 28th Street, west side of 28th Street 140 feet of Avenue M, Block 7663, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for continued hearing.

125-14-BZ

APPLICANT – Goldman Harris LLC, for 350 East Houston LLC c/o BLDG Management Inc., owner.

SUBJECT – Application June 5, 2014 – Variance (§72-21) to facilitate the construction of a ten-story mixed-use forty - six (46) residential dwelling units and retail on the ground floor and cellar. R8A zoning district.

PREMISES AFFECTED – 11 Avenue C, between East 2nd Street & East Houston Street, Block 384, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson and Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Dara Ottley-Brown.....1

ACTION OF THE BOARD – Laid over to January 27, 2015, at 10 A.M., for decision, hearing closed.

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**REGULAR MEETING
TUESDAY AFTERNOON, JANUARY 6, 2015
1:00 P.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson and
Commissioner Montanez.

Absent: Commissioner Ottley-Brown.

ZONING CALENDAR

248-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Moshe Benefeld,
owner.

SUBJECT – Application August 23, 2014 – Special Permit
(\$73-622) for the enlargement of an existing single-family
home, contrary to floor area and open space (23-141a); side
yards (23-461). R2 zoning district.

PREMISES AFFECTED – 1179 East 28th Street, east side
of East 28th Street, approximately 127' north of Avenue L,
Block 7628, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to February
10, 2015, at 10 A.M., for continued hearing.

41-14-BZ

APPLICANT –The Law Office of Jay Goldstein, for United
Talmudical Academy, owner.

SUBJECT – Application March 7, 2014 – Special Permit
(\$73-19) to legalize an existing school/yeshiva (UG 3). M1-
2 zoning district.

PREMISES AFFECTED – 21-37 Waverly Avenue aka 56-
58 Washington Avenue, between Flushing Avenue and Park
Avenue front both Washington and Waverly Avenues, Block
1874, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Laid over to February
24, 2015, at 10 A.M., for continued hearing.

146-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Fair Only Real
Estate Corps., owner; LES Fitness LLC., lessee.

SUBJECT – Application June 23, 2014 – Special Permit
(\$73-36) to permit the operation of a physical culture
establishment (*Bowery CrossFit*) in the cellar of an existing
building. C6-1G zoning district.

PREMISES AFFECTED – 285 Grand Street, south side of
Grand Street approximately 25' west of the intersection
formed by Grand Street and Eldridge Street, Block 306,
Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to February
24, 2015, at 10 A.M., for continued hearing.

201-14-BZ

APPLICANT – Frank Angelino, Esq., for Joseph Pogostin,
owner; New Fitness of 3rd Avenue, Bronx, LLC., lessee.

SUBJECT – Application August 22, 2014 – Special Permit
(\$73-36) to allow a physical culture establishment (*Retro
Fitness*) on the ground floor of an existing one-story and
cellar commercial building. M1-1/R7-2 zoning district.

PREMISES AFFECTED – 3524 Third Avenue, northeast
corner of East 168th Street, Block 2610, Lot 1, Borough of
Bronx.

COMMUNITY BOARD #3BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson and
Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Dara Ottley-Brown.....1

ACTION OF THE BOARD – Laid over to January
13, 2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director

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*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 164-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

164-04-BZ

APPLICANT – Warshaw Burstein, LLP., for 2241 Westchester Avenue Realty Corp., owner; Castle Hill Fitness Group, LLC., lessee.

SUBJECT – Application April 25, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a physical culture establishment (*Planet Fitness Center*) occupying the entire second floor of a two story building which expired on July 15, 2014. C2-4/R6 zoning district.

PREMISES AFFECTED – 2241 Westchester Avenue, Northwest corner of Westchester Avenue and Glebe Avenue, Block 3963, Lot 57, Borough of Bronx.

COMMUNITY BOARD #10BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term for a physical culture establishment (“PCE”), which expired on July 15, 2014; and

WHEREAS, a public hearing was held on this application on November 18, 2014, after due notice by publication in *The City Record*, and then to decision on December 16, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Ottley-Brown; and

WHEREAS, Community Board 10, Bronx, recommends approval of this application; and

WHEREAS, the subject site is located on the northwest corner of the intersection of Westchester Avenue and Glebe Avenue, within a C2-4/R6 zoning district;

WHEREAS, the site has 22,790 sq. ft. of lot area and is occupied by a two-story commercial building with approximately 25,290 sq. ft. of floor area (1.11 FAR); and

WHEREAS, the PCE occupies approximately 12,695 sq. ft. of floor area (0.56 FAR) on the second story; and

WHEREAS, the PCE is operated as a Planet Fitness; and

WHEREAS, on February 7, 2006, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to permit, the legalization of a PCE operated as Gotham City Fitness, for a term of ten years from the date that the PCE began operating, to expire on July 15, 2014; and

WHEREAS, on October 5, 2010, the Board authorized an amendment to the grant to permit certain modifications to

the BSA-approved plans, a change in the hours of operation, and a change in operator from Gotham City Fitness to Planet Fitness; and

WHEREAS, the applicant now seeks a further extension of term; and

WHEREAS, at hearing, the Board directed the applicant to: (1) demonstrate that the fire alarm and sprinkler systems have been installed and that the PCE has a Place of Assembly (“PA”) certificate of operation; (2) determine whether the open Environmental Control Board violation regarding the air conditioning units on the building’s roof are related to the PCE; and (3) remove graffiti from the exterior of the building and implement a graffiti management plan; and

WHEREAS, in response, the applicant: (1) provided copies of all permit applications and signoffs and provided a copy of the PA certificate of operation; and (2) stated that the violation relates to units that service the PCE and that permits will be obtained to legalize the installation; and

WHEREAS, as to the graffiti, the applicant represents that it is working with local elected officials to combat the presence of graffiti at the site; and

WHEREAS, based upon its review of the record, the Board finds that an extension of term for ten years is appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated February 7, 2006, so that as amended the resolution reads: “to grant an extension of the special permit for a term of ten years from the prior expiration; on condition that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked ‘Received September 19, 2014’-(4) sheets; and on further condition: *on condition*:

THAT this grant shall be limited to a term of ten years, to expire on July 15, 2024;

THAT graffiti shall be removed within 48 hours of its appearance at the site;

THAT there shall be no change in ownership or operating control of the PCE without prior approval from the Board;

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

THAT a certificate of occupancy for the operation of the PCE shall be obtained by December 16, 2015;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect; and

THAT Department of Buildings shall ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 210053378)

Adopted by the Board of Standards and Appeals, December 16, 2014.

The resolution has been amended to correct the zoning district which read “C2-2(R6)” now reads “C2-4/R6”.

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Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.

*CORRECTION

This resolution adopted on October 7, 2014, under Calendar No. 300-12-BZ and printed in Volume 99, Bulletin Nos. 40-41, is hereby corrected to read as follows:

300-12-BZ

CEQR #13-BSA-049M

APPLICANT – Davidoff Hutcher & Citron LLP, for Columbia Grammar & Preparatory School, owner.

SUBJECT – Application October 19, 2012 – Variance (§72-21) to permit an enlargement of an existing school building (*Columbia Grammar and Preparatory*), contrary to lot coverage (§24-11), permitted obstruction (§24-33), rear yard equivalent (§24-382), initial setback distance (§24-522), height (§23-692), and side yard (§24-35(b)) regulations. R7-2 zoning district.

PREMISES AFFECTED – 36 West 93rd Street aka 33 West 92nd Street, between Central Park West and Columbus Avenue, Block 1206, Lot 50, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez..4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated July 1, 2013, acting on Department of Buildings Application No. 121161857, reads in pertinent part:

1. ZR 24-11 - The lot coverage proposed exceeds that permitted.
2. ZR 24-382 - Provide the required minimum rear yard equivalent. The project site is a through lot, with a depth in excess of 180'-0".
3. ZR 24-33 - Only a (1) one story building portion, with a maximum height of 23'-0", is allowed as a permitted obstruction in a rear yard equivalent. The proposed building envelope indicates two stories and a mechanical space in the rear yard equivalent.
4. ZR 24-522 - The building envelope does [not] meet the initial setback requirement.
5. ZR 23-692 - The frontage on 92nd Street is less than 45'-0" in width. The proposed street-wall is higher than the width of the narrow street and higher than the lowest abutting building.
6. ZR 24-35B The proposed side yard, at the new vertical extension, is less than the required 8'-0"; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R7-2 zoning district within the Upper West Side/Central Park West Historic District, the enlargement of an existing school building, which does not

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comply with zoning regulations for lot coverage, permitted obstruction, rear yard equivalent, encroachment into the required initial setback distance, width and height of street wall, and side yard, contrary to ZR §§ 24-11, 24-382, 24-33, 24-522, 23-692, and 24-35; and

WHEREAS, a public hearing was held on this application on June 17, 2014, after due notice by publication in the *City Record*, with a continued hearing on August 19, 2014, and then to decision on October 7, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 7, Manhattan, recommends disapproval of the application; and

WHEREAS, certain members of the community testified at the hearing and provided testimony in opposition to the application (collectively, the "Opposition"), citing primary concerns about traffic generated by the school and construction disturbance; other concerns from a shareholder at 36 West 93rd Street include that there are inconsistencies between the subject application and a 2008 variance application for the School, specifically as related to the School's needs; and

WHEREAS, certain members of the community, the West Side Organization for Responsible Development ("WORD"), represented by counsel, cited concerns about traffic associated with the school and construction disturbance and requested the following conditions for any approval: (1) the School continue to work with the community to address traffic concerns and provide a written traffic plan; (2) the School provide a traffic, noise, and pollution baseline report prior to the Board's decision; (3) the School commit to not increasing enrollment by more than 30 students over the next ten years; (4) the School ensure that all construction is performed during the summer, and only on weekdays between the 9:00 a.m. and 5:00 p.m.; (5) the School provide the Board with a site logistics plan and construction calendar prior to a final resolution; (6) the rooftop not be used as a play area; and (7) that the community be consulted prior to installation of the rooftop HVAC systems, which must include sufficient sound mitigation; and

WHEREAS, this application is brought on behalf of Columbia Grammar & Preparatory School (the "School"), a nonprofit educational institution founded in 1764, which serves students from grades pre-kindergarten through 12; and

WHEREAS, the subject site is an interior through lot with frontage on West 93rd Street and West 92nd Street between Central Park West and Columbus Avenue, within an R7-2 zoning district within the Upper West Side/Central Park West Historic District; and

WHEREAS, the site is currently occupied by a five-story building with a sub-cellar and cellar constructed in 1996; the building includes 13 classrooms and ancillary facilities for students in grades 5 and 6, 12 high school classrooms, and several shared spaces, including two dining areas and four art studios/technology classrooms; and

WHEREAS, the applicant notes that the School also occupies several other buildings in the vicinity: the lower division (pre-kindergarten through grade 4) occupies five interconnected brownstones on West 94th Street and 5 West 93rd Street, directly behind the brownstones; and the upper division (grades 7 through 12) occupies 4 West 93rd Street; and

WHEREAS, the School proposes to (1) build out an existing setback area at the West 92nd Street frontage at existing floors three and four; (2) build out an existing setback area at the West 93rd Street frontage at the existing fifth floor; and (3) add two new floors so that, upon completion, the building will consist of a sub-cellar, cellar and seven floors above grade; and

WHEREAS, the enlarged building will include ten additional middle school classrooms for a total of 23 classrooms, an additional art/technology studio and a library for the middle school, in addition to new space for faculty and administration offices; and

WHEREAS, while certain portions of the enlarged building will still be used by high school students (the cellar/first floor level will be occupied by high school classrooms and dining, half of the second floor will be high school classrooms and the third floor will contain shared art studios and technology classrooms), the number of high school classrooms will be reduced from 12 to eight and upper floors four through seven will be occupied solely by the middle school; and

WHEREAS, the applicant proposes to increase the building height from 68 feet to 95 feet, excluding rooftop bulkheads and mechanical space; increase the floor area from 28,187 sq. ft. (3.37 FAR) to 40,778 sq. ft. (4.88 FAR) (54,301 sq. ft. (6.50 FAR) is the maximum permitted); and

WHEREAS, because the enlargement does not comply with the applicable bulk regulations in the subject zoning district, the applicant seeks the requested variance; and

WHEREAS, the applicant states that the variance is necessary to meet the School's programmatic need to create a self-contained middle school and alleviate overcrowding in the high school building; and

WHEREAS, specifically, the applicant notes that the relocation of the seventh graders to the new building will free up space at the high school building; and

WHEREAS, the School also proposes to increase enrollment by 30 students which is still substantially below the demand for new admissions; and

WHEREAS, the applicant states that the proposed enlargement would result in 151 sq. ft. of space per student compared to the average new middle school in the region which provides 178.3 sq. ft. per student and 216.7 sq. ft. per high school student; and

WHEREAS, the applicant states that the proposed floor area to be added to the existing building is required to fulfill the School's longstanding goal of having a self-contained middle division consisting of grades five through seven; and

WHEREAS, the applicant asserts that the existing building is too small to accommodate the organization of the

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school with lower, middle and upper divisions, as it was not designed to accommodate the necessary classrooms and ancillary space needed for a middle division; and

WHEREAS, the applicant asserts that the School is one of the last public or private schools in New York City with grades pre-kindergarten through 12 that does not have a separate middle school; and

WHEREAS, the applicant asserts that in the years since the School's facilities were developed, educators have come to recognize the benefits of grouping grades kindergarten through 12 into lower, middle and upper schools; and

WHEREAS, however, the applicant states that the School's space limitations have required it to maintain grades five and six in the existing building at the subject site as the final two years of its grammar school division and to house grade seven in its high school building; and

WHEREAS, the applicant notes that the proposed floor area is significantly less than the maximum allowed for the underlying zoning district; and

WHEREAS, the applicant asserts that the proposed encroachment into the existing rear yard equivalent (above the 23-ft. height for a permitted obstruction), combined with the build-out of the existing setback on West 93rd Street and the two additional floors above the West 92nd Street portion of the building, allows the school to create a rational design for the additional classrooms and ancillary facilities while minimizing the proposed height of the enlarged building to seven stories; and

WHEREAS, the applicant asserts that practical difficulties arise in complying strictly with the underlying bulk regulations; and

WHEREAS, additionally, the applicant asserts that the unique features affecting the site include (1) the lot's narrowness and odd shape with its varying frontages on West 92nd Street and West 93rd Street and (2) the existing building's unique footprint, configuration and structural support system; and

WHEREAS, as to the lot size and shape, the applicant notes that it has 45 feet of frontage along West 93rd Street and widens by approximately five feet at its eastern property line, then narrows at the midblock, and the property line runs slightly diagonal towards West 92nd Street where it has frontage of 35 feet; and

WHEREAS, further, the applicant states that the footprint of the existing under-built building reflects the inability to use space that would have been available in a more typical square-shaped lot; and

WHEREAS, the applicant states that the existing building's constraints require that the enlargement be constructed within the required setback area along West 93rd Street and within the rear yard equivalent, as well as above the 23-ft. tall portion of the building along West 92nd Street, thereby exceeding the maximum permitted lot coverage; and

WHEREAS, the applicant notes that the required sky exposure plane would be encroached into by 7'-7" along the West 93rd Street façade at the fifth and sixth floors due to the inclusion of a middle school library at the fifth floor and two

new classrooms at the sixth floor; and

WHEREAS, the applicant asserts that if the street wall on West 93rd Street were to set back to comply with the 7'-7" sky exposure plane encroachment, it would effectively eliminate the proposed rooms because their depth would be too narrow (with the presence of the existing elevator and stairwell); and

WHEREAS, the applicant asserts that the proposed location of the majority of the additional proposed floor area along West 93rd Street is driven in part by the existing building's structural support system; the applicant's architect and engineer state that the load capacity for the addition along West 93rd Street is designed to be distributed across both building sections to be supported by the building's existing column and foundation support system; and

WHEREAS, the applicant represents that its development team reviewed the possibility of shifting the proposed floor area from the West 93rd Street portion of the building to the West 92nd Street frontage, and determined that the existing transfer beams in the West 92nd Street portion of the building are already very close to their allowable stress level; and

WHEREAS, further, the applicant states that the relocation of the floor area is programmatically problematic since the building narrows along West 92nd Street, which does not accommodate sufficiently-sized classrooms; and

WHEREAS, finally, the applicant states that a major piece of mechanical equipment must be located in the proposed fourth floor addition, and its required air intake and discharge would be directed toward the "open" area on that floor; and

WHEREAS, accordingly, the applicant states that the propose enlargement most effectively meets the School's programmatic needs; and

WHEREAS, the Board acknowledges that the School, as an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the School along with the existing constraints of the site create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the School is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant represents that the variance,

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if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the site is located within the West Side Urban Renewal Area and the existing building was limited, in 1996, by the then-applicable West Side Urban Renewal Plan controls affecting the site, which were more restrictive than the applicable zoning bulk regulations (the West Side Urban Renewal Plan was established in 1962 and expired in 2002); and

WHEREAS, because the site is within the Upper West Side/Central Park West Historic District, the applicant has obtained a Certificate of Appropriateness from the Landmarks Preservation Commission (“LPC”), dated September 18, 2013 and amended January 14, 2014; and

WHEREAS, the applicant cites to LPC’s designation report which states that the area’s residential buildings range from three-, four-, and five-story row houses, to twelve- to seventeen-story multiple dwellings and also include eight- to twelve-story apartment hotels and studio buildings that are on both the avenues as well as streets; and

WHEREAS, additionally, the applicant cites to LPC’s recognition that the Upper West Side is characterized by a variety of institutional buildings intended to meet the social, educational, and religious needs of neighborhood residents; and

WHEREAS, the applicant also cites to the Certificate of Appropriateness which states that “...the proposed additions will not cause damage to [the] historic fabric or any significant historic features of the district; that the construction of rooftop additions on this through-lot building will result in an overall building height that relates to the taller surrounding buildings; that the geometry of the addition, which raises the street wall two floors on West 93rd Street with set-back addition and two floors on West 92nd Street, will be compatible with the massing of other institutional buildings in this historic district...”; and

WHEREAS, the applicant asserts that the height and bulk of the proposed enlarged school building will be in context with the nearby buildings on the north and south sides of both West 92nd Street and West 93rd Street; and

WHEREAS, specifically, the applicant cites to 50 West 93rd Street to the west, which is eight stories, and 70 West 93rd Street, which is 31 stories; to the east of the high school building is 2 West 93rd Street with 16 stories and 325 Central Park West with 16 stories; and on the north side of West 92nd Street there are One West 92nd Street with 15 stories, 7 West 92nd Street with seven stories, 35 West 92nd Street, with 13 stories, and 73 West 92nd Street with 31 stories; on the north side of West 93rd Street to the west there is 37 West 93rd Street with eight stories and 689 Columbus Avenue with 16 stories; and to the east on the north side of West 93rd Street, 333 Central Park West with 12 stories; and

WHEREAS, in response to concerns raised by the Community Board regarding the potential impact on the light and air to the immediately adjacent buildings along West 92nd

Street, the proposed fourth floor (which contains mechanical equipment) has been reduced in depth to be located closer to West 92nd Street, and the proposed third floor roof has been sloped along the sides to allow additional light and air to the adjacent neighbors; and

WHEREAS, in response to the Opposition’s concerns, the applicant asserts first that the traffic concerns associated with the School exist now and will not be exacerbated by the proposed enlargement of the building; and

WHEREAS, the applicant represents that its traffic consultant is conducting additional field observations and will develop additional recommendations to address the traffic concerns including whether it would be helpful to install a red light camera and left turn traffic signal at West 93rd Street and Central Park West or closing West 93rd Street to traffic during peak times; and

WHEREAS, the School states that it is committed to developing a comprehensive traffic plan for review and comment from the community and agrees to continue to work with the community to try to resolve existing traffic issues; the School commits to participating in a working group with representatives from WORD to ensure safe traffic and pedestrian conditions; and

WHEREAS, the applicant states that it considered several other suggestions which it concluded were not feasible such as student drop-off on Columbus Avenue, including staggered drop-off and pick-up times, student shuttles from offsite, and drop-off on West 92nd Street; and

WHEREAS, in response to the Opposition’s proposed conditions, the School states that (1) it will establish a traffic plan in consultation with WORD, with whom it will meet on an ongoing basis to focus on traffic concerns and that it will coordinate with the Department of Transportation; (2) it has complied fully with CEQR requirements and that noise, traffic, and air quality analyses were not triggered by the proposal; (3) it proposes to add 30 students, but will not agree to cap enrollment; (4) it will strive to complete construction during the summer, only on weekdays and during business hours but notes the possibility of unforeseen delays which may require additional time; (5) it cannot produce a site logistics plan and construction calendar at this point in the process; (6) it does plan to use the sixth-floor rooftop for a play area but will fence and buffer it as well as limit the hours to school hours not to be later than 5:00 p.m.; and (7) the rooftop mechanicals will occupy the fourth-floor roof and will include an acoustical enclosure, all of which is subject to LPC approval; and

WHEREAS, finally, as to the Opposition’s concerns about inconsistencies between the subject application and the 2008 variance application, the applicant states that numerous circumstances have changed since the 2008 application, which should be viewed independently from the subject application and that all current and prior claims were credible, based on the respective circumstances; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or

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development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant states that the hardship was not self-created, and that no development that would meet the programmatic needs of the School could occur given the existing conditions of the North Building and the South Building; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner; and

WHEREAS, the applicant represents that the requested waivers are the minimum necessary to accommodate the School's current and projected programmatic needs; and

WHEREAS, as noted, the applicant revised the plans to provide additional setback and slope at the fourth and third floor, respectively; and

WHEREAS, the Board finds that the requested relief is the minimum necessary to allow the School to fulfill its programmatic needs; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, 13BSA049M dated October 12, 2012; and

WHEREAS, the EAS documents that the operation of the School would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R7-2 zoning district within the Upper West Side/Central Park West Historic District, the enlargement of an existing school building, which does not comply with zoning regulations for lot coverage, permitted obstruction, rear yard equivalent, encroachment into the required initial setback

distance, width and height of street wall, and side yard, contrary to ZR §§ 24-11, 24-382, 24-33, 24-522, 23-692, and 24-35, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 3, 2014"– fourteen (14) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a floor area of 40,778 sq. ft. (4.88 FAR) and total height of 95 feet, exclusive of bulkheads, as illustrated on the BSA-approved plans;

THAT the School will establish a traffic plan to improve traffic flow at the site, in a timely manner; measures, in consultation with the community working group, may include a red light camera and left turn traffic signal, among other measures;

THAT fencing and buffering will be installed around the seventh-floor rooftop play area, which will have hours not to exceed school hours and no use after 5:00 p.m.;

THAT the use of the fourth-floor rooftop will be limited to mechanical systems accessible for maintenance/service-related work, will comply with all Noise Code requirements, and will include an acoustical enclosure for the generator;

THAT any change in the use, occupancy, or operator of the School requires review and approval by the Board;

THAT construction will proceed in accordance with ZR § 72-23;

THAT all construction will be in conformance with the LPC Certificate of Appropriateness, dated September 18, 2013 and amended January 14, 2014;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 7, 2014.

The resolution has been amended to correct part of the 3rd further condition which read "sixth-floor rooftop play area"...now reads: "seventh-floor rooftop play area". Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.

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*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 287-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

287-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 138 Roma Avenue, Block 04089, Lot 0025. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the east side of Roma Avenue between Garibaldi Avenue and Ebbets Street, within an R3X zoning district; and

WHEREAS, the site has 20 feet of frontage along Roma Avenue and 2,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 815 sq. ft. of floor area (0.40 FAR); the existing site has the following yard non-

compliances: a front yard depth of 2’-9” (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); a rear yard depth of 18’-9” (a minimum rear yard depth of 30’-0” is required, per ZR § 23-47); and side yards with widths of 4’-2” (eastern side yard) and 1’-3” (western side yard) (the requirement is two side yards with minimum widths of 5’-0”, per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,082 sq. ft. of floor area (0.54 FAR); the new building will provide a front yard depth of 14’-6”, a rear yard depth of 18’-0”, an southern side yard width of 5’-0”, and northern side yard width of 6’-3½”;

WHEREAS, in addition, the applicant represents that the proposed building may be less than 8’-0” from the buildings directly north and south of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8’-0” is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5’-0”;

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 14’-6”, a rear yard depth of 18’-0”, and a minimum distance of less than 8’-0” from the buildings directly north and south of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant

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to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front, side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, rear, and side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 2'-9" to 14'-6", and increases in the width of both side yards; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the

neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,082 sq. ft. of floor area (0.54 FAR), a minimum front yard depth of 14'-6", a minimum rear yard depth of 18'-0", and side yards with minimum widths of 5'-0" and 6'-3½", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly north and south of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 16, 2018;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 16, 2014.

*The resolution has been amended to correct the PREMISES AFFECTED which read "138 Roma Avenue, Block 0408, Lot 80025. Borough of Staten Island". **now read "138 Roma Avenue, Block 04089, Lot 0025. Borough of Staten Island". Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

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*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 291-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

291-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 19 Milbank Road, Block 04091, Lot 0027, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the north side of Millbank Road, west of Cedar Grove Avenue, within an R3X zoning district; and

WHEREAS, the site has 40 feet of frontage along Millbank Road and 2,400 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 720 sq. ft. of floor area (0.30 FAR); the existing site has the following yard non-

compliances: a front yard depth 6’-8” (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); a rear yard depth of 2’-9” (a minimum rear yard depth of 20’-0” is required, per ZR §§ 23-47 and 23-52); side yards with widths of 3’-9” (western side yard) and 2’-6” (eastern side yard) (the requirement is two side yards with minimum widths of 5’-0”, and a minimum distance between adjacent buildings along a side lot line of 8’-0”, per ZR § 23-461); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-52; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.53 FAR); the new building will provide a front yard depth of 18’-0”, a rear yard depth of 16’-1”, an eastern side yard width of 10’-5”, and western side yard width of 5’-0”;

WHEREAS, in addition, the applicant states that the proposed building may be less than 8’-0” from the building directly west of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 16’-1”, and a minimum distance of less than 8’-0” from the building directly west of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character

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of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from a non-complying 6'-8" to a complying 18'-0", and increase in the widths of both side yards, and increase in the depth of the rear yard from 12'-8" to 16'-1"; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards

and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 15, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,272 sq. ft. of floor area (0.53 FAR) and a minimum rear yard depth of 16'-1", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the building directly west of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 16, 2018;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 16, 2014.

*The resolution has been amended to correct the PREMISES AFFECTED which read "19 Milbank Road, Block 0409, Lot 10027, Borough of Staten Island" **now read** "19 Milbank Road, Block 04091, Lot 0027, Borough of Staten Island". **Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

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*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 292-14-A and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

292-14-A

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 19 Milbank Road, Block 04091, Lot 0027, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez..4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application to permit the construction of a single-family home that does not front a mapped street, contrary to General City Law § 36; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Montanez and Vice-Chair Hinkson; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is applicant is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, this site is also the subject of a companion application filed under BSA Cal. No. 291-14-BZ, for a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; and

WHEREAS, the subject site is located on the north side of Millbank Road, west of Cedar Grove Avenue, within an R3X zoning district; Millbank Road is an unmapped access road; and

WHEREAS, the site is occupied by a flood-damaged one-story, single-family home with 720 sq. ft. of floor area (0.30 FAR); and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.53 FAR);

WHEREAS, because the site is located along an unmapped access road, the applicant request a waiver of General City Law § 36; and

WHEREAS, by letter dated December 2, 2014, the Fire Department states that it has reviewed the proposal and has no objections, provided that: (1) the entire building is fully-sprinklered in conformity 2014 Building Code; (2) combination Smoke/Carbon Monoxide detectors as well NFPA 13D fire sprinklers are installed; (3) exterior walls and floors are constructed of eight-inch Autoclaved Aerated Concrete (AAC) panels (or an approved equivalent), which provide a four-hour fire-resistance rating; (4) penetrations through the AAC floor over parking are firestopped per required the occupancy separation; and (5) the height of the highest window does not exceed 30 feet from grade level below such window; and

WHEREAS, based on the record, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, the appeal is granted by the power vested in the Board by Section 36 of the General City Law and on condition that construction shall substantially conform to the drawing filed with the application marked “December 15, 2014”- one (1) sheet, and on further condition:

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

THAT the entire building shall be fully-sprinklered in conformity with provisions of 2014 Building Code;

THAT combination Smoke/Carbon Monoxide detectors and NFPA 13D fire sprinklers shall be installed;

THAT the exterior walls and floors shall be constructed of eight-inch autoclaved AAC panels (or an approved equivalent), which provide a four-hour fire-resistance rating;

THAT the penetrations through the AAC floor over parking shall be firestopped per required the occupancy separation;

THAT the height of the highest window sill shall not exceed 30 feet from grade level below such window;

THAT this approval shall be limited to the Build to Back program; and

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

THAT changes to the use or occupancy of the building will be subject to Board review and approval; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

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Adopted by the Board of Standards and Appeals,
December 16, 2014.

*The resolution has been amended to correct the PREMISES AFFECTED which read “19 Milbank Road, Block 0409, Lot 10027, Borough of Staten Island” **now read “19 Milbank Road, Block 04091, Lot 0027, Borough of Staten Island”**. **Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 293-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

293-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 23 Neutral Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04092, Lot 0026, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the north side of Neutral Avenue, west of Cedar Grove Avenue, within an R3X zoning district; and

WHEREAS, the site has 40 feet of frontage along Neutral Avenue and 2,880 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 1,055 sq. ft. of floor

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area (0.36 FAR); the existing site has the following yard non-compliances: a front yard depth 6'-5" (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); a rear yard depth of 3'-4" (a minimum rear yard depth of 20'-0" is required, per ZR §§ 23-47 and 23-52); side yards with widths of 5'-6" (western side yard) and 4'-6" (eastern side yard) the requirement is two side yards with minimum widths of 5'-0", and a minimum distance between adjacent buildings along a side lot line of 8'-0", per ZR § 23-461); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-52; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.44 FAR); the new building will provide a front yard depth of 18'-0", a rear yard depth of 16'-1", an eastern side yard width of 16'-0", and western side yard width of 7'-5"; and

WHEREAS, in addition, the applicant states that the proposed building may be less than 8'-0" from the building directly east of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 16'-1", and a minimum distance of less than 8'-0" from the buildings directly east of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the

proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from a non-complying 6'-5" to a complying 18'-0", and increase in the widths of both side yards beyond the minimum requirement, and increase in the depth of the rear yard from 3'-4" to 16'-1"; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement

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satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 15, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,272 sq. ft. of floor area (0.44 FAR) and a minimum rear yard depth of 16'-1", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the building directly east of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 16, 2018;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 16, 2014.

*The resolution has been amended to correct the PREMISES AFFECTED which read "*23 Neutral Avenue, between Roma Avenue and Cedar Grove Avenue, Block 0409, Lot 20026, Borough of Staten Island*" **now read** "*23 Neutral Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04092, Lot 0026, Borough of Staten Island*". **Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 294-14-A and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

294-14-A

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 23 Neutral Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04092, Lot 0026, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application to permit the construction of a single-family home that does not front a mapped street, contrary to General City Law § 36; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Montanez and Vice-Chair Hinkson; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development ("HPD") on behalf of the owner and in connection with the Mayor's Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner's Authorization); and

WHEREAS, this site is also the subject of a companion application filed under BSA Cal. No. 293-14-BZ, to permit pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; and

WHEREAS, the subject site is located on the north side of Neutral Avenue, west of Cedar Grove Avenue, within an R3X zoning district; Neutral Avenue is an

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unmapped access road; and

WHEREAS, the site has 40 feet of frontage along Neutral Avenue and 2,880 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 1,055 sq. ft. of floor area (0.36 FAR); and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.44 FAR); and

WHEREAS, because the site is located along an unmapped access road, the applicant requests a waiver of General City Law § 36; and

WHEREAS, by letter dated December 2, 2014, the Fire Department states that it has reviewed the proposal and has no objections, provided that: (1) the entire building is fully-sprinklered in conformity 2014 Building Code; (2) combination Smoke/Carbon Monoxide detectors as well NFPA 13D fire sprinklers are installed; (3) exterior walls and floors are constructed of eight-inch Autoclaved Aerated Concrete (AAC) panels (or an approved equivalent), which provide a four-hour fire-resistance rating; (4) penetrations through the AAC floor over parking are firestopped per required the occupancy separation; and (5) the height of the highest window does not exceed 30 feet from grade level below such window; and

WHEREAS, based on the record, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, the appeal is granted by the power vested in the Board by Section 36 of the General City Law and on condition that construction shall substantially conform to the drawing filed with the application marked "December 15, 2014"- one (1) sheet, and on further condition:

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

THAT the entire building shall be fully-sprinklered in conformity with provisions of 2014 Building Code;

THAT combination Smoke/Carbon Monoxide detectors and NFPA 13D fire sprinklers shall be installed;

THAT the exterior walls and floors shall be constructed of eight-inch autoclaved AAC panels (or an approved equivalent), which provide a four-hour fire-resistance rating;

THAT the penetrations through the AAC floor over parking shall be firestopped per required the occupancy separation;

THAT the height of the highest window sill shall not exceed 30 feet from grade level below such window;

THAT this approval shall be limited to the Build to Back program; and

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

THAT changes to the use or occupancy of the building will be subject to Board review and approval; and

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

Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 16, 2014.

*The resolution has been amended to correct the PREMISES AFFECTED which read "*23 Neutral Avenue, between Roma Avenue and Cedar Grove Avenue, Block 0409, Lot 20026, Borough of Staten Island*" **now read** "*23 Neutral Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04092, Lot 0026, Borough of Staten Island*". **Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

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*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 295-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

295-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 58 Seafoam Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04081, Lot 0068, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez..4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-2 (C1-1) zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the south side of Seafoam Street, west of Cedar Grove Avenue, within an R3-2 (C1-1) zoning district; and

WHEREAS, the site comprises Lots 68 and 69; it has 40 feet of frontage along Seafoam Street and 2,400 sq. ft. of lot area; historically, Lot 68 was developed independent of

Lot 69, which is vacant; and

WHEREAS, the site is occupied by a one-story, single-family home with 642 sq. ft. of floor area (0.27 FAR); the existing site has the following yard non-compliances: a front yard depth 8’-0” (a minimum front yard depth of 15’-0” is required, per ZR § 23-45); no rear yard (a minimum rear yard depth of 20’-0” is required, per ZR § 23-47); side yards with widths of 2’-0” (western side yard) and 22’-5” (eastern side yard) the requirement is two side yards with minimum widths of 5’-0”, a minimum combined width of 13’-0”, and a minimum distance between adjacent buildings along a side lot line of 8’-0”, per ZR § 23-461); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 816 sq. ft. of floor area (0.34 FAR); the new building will provide a front yard depth of 12’-6”, a rear yard depth of 10’-0”, an western side yard width of 11’-8”, and eastern side yard width of 5’-0”; and

WHEREAS, in addition, the applicant states that the proposed building will be less than 8’-0” from the building directly east of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 12’-6”, a rear yard depth of 10’-0”, and a minimum distance of less than 8’-0” from the building directly east of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of

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the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front, rear, and side yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, rear, and side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 8'-0" to 12'-6", an increase in rear yard depth from 0'-0" to 10'-0", and increase in the widths of both side yards; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review,

and makes the required findings under ZR § 64-92, to permit, on a site within an R3-2 (C1-1) zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 15"-four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 816 sq. ft. of floor area (0.34 FAR), a minimum front yard depth of 12'-6", a minimum rear yard depth of 10'-0", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the building directly east of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 16, 2018;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 16, 2014.

*The resolution has been amended to correct the PREMISES AFFECTED which read "58 Seafoam Avenue, between Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 10068, Borough of Staten Island" **now read** "58 Seafoam Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04081, Lot 0068, Borough of Staten Island". **Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

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*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 296-14-A and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

296-14-A

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 58 Seafoam Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04081, Lot 0068, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application to permit the construction of a single-family home that does not front a mapped street, contrary to General City Law § 36; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Montanez and Vice-Chair Hinkson; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is applicant is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the site is also the subject of a companion application filed under BSA Cal. No. 295-14-BZ, for a special permit pursuant to ZR § 64-92, to permit, on a site within an R3-2 (C1-1) zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, and 23-47; and

WHEREAS, the subject site is located on the south side of Seafoam Street, west of Cedar Grove Avenue, within an R3-2 (C1-1) zoning district; and

WHEREAS, the site comprises Lots 68 and 69; it has 40 feet of frontage along Seafoam Street and 2,400 sq. ft. of lot area; historically, Lot 68 was developed independent of Lot 69, which is vacant; and

WHEREAS, Seafoam Street is an unmapped access road; and

WHEREAS, the site is occupied by a flood-damaged, single-family home with a 642 sq. ft. of floor area (0.27); and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 816 sq. ft. of floor area (0.34 FAR); and

WHEREAS, because the site is located along an unmapped access road, the applicant request a waiver of General City Law § 36; and

WHEREAS, by letter dated December 2, 2014, the Fire Department states that it has reviewed the proposal and has no objections, provided that: (1) the entire building is fully-sprinklered in conformity 2014 Building Code; (2) combination Smoke/Carbon Monoxide detectors as well NFPA 13D fire sprinklers are installed; (3) exterior walls and floors are constructed of eight-inch Autoclaved Aerated Concrete (AAC) panels (or an approved equivalent), which provide a four-hour fire-resistance rating; (4) penetrations through the AAC floor over parking are firestopped per required the occupancy separation; and (5) the height of the highest window does not exceed 30 feet from grade level below such window; and

WHEREAS, based on the record, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, the appeal is granted by the power vested in the Board by Section 36 of the General City Law and on condition that construction shall substantially conform to the drawing filed with the application marked “December 15, 2014”- one (1) sheet, and on further condition:

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

THAT the entire building shall be fully-sprinklered in conformity with provisions of 2014 Building Code;

THAT combination Smoke/Carbon Monoxide detectors and NFPA 13D fire sprinklers shall be installed;

THAT the exterior walls and floors shall be constructed of eight-inch autoclaved AAC panels (or an approved equivalent), which provide a four-hour fire-resistance rating;

THAT the penetrations through the AAC floor over parking shall be firestopped per required the occupancy separation;

THAT the height of the highest window sill shall not exceed 30 feet from grade level below such window;

THAT this approval shall be limited to the Build to Back program; and

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

THAT changes to the use or occupancy of the building

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will be subject to Board review and approval; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 16, 2014.

*The resolution has been amended to correct the PREMISES AFFECTED which read “58 Seafoam Avenue, between Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 10068, Borough of Staten Island” **now read** “58 Seafoam Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04081, Lot 0068, Borough of Staten Island”. **Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 303-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

303-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 1032 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 03808, Lot 0016. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez..4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the west side of Olympia Boulevard between Hempstead Avenue and Mapleton Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Olympia Boulevard and 1,980 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 583 sq. ft. of floor area

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(0.29 FAR); the existing site has the following yard non-compliances: no front yard (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); a rear yard depth of 20'-4" (a minimum rear yard depth of 30'-0" is required, per ZR § 23-47); and side yards with widths of 3'-7" (northern side yard) and 1'-10" (southern side yard) (the requirement is two side yards with minimum widths of 5'-0", per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,082 sq. ft. of floor area (0.55 FAR); the new building will provide a front yard depth of 18'-0", a rear yard depth of 21'-0", a northern side yard width of 3'-5", and southern side yard width of 3'-0"; and

WHEREAS, in addition, the applicant represents that the proposed building will be less than 8'-0" from the building directly south of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8'-0" is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5'-0"; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 21'-0", a minimum distance of less than 8'-0" from the building directly south of the site, and side yard widths of 3'-5" and 3'-0"; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from a non-complying 0'-0" to a complying 18'-0", and an increase in open space ratio from 71 percent to 73 percent; and

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WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,082 sq. ft. of floor area (0.55 FAR), a minimum rear yard depth of 21'-0", and side yards with minimum widths of 3'-0" and 3'-5", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the building directly south of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 16, 2018;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 16, 2014.

Borough of Staten Island". Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.

*The resolution has been amended to correct the PREMISES AFFECTED which read "1032 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 0380, Lot 80016. Borough of Staten Island" **now read** "1032 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 03808, Lot 0016.

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*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 304-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

304-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 1034 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 03808, Lot 0015 Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the west side of Olympia Boulevard between Hempstead Avenue and Mapleton Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Olympia Boulevard and 1,860 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 756 sq. ft. of floor area

(0.40 FAR); the existing site has the following yard non-compliances: no front yard (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); a rear yard depth of 26’-9” (a minimum rear yard depth of 30’-0” is required, per ZR § 23-47); and side yards with widths of 1’-7” (northern side yard) and 3’-1” (southern side yard) (the requirement is two side yards with minimum widths of 5’-0”, per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,082 sq. ft. of floor area (0.58 FAR); the new building will provide a front yard depth of 15’-0”, a rear yard depth of 20’-9”, a northern side yard width of 3’-5”, and southern side yard width of 3’-0”; and

WHEREAS, in addition, the applicant represents that the proposed building will be less than 8’-0” from the buildings directly north and south of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8’-0” is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5’-0”; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 15’-0”, a rear yard depth of 20’-9”, a minimum distance of less than 8’-0” from the buildings directly north and south of the site, and side yard widths of 3’-5” and 3’-0”; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk

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regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for

an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front, rear and side yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, rear, and side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 0'-0" to 15'-0", and an increase in open space ratio from 60 percent to 71 percent; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,082 sq. ft. of floor area (0.58 FAR), a minimum rear yard depth of 20'-9", and side yards with minimum widths of 3'-0" and 3'-5", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly north and south of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 16, 2018;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 16, 2014.

*The resolution has been amended to correct the PREMISES AFFECTED which read "1034 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 0380, Lot 80015 Borough of Staten Island" **now read** "1034 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 03808, Lot 0015

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Borough of Staten Island". Corrected in Bulletin Nos. 1-3,
Vol. 100, dated January 14, 2015.

*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 305-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

305-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 296 Adams Avenue, between Mapleton Avenue and Hempstead Avenue, Block 03673, Lot 0011 Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez..4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the south side of Adams Avenue between Boundary Avenue and Haven Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Adams Avenue and 1,700 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 1,059 sq. ft. of floor

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area (0.62 FAR); the existing site has the following yard non-compliances: floor area (a maximum FAR of 0.60 is permitted); no front yard (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); a rear yard depth of 14'-0" (a minimum rear yard depth of 30'-0" is required, per ZR § 23-47); and side yards with widths of 3'-0" (eastern side yard) and 1'-2" (western side yard) (the requirement is two side yards with minimum widths of 5'-0", per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,020 sq. ft. of floor area (0.60 FAR); the new building will provide a front yard depth of 15'-0", a rear yard depth of 12'-10", an eastern side yard width of 3'-5", and western side yard width of 3'-0"; and

WHEREAS, in addition, the applicant represents that the proposed building will be less than 8'-0" from the buildings directly east and west of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8'-0" is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5'-0"; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 15'-0", a rear yard depth of 12'-10", a minimum distance of less than 8'-0" from the buildings directly east and west of the site, and side yard widths of 3'-5" and 3'-0"; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying

Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front, side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, rear, and side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a reduction in FAR, a smaller footprint, an increase in front yard depth from 0'-0" to 15'-0", increases

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in the width of both side yards, an increase in open space ratio from 38 percent to 70 percent; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,020 sq. ft. of floor area (0.60 FAR), a minimum front yard depth of 15'-0", a minimum rear yard depth of 12'-10", and side yards with minimum widths of 3'-0" and 3'-5", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly east and west of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 16, 2018;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 16, 2014.

0367, Lot 30011 Borough of Staten Island" now read "296 Adams Avenue, between Mapleton Avenue and Hempstead Avenue, Block 03673, Lot 0011 Borough of Staten Island".
Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.

*The resolution has been amended to correct the PREMISES AFFECTED which read "296 Adams Avenue, between Mapleton Avenue and Hempstead Avenue, Block

MINUTES

*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 306-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

306-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 156 Baden Place, Block 03810, Lot 0018 Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for side yards, contrary to ZR §§ 23-461 and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the south side of Baden Place between Hempstead Avenue and Mapleton Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Baden Place and 2,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 580 sq. ft. of floor area (0.29 FAR); the existing site has the following yard non-compliances: no front yard (a minimum front yard depth of

18’-0” is required, per ZR § 23-45); a rear yard depth of 25’-7” (a minimum rear yard depth of 30’-0” is required, per ZR § 23-47); and no northern side yard and a southern side yard with a width of 2’-0” (the requirement is two side yards with minimum widths of 5’-0”, per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,082 sq. ft. of floor area (0.54 FAR); the new building will provide a front yard depth of 18’-0”, a rear yard depth of 35’-10”, a northern side yard width of 3’-2½”, and a southern side yard width of 3’-2½”; and

WHEREAS, in addition, the applicant represents that the proposed building may be less than 8’-0” from the buildings directly north and south of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8’-0” is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5’-0”; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a minimum distance of less than 8’-0” from the buildings directly north and south of the site and two side yards with widths of 3’-2½”; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

MINUTES

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 0'-0" to 18'-0", an increase in rear yard depth from 25'-7" to 35'-10", increases in the widths of both side yards, an increase in open space ratio from 71 percent to 73 percent; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the

neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for side yards, contrary to ZR §§ 23-461 and 54-313; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,082 sq. ft. of floor area (0.54 FAR), a minimum front yard depth of 18'-0", a minimum rear yard depth of 35'-10", and side yards with minimum widths of 3'-2½" and 3'-2½", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly north and south of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 16, 2014;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 16, 2014.

*The resolution has been amended to correct the PREMISES AFFECTED which read "156 Baden Place, Block 0381, Lot 00018, Borough of Staten Island" **now read** "156 Baden Place, Block 03810, Lot 0018, Borough of Staten Island". **Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

MINUTES

*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 309-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

309-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 55 Hempstead Avenue, Block 03809, Lot 0003 Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the north side of Hempstead Avenue between Baden Place and Colony Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Hempstead Avenue and 1,900 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 960 sq. ft. of floor area (0.50 FAR); the existing site has the following yard non-

compliances: 50 percent open space ratio (a minimum open space ratio of 65 percent is required, per ZR § 23-141); a front yard depth 0’-5” (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); a rear yard depth of 14’-6” (a minimum rear yard depth of 30’-0” is required, per ZR § 23-47); no side yards (the requirement is two side yards with minimum widths of 5’-0”, per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,134 sq. ft. of floor area (0.60 FAR); the new building will provide a front yard depth of 18’-0”, a rear yard depth of 23’-1”, an eastern side yard width of 3’-0”, and western side yard width of 3’-5”; and

WHEREAS, in addition, the applicant represents that the proposed building will be less than 8’-0” from the buildings directly east and west of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8’-0” is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5’-0”; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 23’-1”, a minimum distance of less than 8’-0” from the buildings directly east and west of the site, and side yard widths of 3’-5” and 3’-0”; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

MINUTES

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from a non-complying 0'-5" to a complying 18'-0", an increase in open space ratio from 50 percent to 70 percent, and increase in the widths of both side yards, and

increase in the depth of the rear yard from 14'-6" to 23'-1"; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,134 sq. ft. of floor area (0.60 FAR), a minimum rear yard depth of 23'-1", and side yards with minimum widths of 3'-0" and 3'-5", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly east and west of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 16, 2018;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 16, 2014.

*The resolution has been amended to correct the PREMISES AFFECTED which read "55 Hempstead Avenue, Block 0380, Lot 90003 Borough of Staten Island" **now read** "55 Hempstead Avenue, Block 03809, Lot 0003

MINUTES

Borough of Staten Island". Corrected in Bulletin Nos. 1-3,
Vol. 100, dated January 14, 2015.

BULLETIN

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January 21, 2015

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203-14-BZ	18 West 8 th Street, Manhattan

DOCKETS

New Case Filed Up to January 13, 2015

2-15-BZ

31 West 19th Street, between 5th Avenue and 6th Avenue on the north side of 19th Street, Block 821, Lot(s) 21, Borough of **Manhattan, Community Board: 5**. Special Permit (§73-36) to allow the operation of a physical culture establishment of the portions of the cellar and first floor of the premises, located within an (73-36) zoning district. C6-4A district.

3-15-A

47 Trioka Way, West side Trioka Way, 124.11 ft. north of Winant Avenue, Block 7400, Lot(s) 85, Borough of **Queens, Community Board: 3**. GCL 36: proposed construction does not front on a legally mapped street contrary Section 36, of the General City Law, and 502.1 2008, building Code. M1-1SRD district.

4-15-BZ

119 Webster Avenue, On the corner of Webster Avenue and Seton Place, Block 5416, Lot(s) 1, Borough of **Brooklyn, Community Board: 14**. Variance (§72-21) to permit the conversion of the existing building at the premises from residential to community facility use. R5 district.

5-15-BZ

123 North St. Austins place, Corner of St. Austins Place North and Davis Avenue, Block 139, Lot(s) 74, Borough of **Staten Island, Community Board: 1**. Variance (§72-21) permit the construction of a new single family detached home contrary to front yard regulations located within an R3X zoning district. kR3X/R2 district.

6-15-A

123 North St. Austins Place, Corner of St. Austins Place North and Davis Avenue, Block 139, Lot(s) 74, Borough of **Staten Island, Community Board: 1**. GCL 36 construction of a new single family detached home located partially within the bed of mapped street, contrary Article 3 Section e of the General City Law. RA3X/R2 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

FEBRUARY 3, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, February 3, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

301-13-BZ

APPLICANT – Eric Palatnik, P.C., for Rabbi Mordechai Jofen, owner.

SUBJECT – Application November 12, 2013 – Variance (72-21) to add three floors to an existing one story and basement UG 4 synagogue for a religious-based college and post graduate (UG 3) with 10 dormitory rooms, contrary to sections 24-11, 24-521, 24-52,24-34(a),24-06. R5B zoning district.

PREMISES AFFECTED – 1502 Avenue N, southeast Corner of East 15th Street and Avenue N, Block 6753, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

303-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for SoBro Development Corporation, owner.

SUBJECT – Application November 15, 2013 – Variance (§72-21) to allow a new mixed use building with 36 residential units and community facility space. R6 & C1-4 zoning districts.

PREMISES AFFECTED – 506-510 Brook Avenue, east side of Brook Avenue between 147th and 148th Street, Block 2274, Lot(s) 6, 7 and 8, Borough of Bronx.

COMMUNITY BOARD #1BX

309-13-BZ

APPLICANT – Law office of Lyra J. Altman, for Miriam Josefovich and Mark Josefovia, owners.

SUBJECT – Application November 22, 2013 – Special Permit (73-622) for the enlargement of an existing single family home, contrary to floor area and open space (23-141); side yards (23-461) and less than the required rear yard (23-47). R2 zoning district.

PREMISES AFFECTED – 965 East 24th Street, east side of East 24th Street between Avenue I and Avenue J, Block 7588, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

60-14-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for Sephardic Congregation of Kew Gardens Hills, owners.

SUBJECT – Application April 11, 2014 – Variance (§72-21) to enlarge a community facility (*Sephardic Congregation*), contrary to floor lot coverage rear yard, height and setback (24-00). R4-1 zoning district.

PREMISES AFFECTED – 141-41 72nd Avenue, 72nd Avenue between Main Street and 141st Street, Block 6620, Lot 41, Borough of Queens.

COMMUNITY BOARD #8Q

154-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Peter Agrapides, owner.

SUBJECT – Application July 1, 2014 – Special Permit (§73-621) to allow an addition to the existing mixed commercial and residential building. C1-3/R6B zoning district.

PREMISES AFFECTED – 6934 5th Avenue, northwest corner of the intersection of Ovington Avenue and 5th Avenue, Block 5873, Lot 57, Borough of Brooklyn.

COMMUNITY BOARD #10BK

232-14-BZ

APPLICANT – Warshaw Burstein, LLP, for Pennsylvania Associates, LLC., owner; Pennsylvania Avenue Fitness Group, LLC, lessee.

SUBJECT – Application September 26, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Planet Fitness*) within a portion of an existing commercial building. M1-1 zoning district.

PREMISES AFFECTED – 946 Pennsylvania Avenue aka 1000 Pennsylvania Avenue, west side of Pennsylvania Avenue between Wortman Avenue and Cozine Avenue, Block 04389, Lot 0001, Borough of Brooklyn.

COMMUNITY BOARD #5BK

Ryan Singer, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, JANUARY 13, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

717-28-BZ

APPLICANT – Fried Frank Harris Shriver and Jacobson
LLP, for Allan's Garage LLC, owner.

SUBJECT – Application August 26, 2014 – Amendment
(\$11-413) of a previously approved variance which
permitted the operation of a public parking facility. The
amendment seeks to permit a reduction in size of an existing
515 parking space facility to allowed a 143 space parking
facility to be included in an as-of-right residential
development. C2-8A zoning district.

PREMISES AFFECTED – 152-58 East 87th Street, south
side of East 87th Street, 35.17' east of the corner formed by
the intersection of East 87th Street and Lexington Avenue,
Block 1515, Lot(s) 46, 45, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to January
27, 2015, at 10 A.M., for decision, hearing closed.

42-08-BZ

APPLICANT – Eric Palatnik, P.C., for David Nikcchemny,
owner.

SUBJECT – Application July 22, 2014 – Extension of
Time to Complete Construction of a previously granted
Special Permit (73-622) for the enlargement of an existing
two family home to be converted into a single family home
which expired on January 27, 2013; Waiver of the Rules.
R3-1 zoning district.

PREMISES AFFECTED – 182 Girard Street, between
Oriental Boulevard and Hampton Street, Block 8749, Lot
25, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to February
24, 2015, at 10 A.M., for deferred decision.

172-79-BZ

APPLICANT – Alfonso Duarte, for Luciano Utopia LLC.,
owner.

SUBJECT – Application July 16, 2014 – Extension of Term
of a previously approved variance permitting the operation
of a Real Estate office and accessory parking which will
expire on July 24, 2014. R2 zoning district.

PREMISES AFFECTED – 167-04 Northern Boulevard,
southeast corner of 16th Street, Block 5398, Lot 11,
Borough of Queens

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Laid over to March 24,
2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

109-14-A

APPLICANT – Eric Palatnik, P.C., for Carlo Saccheri,
owner.

SUBJECT – Application May 23, 2014 – Proposed two
story commercial building which does not front on a legally
mapped street, contrary to GCL Section 36. M1-1 SRD
Zoning District.

Proposed two story commercial building which does not
front on a legally, mapped street contrary to GCL Section
36. M1-1 SRD Zoning District.

PREMISES AFFECTED – 44 Marjorie Street, south of
Sharrotts Road and East of Arthur Kill Road, Block 7328,
Lot 645, Borough of Queens.

COMMUNITY BOARD #3Q

ACTION OF THE BOARD – Application granted on
condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner
Montanez.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of
Buildings (“DOB”) dated April 18, 2014 acting on DOB
Application No. 520182686, reads in pertinent part:

The street giving access to the proposed building is
not duly placed the official map of the City of New
York, therefore,

A) No Certificate of Occupancy can be issued
pursuant to Article 3, Section 36 of the General
City Law;

B) Proposed construction does not have at least
8% of the total perimeter of building fronting
directly upon a legally mapped street or
frontage space contrary to section 502.1 of the
2008 Building Code; and

WHEREAS, this is an application to allow the
construction of a two-story commercial building which
does not front on a mapped street, contrary to General
City Law (“GCL”) § 36; and

WHEREAS, a public hearing was held on this
application on October 28, 2014 after due notice by
publication in *The City Record*, continued hearing, and then to
decision on January 13th, 2015; and

WHEREAS, Commissioners Montanez and Ottley-
Brown performed an inspection of the site, premises, and

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surrounding area and neighborhood; and

WHEREAS, the subject site is located south of Sharrotr's Road and east of Arthur Kill Road, within an M1-1 zoning district, within the Special South Richmond Development District; and

WHEREAS, the applicant proposes to construct a two-story commercial building with 12,742 sq. ft. of floor space the first floor of which shall be used for the receiving and storage of plumbing supplies and equipment as well as the parking of commercial trucks and the second story of which shall be used as accessory office space in connection with building's plumbing use; and

WHEREAS, by letter dated September 4, 2014, the Fire Department states that it has no objection to the proposal under the following conditions: (1) the proposed building must be sprinklered throughout in compliance with the NYC Fire Code and the NYC City Building Code; (2) the provided 30 feet by 30 feet frontage space shall be indicated by a yellow reflective paint striped diagonal line; (3) a sign shall be posted at the front entrance of the building indicating the location of and distance to the siamese connection; (4) the proposed hydrant shall be installed as per DEP requirements and located as per site plan A101.00; (5) A "No Parking Anytime" sign shall be provided on the subject property lot as per the NYC Fire Code Section FC503.2.7.2.1; and

WHEREAS, in response to the FDNY's request the applicant has submitted revised plans noting all conditions; and

WHEREAS, at a hearing, the Board expressed its concern that the building's two loading berths may conflict with the FDNY parking restrictions; and

WHEREAS, in response, by letter dated December 8, 2014, the Fire Department states that it has no objection to the use of the loading berths for loading and unloading goods and supplies; and

WHEREAS, the Board expressed its concern regarding the site's eligibility for a parking waiver pursuant to ZR Section 44-231 based on the use group 16D originally proposed; and

WHEREAS, the applicant has amended his plans and DOB filings to reflect a Use Group 16A use for "HVAC and Plumbing Establishment" which has a parking category of B1; and

WHEREAS, the Board does not object to the change provided that DOB agrees with the designation of the use as a Use Group 16A use; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant approval of the application subject to certain conditions set forth herein.

Therefore it is Resolved, that the decision of the DOB, dated April 18, 2014, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received October 15, 2014; one (1) sheet; that the proposal will comply with all

applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT building shall be fully-sprinklered in compliance with the NYC Fire Code and the NYC City Building Code;

THAT the 30 feet by 30 feet frontage space shall be indicated by a yellow reflective paint striped diagonal line;

THAT a sign shall be posted at the front entrance of the building indicating the location of and distance to the siamese connection;

THAT the proposed hydrant shall be installed as per DEP requirements and located as per site plan A101.00; (5) A "No Parking Anytime" sign shall be provided on the subject property lot as per the NYC Fire Code Section FC503.2.7.2.1;

THAT DOB review and approve the Use Group 16A designation proposed by the applicant;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals
January 13, 2015.

245-12-A

APPLICANT – Law Offices of Marvin B. Mitzner LLC, for 515 East 5th Street, LLC, owner.

SUBJECT – Application August 9, 2012 – Appeal pursuant to Section 310(2) of the Multiple Dwelling Law, requesting that the Board vary several requirements of the MDL. R7B Zoning District

PREMISES AFFECTED – 515 East 5th Street, north side of East 5th Street, between Avenue A and Avenue B, Block 401, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

110-14-A thru 112-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for WRR Realty Corp., owner.

SUBJECT – Application May 29, 2014 – Proposed construction of buildings that does not front a legally mapped street, pursuant the Article 3, Section 36 of the General City Law. R3A zoning district.

PREMISES AFFECTED – 115, 109, 105 Roswell Avenue, north side of Roswell Avenue, 149.72 feet east of Wild Avenue, Block 2642, Lot 88, 91, 92, Borough Staten Island

COMMUNITY BOARD #2SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson,

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Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to January
27, 2015, at 10 A.M., for decision, hearing closed.

ZONING CALENDAR

168-14-BZ

CEQR #15-BSA-027M

APPLICANT – Warshaw Burnstein, LLP, for Michael Baum, LLC, owner; Barry's Boot camp NYC. LLC, lessee. SUBJECT – Application July 14, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Barry's Bootcamp*) within the existing building. M1-5B zoning district.

PREMISES AFFECTED – 419 Lafayette Street, east side of Lafayette Street between East 4th Street and Astor Place, Block 544, Lot 13, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated June 25, 2014, acting on DOB Application No. 122022060, reads, in pertinent part:

Proposed ‘Physical Culture Establishment’ at zoning M1-5B is not permitted as-of-right per ZR 42-10...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within an M1-5B zoning district, within the NoHo Historic District, an existing physical culture establishment (the “PCE”) on the cellar and first story of an eight-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on December 16, 2014 after due notice by publication in the *City Record*, and then to decision on January 13, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Montanez performed an examination of the premises and surrounding area and neighborhood; and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the subject site has approximately 52 feet of frontage along the east side of Lafayette Street, between Astor Place and East 4th Street, in Manhattan, within an M1-5B zoning district, within the NoHo Historic District; and

WHEREAS, the site consists of approximately 8,062 sq. ft. of floor area; and

WHEREAS, the site is occupied by an eight-story commercial building which contains approximately 58,000 sq.

ft. of floor area; and

WHEREAS, the PCE shall occupy approximately 1,332 sq. ft. of floor space at the cellar of the building and approximately 3,944 sq. ft. of floor area on the first floor of the building (.49 FAR), for a total of 5,276 sq. ft. of floor space, and shall operate as Barry’s Bootcamp; and

WHEREAS, the hours of operation for the PCE shall be daily from 5:00 a.m. to 11:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, at hearing, the Board inquired as to the PCE’s proposed sound isolation and noise attenuation measures, and the applicant submitted drawings showing acoustic wall, ceiling, and spring isolated floor details; and

WHEREAS, accordingly, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Landmarks Preservation Commission has approved the proposed alterations of the building by Certificate of No Effect (CNE 15-5043), issued on March 10, 2014; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15BSA027M, dated July 14, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-5B zoning district, within the NoHo Historic District, the operation of a PCE on the first story and cellar of an eight-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received September 11, 2014” – Four (4) sheets and “Received

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December 19, 2014” – One (1) sheet; and *on further condition:*

THAT the term of the PCE grant shall expire on January 13, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by January 13, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 13, 2015.

184-14-BZ

CEQR #15-BSA-041K

APPLICANT – Sheldon Lobel, P.C., for Hamilton Plaza Associates, owner; Brooklyn Park Slope Fitness, lessee.

SUBJECT – Application August 6, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Retro Fitness*) on the third floor of the existing building at the premises. M1-2 zoning district
PREMISES AFFECTED – 1-37 12th Street, eastern side of the intersection between Hamilton Place and 12th Street, Block 1007, Lot 172, Borough of Brooklyn.

COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated July 8, 2014, acting on DOB Application No. 320917790, reads, in pertinent part:

Proposed Physical Culture Establishment use on the third floor and the mezzanine level of the building within M1-2 district is contrary to ZR 42-

10 ...

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-2 zoning district, a physical culture establishment (“PCE”) on the third floor and mezzanine of a four-story mixed manufacturing and commercial use building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in the *City Record*, and then to decision on January 13, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Montanez performed an examination of the premises and surrounding area and neighborhood; and

WHEREAS, Community Board 6, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is bounded to the west and south by the Gowanus Canal with access from 12th Street, within an M1-2 zoning district; and

WHEREAS, the site consists of approximately 86,250 sq. ft. of lot area; and

WHEREAS, the site is occupied by a four-story commercial building; and

WHEREAS, the site is subject to a restrictive declaration recorded on October 21, 1977 at Reel 952, Page 1344 (the “Restrictive Declaration”) which restricts, *inter alia*, uses on the 3rd and 4th stories of the building such that the contemplated PCE use must be recommended by the City Planning Commission (the “CPC”); and

WHEREAS, the applicant has represented that it has submitted an application to the CPC to remove or amend the Restrictive Declaration; and

WHEREAS, the PCE shall occupy approximately 15,561 sq. ft. of floor area (1.35 FAR) on the third floor of the building and shall operate as Retro Fitness; and

WHEREAS, the PCE’s hours of operation shall be daily, from 4:30 a.m. to 12:00 a.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings

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pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15-BSA-041K, dated August 6, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-2 zoning district, the operation of a PCE on the third story and mezzanine of a four-story mixed manufacturing and commercial use building, contrary to ZR § 42-10; *on condition* that all work will substantially conform to drawings filed with this application marked "Received November 26, 2014"- Five (5) sheets and "Received January 13, 2015"- One (1) sheet; *on further condition*:

THAT the term of the PCE grant shall expire on January 13, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT this approval is contingent upon the CPC removing or amending the Restrictive Declaration so that the contemplated PCE use shall not be prohibited;

THAT required parking shall be as reviewed and approved by DOB;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by January 13, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals January 13, 2015.

201-14-BZ

CEQR #15-BSA-046X

APPLICANT – Frank Angelino, Esq., for Joseph Pogostin, owner; New Fitness of 3rd Avenue, Bronx, LLC., lessee.

SUBJECT – Application August 22, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Retro Fitness*) on the ground floor of an existing one-story and cellar commercial building. M1-1/R7-2 zoning district.

PREMISES AFFECTED – 3524 Third Avenue, northeast corner of East 168th Street, Block 2610, Lot 1, Borough of Bronx.

COMMUNITY BOARD #3BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated August 8, 2014, acting on DOB Application No. 220390226, reads, in pertinent part:

Proposed Physical Culture Establishment is not permitted in an M1-1/R7-2 Zoning District. The use is contrary to Section ZR 42-10 of the New York City Zoning Resolution ...

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1/R7-2 zoning district, within a Special Mixed Use District (MX-7), a physical culture establishment ("PCE") on the first floor of a single story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on January 6, 2015, after due notice by publication in the *City Record*, and then to decision on January 13, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Ottley-Brown performed an examination of the premises and surrounding area and neighborhood; and

WHEREAS, Community Board 3, Bronx, recommends approval of this application; and

WHEREAS, the subject site is a corner lot with approximately 176 feet of frontage on 3rd Avenue and approximately 125 feet of frontage on East 168th Street, within an M1-1/R7-2 zoning district, within a Special Mixed Use District (MX-7) in the Bronx; and

WHEREAS, the site consists of approximately 22,925 sq. ft. of lot area; and

WHEREAS, the site is occupied by a single-story commercial building; and

WHEREAS, the PCE shall occupy approximately 15,008 sq. ft. of floor area (0.66 FAR) on the first floor of the building and shall operate as *Retro Fitness*; and

WHEREAS, the PCE's hours of operation shall be Monday through Friday, from 5:00 a.m. to 12:00 a.m., and on Saturday and Sunday, from 7:00 a.m. to 7:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and

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operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15BSA046X, dated August 22, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1/R7-2 zoning district, within a Special Mixed Use District (MX-7), the operation of a PCE on the first story a single-story commercial building, contrary to ZR § 42-10; *on condition* that all work will substantially conform to drawings filed with this application marked "Received December 3, 2014"- Four (4) sheets; *on further condition*:

THAT the term of the PCE grant will expire on January 13, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by January 13, 2019;

THAT this approval is limited to the relief granted by

the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals January 13, 2015.

78-11-BZ & 33-12-A thru 37-12-A

APPLICANT – Sheldon Lobel, P.C., for Indian Cultural and Community Center, Incorporated, owner.

SUBJECT – Applications May 27, 2011 and February 9, 2012 – Variance (§72-21) to allow for the construction of two assisted living residential buildings, contrary to use regulations (§32-10).

Proposed construction of two mixed use buildings that do not have frontage on a legally mapped street, contrary to General City Law Section 36. C8-1 Zoning District.

PREMISES AFFECTED – 78-70 Winchester Boulevard, Premises is a landlocked parcel located just south of Union Turnpike and west of 242nd Street, Block 7880, Lots 550, 500 Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to February 24, 2015, at 10 A.M., for deferred decision.

155-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Cong Kozover Zichron Chaim Shloime, owners.

SUBJECT – Application May 15, 2013 – Variance (§72-21) to permit the enlargement of an existing synagogue (*Congregation Kozover Sichron Chaim Shloime*) and rabbi's residence (UG 4) and the legalization of a Mikvah, contrary to floor area (§24-11), lot coverage (§24-11), wall height and setbacks (§24-521), front yard (§24-34), side yard (§24-35), rear yard (§24-36), and parking (§25-18, 25-31) requirements. R3-2 zoning district.

PREMISES AFFECTED – 1782-1784 East 28th Street, west side of East 28th Street between Quentin road and Avenue R, Block 06810, Lots 40 & 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for continued hearing.

186-13-BZ

APPLICANT – Harold Weinberg, P.E., for Apostollis Goutsios, owner.

SUBJECT – Application June 21, 2013 – Special Permit (§73-622) for an enlargement to an existing single family

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home, contrary to side yard regulations (ZR 23-461) of the zoning resolution. R5 (BR) zoning district.

PREMISES AFFECTED – 117 Gelston Avenue, east side 125'-13/8" south of 90th Street and 92nd Street, Block 6089, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #10BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

ACTION OF THE BOARD – Laid over to January 27, 2015, at 10 A.M., for decision, hearing closed.

264-13-BZ

APPLICANT – Francis R. Angelino, Esq., for David Lowenfeld, owner; BB Fitness dba Brick Crossfit NYC, lessee.

SUBJECT – Application September 6, 2013 – Special Permit (§73-36) to legalize a physical culture establishment (*Brick CrossFit*) on the ground floor and cellar of an existing 10-story building. C6-2A zoning district.

PREMISES AFFECTED – 257 West 17th Street, north side, West 17th Street, between 7th & 8th Avenues, Block 767, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for continued hearing.

266-13-BZ

APPLICANT – Law Offices of Marvin B. Mitzner, LLC, for 515 East 5th Street LLC, owner.

SUBJECT – Application September 6, 2013 – Variance (§72-21) to legalize the enlargement of a six-story, multi-unit residential building, contrary to maximum floor area (§23-145). R7B zoning district.

PREMISES AFFECTED – 515 East 5th Street, north side of East 5th Street between Avenue A and B, Block 401, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for deferred decision.

8-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Oleg Saitskiy, owner.

SUBJECT – Application January 16, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (23-141); side yards requirements (§23-461) and less than the rear yard requirement (23-47). R3-2 zoning district.

PREMISES AFFECTED – 1824 East 22nd Street, west side of East 22nd Street between Quentin Road and Avenue R, Block 6804, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to February 24, 2015, at 10 A.M., for continued hearing.

25-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Yeshiva of Flatbush, LLC, owner.

SUBJECT – Application February 6, 2014 – Variance (§72-21) to permit the enlargement of an existing four story Yeshiva (*Yeshiva of Flatbush*). R2 & R5 zoning districts. PREMISES AFFECTED – 1601-1623 Avenue J aka 985-995 East 16th Street & 990-1026 East 17th Street, Block 6709, Lot(s) 32, 34, 36, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for decision, hearing closed.

64-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Moshe Dov Stern & Goldie Stern, owners.

SUBJECT – Application April 29, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1320 East 23rd Street, west side of East 23rd Street between Avenue M and Avenue N, Block 7658, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to February 24, 2015, at 10 A.M., for continued hearing.

91-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for 3428 Bedford LLC by Jeffrey Mehl, owner.

SUBJECT – Application May 2, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-141) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 3420 Bedford Avenue, southwest corner of Bedford Avenue and Avenue M, Block 7660, Lot (tentative) 45, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for continued hearing.

117-14-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Trinity Episcopal School Corporation, owner; Trinity Housing Comp. Inc., lessee.

MINUTES

SUBJECT – Application June 3, 2014 – Variance (§72-21) to permit the enlargement of a school (*Trinity School*), including construction of a 2-story building addition with rooftop turf field, contrary to required rear yard equivalents, lot coverage, height and setback, and minimum distances between buildings. Split zoning lot within R7-2 and C1-9 zoning districts.

PREMISES AFFECTED – 101 W 91st Street, 121 & 139 W 91st St and 114-124 W 92nd St, bounded by West 91st and 92nd street and Amsterdam and Columbus Avenues, Block 1222, Lot(s) 17, 29, 40, 9029, Borough of Manhattan.

COMMUNITY BOARD # 7M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for decision, hearing closed.

185-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Roza 14 WLLC, owner; 14 Wall Day Spa LLC, lessee.

SUBJECT – Application August 6, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*The Vault Spa*) on the cellar and sub-cellar floor of the existing building at the premises, which is located in a C5-5 zoning district.

PREMISES AFFECTED – 14 Wall Street, north side of Wall Street with frontage on Nassau Street and Pine Street, Block 46, Lot 9, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for deferred decision.

285-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 84 McLaughlin Street, Block 0341, Lot 20049. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for continued hearing.

286-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane

Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 20 Orlando Street, Block 0340, Lot 30016. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for continued hearing.

288-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 131 Cedar Grove Avenue, Block 0408, Lot 70002. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for continued hearing.

297-14-BZ & 298-14-A

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 6 Topping Street, between Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 50042 Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for continued hearing.

299-14-BZ & 300-14-A

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 28 Topping Street, between Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 50043. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for continued hearing.

MINUTES

307-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 540 Hunter Avenue, Block 0379, Lot 60024 Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for continued hearing.

308-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 179 Kiswick Street, Block 50042, Lot 60024 Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for continued hearing.

310-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 297 Colony Avenue, Block 0381, Lot 40032, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for continued hearing.

312-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 65 Hempstead Avenue, Block 0381, Lot 00008, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February

3, 2015, at 10 A.M., for continued hearing.

REGULAR MEETING

TUESDAY AFTERNOON, JANUARY 13, 2015

1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

169-14-BZ

APPLICANT – Simons & Wright LLC, for Midyan Gate Reality No. 3 LLC., owner.

SUBJECT – Application July 21, 2014 – Special Permit (§73-19) to allow a pre-school and child care services (Use Group 3) (*Inner Force Y*) within the existing building. M1-1 Ocean Parkway Special Zoning District.

PREMISES AFFECTED – 325 Avenue Y, southwest corner of Avenue Y between Shell Road and West 3rd Street, Block 7192, Lot 46, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to February 24, 2015, at 10 A.M., for continued hearing.

203-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 16 West 8th LLC, owner; 305 Fitness, lessee.

SUBJECT – Application August 25, 2014 – Special Permit §73-36 to permit a physical culture establishment (*305 Fitness*) within portions of an existing commercial building. C4-5 zoning district.

PREMISES AFFECTED – 18 West 8th Street, South side of West 8th Street, 97.2 feet east of intersection of West 8th Street and MacDougal Street. Block 551, Lot 23. Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

BULLETIN

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February 4, 2015

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Friday, January 30, 2015**

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DOCKETS

New Case Filed Up to January 30, 2015

7-15-BZY

180 Orchard Street, Bounded by Orchard E. Houston, Ludlow and Stanton St., through lo located approx.220 feet E. Houston, Block 412, Lot(s) 5, Borough of **Manhattan, Community Board: 3**. BZY Minor Development: (§11-332) to extend the time of construction for a minor development for a period of six months. C4-4A district.

8-15-A

180 Orchard Street, Bounded by Orchard, E. Houston, Ludlow and Stanton Streets. Property is a through lot located approx. 220 feet from E. Houston Street, Block 00412, Lot(s) 0005, Borough of **Manhattan, Community Board: 3**. Application for a determination of common law vested rights. Building permit was obtained in 2005 and development was vested at date of Lower East Side rezoning in 2008. C4-4A district.

9-15-BZ

55 Amsterdam Avenue, Southeast corner of Amsterdam Avenue and West 62nd Street, Block 1132, Lot(s) 35, Borough of **Manhattan, Community Board: 7**. Special Permit (§73-36) to allow for a physical culture establishment (PCE)BOD) at the building on a portion of the ground floor and cellar of a new 54-story mixed use residential building, located within an C4-7 Special Lincoln Square District. C4-7(SLSD) district.

10-15-BZ

148 Lafayette Street, Corner lot bounded by Howard Street to the south and Lafayette Street to the East., Block 233, Lot(s) 26, Borough of **Manhattan, Community Board: 2**. Special Permit (§73-36) to allow a physical culture establishment(pce) in the cellar and ground floor of the premises, located within an M1-5B zoning district. M1-5B district.

11-15-BZ

155 Dover, Dover Street, between Hampton Avenue and Oriental Boulevard, Block 8736, Lot(s) 44, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to permit an enlargement of one family home, seek to waive the floor area, lot coverage, rear yard and open space requirements, located within an R3-1 zoning district. R3-1 district.

12-15-A

53 Prospect Place, Northerly side of prospect Place476.88 ft. from the corner formed by the intersection of the Westerly side of Amboy Road, Block 4306, Lot(s) 27, Borough of **Staten Island, Community Board: 3**. GCL 36: to issue a permit for construction of one family detached dwelling and to get Certificate Occupancy for to complete construction, that the street giving access to not official map street, contrary to General City Law 36 Article 3 of the General City Law. R3X district.

13-15-A

57 Prospect Place, formed by the intersection of the Northerly side of Prospect and the Westerly side of Amboy Road, Block 4306, Lot(s) 28, Borough of **Staten Island, Community Board: 3**. GCL 36 Waiver : proposed construction of a one family detached single family dwelling and to get a Certificate of Occupancy upon completion of construction and the building located on an unmapped street, contrary to Article 3 of the General City Law. R3X district.

14-15-BZ

1560 Westchester Avenue, Located at the southeast corner of Ward Avenue and Westchester Avenue, Block 3742, Lot(s) 40, Borough of **Bronx, Community Board: 9**. Special Permit (§73-36) to allow the operation of a physical culture establishment (fitness center) within an existing building to be enlarged, located within an C4-2 zoning district. C4-2 district.

15-15-BZ

1160 Ward Avenue, Located at the southeast corner of Ward Avenue and Westchester Avenue, Block 3742, Lot(s) 38, Borough of **Bronx, Community Board: 9**. Special Permit (§73-36) to allow the operation of a physical culture establishment (fitness center) within the new building at the premises, located within the C4-2 zoning district. C4-2 district.

16-15-A

233-235 Water Street, Located east of the intersection of Water Street and Beekman Street, Block 97, Lot(s) 49, Borough of **Manhattan, Community Board: 1**. BCG304 to permit the redevelopment of the existing building , the Blue School, a new middle school, located within an C6-2 zoning district.at the premises within a flood hazard area contrary C6-2A district.

DOCKETS

17-15-BZ

133 Beach 5th Street, Beach 5th Street through to Beach 6th Street between Sea Girt Avenue and Rockaway Beach, Block 15609, Lot(s) Tent 40, Borough of **Queens, Community Board: 14.** Variance (72-21) to allow the construction of a four story residential building at the premises, located within an R4A zoning district. R4A district.

18-15-BZ

90 5th Avenue, Northwest corner of West 14th Street & Fifth Avenue, Block 816, Lot(s) 37, Borough of **Manhattan, Community Board: 5.** Special Permit(73-36) to allow for a PCE special permit on 10th & 11th floors of an 11- story commercial building, located within an C6-4M zoning district. C6-4M district.

19-15-BZ

92-77 Queens boulevard, Through-block site with frontage on Queens boulevard and 93 Street, between 62 Avenue and Hharding Expressway, Block 2075, Lot(s) 39, Borough of **Queens, Community Board: 6.** Special Permit (73-36) to allow for physical culture establishment to be located at second-story level (plus entrance at ground-floor level) of a new two-story building, located within an R7-1/C@-2 zoning district. R7-1C2-2 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

FEBRUARY 10, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, February 10, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

25-57-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 221-016 Merrick Blvd. Associates, LLC, owner.

SUBJECT – Application July 31, 2014 – Amendment (§11-413) to permit a change in use (UG 6 retail use) of an existing commercial building in conjunction with alteration of an existing commercial building, demolition of three existing commercial buildings and construction of a new commercial building located within a C2-3 and R3A zoning district.

PREMISES AFFECTED – 221-18 Merrick Blvd, southwest corner of intersection of Merrick Blvd. and 221st Street, Block 13100, Lot(s) 22 & 26, Borough of Queens.

COMMUNITY BOARD #13Q

APPEALS CALENDAR

140-14-A

APPLICANT – Eric Palatnik, P.C., for 1016 East 13th Realty, LLC, owner.

SUBJECT – Application June 16, 2014 – Appeal seeking a determination that the owner has acquires a common law vested rights to complete construction under the prior C4-3A/R6 zoning district. R5 zoning district

PREMISES AFFECTED – 1016 East 16th 13th Street, Block 6714, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #14BK

153-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Rabbi Jacob Joseph School, owner.

SUBJECT – Application July 1, 2014 – Proposed construction of a community facility building school located partially within the bed of a unbuild mapped street pursuant to Article 3 Section 35 of the General City Law and waive of bulk regulations under ZR Section 72-01-(g). R3-2 Zoning district.

PREMISES AFFECTED – 200 Cambridge Avenue, 114.71' north of intersection on of Auburn Avenue and Cambridge Avenue, Block 1511, Lot 210, Borough of Staten Island.

COMMUNITY BOARD #

FEBRUARY 10, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, February 10, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

186-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Bond Street Owner, LLC, owners.

SUBJECT – Application August 15, 2014 – Variance (§72-21) to permit the construction of a new hotel building with ground floor retail contrary to allowable commercial floor area (ZR 33-122) located within C6-1/R6B District in the Downtown Brooklyn Special District.

PREMISES AFFECTED – 51-63 Bond Street aka 252-270 Schermerhorn Street, southeast corner of Bond Street and Schermerhorn Street, Block 172, Lot(s) 5, 7, 10, 13, 14, 15, 109, Borough of Brooklyn.

COMMUNITY BOARD #2BK

238-14-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for DDG 100 Franklin, LLC., owner.

SUBJECT – Application October 1, 2014 – Variance (§72-21) to permit the construction of two mixed residential and commercial buildings on a single zoning lot contrary to §§35-21 & 23-145 (Lot Coverage), 35-24c (Height and setback), 35-52 and 33-23 (minimum width of open area along a side lot line and permitted obstruction regulations), 35-24b (Street wall location). C6-2A Zoning District, Historic District.

PREMISES AFFECTED – 98-100 Franklin Street, Bounded by Avenue of the Americas, Franklin and White Streets, West Broadway, Block 00178, Lot 0029, Borough of Manhattan.

COMMUNITY BOARD #1M

249-14-BZ

APPLICANT – Akerman LLP, for Sam Shalem, owner; Capital fitness-"Bay Plaza LLC, lessee.

SUBJECT – Application October 15, 2014 – Special Permit (§73-36) to obtain a special permit to operate a physical culture establishment (*X Sport Fitness*) within an existing commercial building. (C4-3) zoning district.

PREMISES AFFECTED – 200 Baychester Avenue, Hutchinson River Parkway and Baychester Avenue, Block 5141, Lot 6, Borough of Bronx.

COMMUNITY BOARD #10BX

Ryan Singer, Executive Director

MINUTES

**REGULAR MEETING
FRIDAY MORNING, JANUARY 30, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

717-28-BZ

APPLICANT – Fried Frank Harris Shriver and Jacobson LLP, for Allan's Garage LLC, owner.

SUBJECT – Application August 26, 2014 – Amendment (§11-413) of a previously approved variance which permitted the operation of a public parking facility. The amendment seeks to permit a reduction in size of an existing 515 parking space facility to allowed a 143 space parking facility to be included in an as-of-right residential development. C2-8A zoning district.

PREMISES AFFECTED – 152-58 East 87th Street, south side of East 87th Street, 35.17' east of the corner formed by the intersection of East 87th Street and Lexington Avenue, Block 1515, Lot(s) 46, 45, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a variance to allow the reduction in height and commercial floor area of an existing public parking garage (Use Group 8) and an as-of-right residential enlargement atop the remaining portion of the garage; and

WHEREAS, a public hearing was held on this application on January 13, 2015, after due notice by publication in the *City Record*, and then to decision on January 30, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Ottley-Brown; and

WHEREAS, Community Board 8, Manhattan, recommends approval of the application; and

WHEREAS, the subject site is located on the south side of East 87th Street, between Lexington Avenue and Third Avenue, partially within a C2-8 zoning district and partially within a C5-1A zoning district; and

WHEREAS, the site comprises Tax Lots 45 and 46; it has approximately 155 feet of frontage along East 87th Street and 15,588 sq. ft. of lot area; and

WHEREAS, Lot 46 is occupied by a six-story public parking garage (Use Group 8) with parking for 515 automobiles (the “Garage Building”), and Lot 45 is occupied

by a nine-story commercial building (the “Adjoining Building”), which is operated as a hotel (Use Group 5); the applicant states that the site has a total commercial floor area of approximately 88,162 sq. ft. (5.66 FAR); and

WHEREAS, the site has been subject to the Board’s jurisdiction since February 8, 1929, when, under the subject calendar number, the Board permitted the construction of the Garage Building (then referred to as “a garage for more than five motor vehicles”) within a business use district, contrary to the use regulations of the 1916 Zoning Resolution; and

WHEREAS, the grant has been amended at various times to permit the enlargement of the Garage Building and the construction of the Adjoining Building; and

WHEREAS, the applicant states that the site is non-complying with respect to commercial FAR and rear yard requirements and non-conforming with respect to the Use Group 8 parking use; and

WHEREAS, the applicant now proposes to reduce the parking garage in height from six stories to three stories, reduce the number of parking spaces within the garage from 515 to 150, and construct an additional 16 stories of residential (Use Group 2) atop the remaining garage in the C5-1A portion of the site and an additional 14 stories of residential (Use Group 2) atop the remaining garage in the C2-8 portion of the site; the applicant notes that approximately 62 dwelling units will be constructed under the proposal; and

WHEREAS, the applicant states that the enlargement will comply in all respects with the applicable underlying residential bulk regulations and result in a decrease in the degree of non-compliance with respect to commercial floor area; specifically, although the total floor area of the site will increase from 88,162 sq. ft. (5.66 FAR) to 155,501 sq. ft. (9.98 FAR), the commercial floor area will be reduced from 88,162 sq. ft. (5.66 FAR) to 36,147 sq. ft. (2.32 FAR) (20,236 sq. ft. of Use Group 8 and 15,911 sq. ft. of Use Group 5); and

WHEREAS, in addition, the applicant notes that the proposal reflects significant changes to the site and the existing building to better compliment the residential context that has developed since the site was developed in the 1930s, including: (1) a reduction in the number of curb cuts from five to one; (2) plantings and street trees along East 87th Street; and (3) the installation of a new façade, including additional fenestration, that both respects the historic distinctive features of the Garage Building and is compatible with surrounding buildings; and

WHEREAS, finally, the applicant states that the proposal is consistent with the use and bulk of the neighborhood, which the applicant describes as predominantly high-density residential, with commercial uses on the lower floors; the applicant also notes that there are three public parking garages within two blocks of the site; and

WHEREAS, pursuant to ZR § 11-412, the Board may permit enlargement of a building subject to a use variance issued prior to December 15, 1961, provided that such enlargement is limited to the zoning lot that was granted such variance and provided that the floor area for the use authorized under the grant is not enlarged by greater than 50

MINUTES

percent of the floor area occupied by such use as of December 15, 1961; and

WHEREAS, the applicant states, as noted above, that the proposal both reduces the amount of floor area devoted to the Use Group 8 use authorized under the grant and complies in all respects with the applicable bulk regulations; and

WHEREAS, at hearing, the Board directed the applicant to provide additional information regarding the operation of the garage; and

WHEREAS, in response, the applicant represents that the proposed garage would comply with all Department of Buildings (“DOB”) requirements for a public parking garage, including the permitted configuration and number of spaces; the applicant notes that the garage will have attendants and nine reservoir spaces and will utilize approximately 45 parking stackers, subject to the final approval of DOB; and

WHEREAS, based on the foregoing, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 11-412.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated February 8, 1929, to permit the noted reduction in height and commercial floor area and residential enlargement atop the remaining portion of the garage; *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked ‘Received December 4, 2014’ - three (3) sheets and ‘January 20, 2015’ - two (2) sheets; and *on further condition*:

THAT the commercial floor area at the site shall not exceed 36,147 sq. ft.;

THAT DOB shall review and approve the configuration of the parking, including the use of stackers;

THAT all DOB/other agency applications related to this grant shall be signed off by January 30, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 30, 2015.

195-02-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for McDonald's Real Estate Company, owner; Lauren Enterprises, lessee.

SUBJECT – Application December 2, 2013 – Extension of Term of a previously approved Variance (§72-21) permitting an eating and drinking establishment with an accessory drive through facility with a legalization of a small

addition to the establishment, which expired on February 11, 2013; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 2797 Linden Boulevard, between Drew and Ruby Streets, Block 4471, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #5BK

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

76-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Alexander and Inessa Ostrovsky, owners.

SUBJECT – Application April 25, 2014 – Amendment to modify the previously granted special permit (§73-622) for the enlargement of an existing single-family detached residence. R3-1 zoning district.

PREMISES AFFECTED – 148 Norfolk Street, west side of Norfolk Street between Oriental Boulevard and Shore Boulevard, Block 8756, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

665-39-A & 107-14-A

APPLICANT – Jesse Masyr, Esq./Fox Rothschild, for City Club Realty, LLC., owner.

SUBJECT – Application May 22, 2014 – Amendment to a previously approved waiver of a non-complying exit stair; and an Appeal filed pursuant to MDL Section 310(2)(a) proposed an addition to the existing building which will require a waiver of MDL Section 26(7) pursuant to Section 310. C6.45 SPD zoning district.

PREMISES AFFECTED – 55-57 West 44th Street, between 5th Avenue and Avenue of the Americas, Block 1260, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 5, 2014, acting on DOB Application No. 121328198 reads, in pertinent part:

The proposed enlargement increases the degree of non-compliance of the existing inner courts, contrary to MDL Section 26(7), contrary to MDL 30; and

WHEREAS, this is an application pursuant to Multiple Dwelling Law (“MDL”) § 310, to vary court requirements to

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permit a nine-story enlargement to an existing transient hotel (Use Group 5), contrary to the court requirements of MDL § 26(7); in addition, this application seeks a reopening and certain amendments to BSA Cal. No. 665-39-A; and

WHEREAS, a public hearing was held on this application on November 25, 2014, after due notice by publication in *The City Record*, with a continued hearing on January 6, 2015, and then to decision on January 30, 2015; and

WHEREAS, the site and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, the subject site is located on the north side of West 44th Street, between Fifth Avenue and Avenue of the Americas, within a C6-4.5 zoning district within the Special Midtown District; and

WHEREAS, the site is an interior lot with approximately 45 feet of frontage along West 44th Street and 4,502 sq. ft. of lot area; and

WHEREAS, the site is occupied by a nine-story commercial building (the "Building"), which was constructed in 1902 as a social club with guest rooms and is currently occupied as a hotel (Use Group 5) with an eating and drinking establishment (Use Group 6) on the first story; the Building has approximately 32,092 sq. ft. of floor area (7.12 FAR) and 65 hotel rooms; and

WHEREAS, the site has been subject to the Board's jurisdiction since May 31, 1939, when under BSA Cal. No. 665-39-A, the Board waived certain Building Code provisions in connection with a conversion of the first, fourth, fifth, sixth, and seventh stories and the penthouse from guest rooms to offices; the Board included the following conditions with its grant: (1) that the Building's height would not be increased; (2) that two stairways with fireproof partitions would be provided from the roof to the street; (3) that the existing eastern rear stair would be a minimum of 2'-10" in width; and (4) that at least one fire escape had an exit in the rear yard of the adjoining property; and

WHEREAS, the Board has adopted two minor amendments to the 1939 grant; on September 26, 1939, the Board modified the grant to allow the social club use on the seventh floor; on January 30, 1940, the Board amended to grant to clarify the height of the Building; and

WHEREAS, the applicant states that, in or about 1999, the Building was converted back to predominantly hotel use; in connection with this conversion, the third story was divided into two stories, and the penthouse was enlarged and reclassified as the ninth story; and

WHEREAS, the Board notes and the applicant acknowledges that the Board's authorization for the 1999 conversion was required but never obtained; however, DOB did authorize the conversion and issued a final certificate of occupancy for the Building on September 18, 2012; and

WHEREAS, the site includes two inner courts beginning at the second story, one along the western lot line and the other along the eastern lot line (the "Courts"); the Courts each

have an area of approximately 76 sq. ft., a height of approximately 82'-0" and minimum widths that vary from 8'-0" to 10'-0"; the applicant notes that 16 existing hotel rooms rely on the Courts for light and ventilation; and

WHEREAS, the applicant proposes to enlarge the Building by nine stories, resulting in a total building height of 192'-5", an increase in floor area from 32,092 sq. ft. (7.12 FAR) to 54,024 sq. ft. (12.0 FAR), and the addition of 61 hotel rooms; and

WHEREAS, with respect to stories two through nine, the applicant proposes to maintain the Courts at their existing dimensions; with respect to stories 10 through 18, the applicant proposes to increase the size of the Courts, from approximately 76 sq. ft. to approximately 126 sq. ft. (9'-0" by 14'-0") on the east side of the Building and approximately 153 sq. ft. (9'-0" by 17'-0") on the west side; and

WHEREAS, the applicant states that the 16 existing hotel rooms that currently rely on the Courts for light and ventilation will continue to rely on the Courts for required light and ventilation after the Building is enlarged; however, none of the 61 hotel rooms in the proposed enlargement will rely on the Courts; instead, the new rooms will receive required light and ventilation from the West 44th Street side of the Building or from the required rear yard; and

WHEREAS, the Board notes that pursuant to MDL § 4(9), transient hotels are considered Class B multiple dwellings; therefore, the proposed hotel use must comply with the relevant provisions of the MDL; and

WHEREAS, pursuant to MDL § 4(32), the Courts are considered "inner courts"; and

WHEREAS, MDL § 26(7) states that, except as otherwise provided in the Zoning Resolution, (1) an inner court shall have a minimum width of four inches for each one foot of height of such court, but in no event less than 15 feet in width at any point; and (2) the area of such inner court shall be twice the square of the required width of the court and a minimum of 350 sq. ft. but need not exceed 1,200 sq. ft.; the applicant notes that the Zoning Resolution does not provide any standards for courts that serve transient hotels; and

WHEREAS, thus, based on the existing height of the Courts (82'-0"), per MDL § 26(7), the Courts are required to have minimum widths of 27'-4" and minimum areas of 1,200 sq. ft. (82'-0" x 0'-4" = 27'-4"; thus, 27'-4" x 27'-4" x 2 = 1,494 sq. ft. > 1,200 sq. ft.); as noted above, each of the Courts has an area of approximately 76 sq. ft.; and

WHEREAS, the applicant states that the Courts in the proposed enlargement will have minimum widths of 9'-0", heights of 179'-0", and an areas of 126 sq. ft. (eastern) and 153 sq. ft. (western); thus, based on the proposed height of the Courts (179'-0"), per MDL § 26(7), the enlarged Courts are required to have minimum widths of 53'-8" and, again, minimum areas of 1,200 sq. ft. (179'-0" x 0'-4" = 53'-8"; thus, 53'-8" x 53'-8" x 2 = 5,767 sq. ft. > 1,200 sq. ft.); and

WHEREAS, to summarize, the proposed portion of the Courts, though larger in area than the existing portion, increases the existing degree of non-compliance with respect to MDL § 26(7) *vis à vis* the 16 existing hotel rooms with

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legally-required windows opening upon the Courts; however, no new non-compliance with respect to the enlarged portion of the Courts is created, because the proposed hotel rooms in the enlarged portion of the building do not rely on the Courts for required light and ventilation; and

WHEREAS, accordingly, the applicant requests that the Board invoke its authority under MDL § 310 to permit the proposed enlargement contrary to MDL § 26(7); and

WHEREAS, pursuant to MDL § 310(2)(a), the Board has the authority to vary or modify certain provisions of the MDL for multiple dwellings that existed on July 1, 1948, provided that the Board determines that strict compliance with such provisions would cause practical difficulties or unnecessary hardships, and that the spirit and intent of the MDL are maintained, public health, safety and welfare are preserved, and substantial justice is done; and

WHEREAS, as noted above, the Building was constructed in 1902; therefore the building is subject to MDL § 310(2)(a); and

WHEREAS, specifically, MDL § 310(2)(a) empowers the Board to vary or modify provisions or requirements related to: (1) height and bulk; (2) required open spaces; (3) minimum dimensions of yards or courts; (4) means of egress; and (5) basements and cellars in tenements converted to dwellings; and

WHEREAS, the Board notes that MDL § 26(7) specifically relates to the minimum dimensions of courts; therefore, the Board has the power to vary or modify the subject provisions pursuant to MDL § 310(2)(a)(3); and

WHEREAS, turning to the findings under MDL § 310(2)(a), the applicant asserts that practical difficulty and unnecessary hardship would result from strict compliance with the MDL; and

WHEREAS, in support of this assertion, the applicant submitted a comparison between the proposal and the enlargement of the Building in accordance with the MDL; and

WHEREAS, the applicant asserts that owing to the narrow width of the site (approximately 45 feet), the locations and dimensions of the Courts, and the minimum dimensional requirements of MDL § 26(7) (two courts with minimum areas of 1,200 sq. ft.), an MDL-compliant enlargement would be predominantly dedicated to the inner court space and would yield narrow, inefficient floorplates that would be wholly unsuitable for hotel rooms; accordingly, the applicant's complying scenario is a nine-story enlargement that provides a rear yard above the Courts; and

WHEREAS, the applicant states that the complying enlargement would be slender, shallow, and inefficient, with nearly half of the enlargement's floorplate devoted to elevator shafts and stairwells; as such, the complying building accommodates only two or three hotel rooms per story, for a total of 26 additional hotel rooms – significantly less than the 61 additional rooms reflected in the proposal; and

WHEREAS, further, the applicant represents that the complying enlargement would cost \$471,211 per hotel room, for a total cost of \$12,251,476; in comparison, the proposal would cost \$264,909 per hotel room, for a total cost of

\$16,159,421; therefore, the complying enlargement would have 57 percent fewer hotel rooms but cost only 24 percent less to develop; and

WHEREAS, the applicant also notes that it will be more expensive to finance the complying enlargement than the proposal, which will result in a significantly diminished return on investment; likewise, absent the requested waiver, a substantial portion of the site's development rights will not be utilized; and

WHEREAS, based on the above, the Board agrees that the applicant has established a sufficient level of practical difficulty and unnecessary hardship in complying with the requirements of the MDL; and

WHEREAS, the applicant states that the requested variance of MDL § 26(7) is consistent with the spirit and intent of the MDL, and will preserve public health, safety and welfare, and substantial justice; and

WHEREAS, specifically, the applicant states that the primary intent of MDL § 26(7) is to ensure that rooms within multiple dwellings have adequate light and ventilation; and

WHEREAS, the applicant notes that only 16 of the 65 existing hotel rooms have legally-required windows opening upon the Courts and that none of the 61 proposed hotel rooms will have windows opening upon the Courts; as such, the majority of hotel guests will have legally-required windows in accordance with the MDL; and

WHEREAS, the applicant states that the proposed enlargement has been specifically designed to allow for the Courts on the new stories to exceed the sizes of the existing non-complying Courts, in order to preserve the amount of light and ventilation currently provided to the 16 rooms opening upon the Courts; specifically, the western Court in the enlargement will be 100 percent larger than the existing western Court and the eastern Court will be 80 percent larger than the existing eastern Court; and

WHEREAS, the applicant also states that in order to further mitigate the effects of the deficient sizes of the Courts, it will: (1) paint the new and existing inner courts white to increase ambient light; (2) provide mechanical ventilation (HVAC units) to the rooms relying solely on the Courts for light and ventilation; and (3) install LED lighting in the existing portion of the Courts; such lighting will operate during daylight hours and provide an average of 12 foot candles of light per story, which the applicant notes is 12 times the amount of light required for a court under the building code; and

WHEREAS, the applicant notes that the Courts align with the inner courts at adjacent hotels—the Algonquin Hotel to the west and the Iroquois Hotel to the east—which further expands the perceived sizes of the Courts and their ability to admit natural light and ventilation; and

WHEREAS, finally, the applicant contends that because the Building is used as a transient hotel, it is used by visitors to New York City, who are unlikely to spend a substantial portion of daylight hours in their rooms; and

WHEREAS, at hearing, the Board directed the applicant to: (1) clarify the location and number of required ADA-

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accessible rooms in the enlarged portion of the Building; and (2) discuss why the double-height sky lobby at the 17th story cannot be used for hotel rooms; and

WHEREAS, in response, the applicant clarified the location and required number of accessible rooms within the Building and demonstrated their effect on the sizes and configurations of the Courts; and

WHEREAS, as to the sky lobby, the applicant explained that because the first story of the Building includes an eating and drinking establishment, the lobby at the first story is minimally-sized and lacks seating and other guest amenities; thus, additional lobby space is necessary for the hotel; the applicant contends that the 17th story is ideal, because at that height, the building is comparatively shallow and unsuitable for hotel rooms but sufficiently-sized and arranged for a lobby; and

WHEREAS, based on the above, the Board finds that the proposed modifications to the court requirements of MDL § 26(7) will maintain the spirit and intent of the MDL, preserve public health, safety and welfare, and ensure that substantial justice is done; and

WHEREAS, accordingly, the Board finds that the applicant has submitted adequate evidence in support of the findings required to be made under MDL § 310(2)(a) and that the requested modification of the court requirements of MDL § 26(7) is appropriate, with certain conditions set forth below; and

WHEREAS, turning to the Building Code variances authorized under BSA Cal. No. 665-39-A, the applicant seeks to amend the grant to: (1) reflect the 1999 conversion back to predominantly hotel use and the proposed enlargement; (2) eliminate the fire tower and fire escape requirements; (3) eliminate the condition regarding the maximum height of the Building; and (4) maintain the Building Code variance with respect to the eastern rear stair, which, as noted above is 2'-10", which is 0'-2" less than the minimum required for the proposed occupancy under 1968 Building Code § 27-375(b)(1); and

WHEREAS, the Board notes that it has authority to vary the requirements of the Building Code under Charter § 666(6) and that the Board may grant a modification of the Building Code pursuant to Charter § 666(7), if it finds that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the law and that the alternative to strict compliance is within the spirit of the law, secures public safety, and does substantial justice; and

WHEREAS, the Board also notes that it has authority to permit amendments to existing grants, provided that the original findings are either not disturbed or can be made anew; and

WHEREAS, the applicant asserts that the requested amendments are appropriate because they reflect an overall decrease in the degree of non-compliance with the applicable provisions of the 1968 Building Code, which governed the 1999 conversion and continue to apply to the proposal; and

WHEREAS, specifically, the applicant states that the 1968 Building Code requires neither a fire tower, nor a fire

escape for the Building as proposed; and

WHEREAS, in addition, the applicant contends that the sole building code variance remaining (which allows the 0'-2" deficiency in the width of the eastern rear stair) is necessary to maintain an existing condition that has existed unaltered since 1901; and

WHEREAS, the applicant asserts that the following are practical difficulties in widening the existing stair to comply with 1968 Building Code § 27-375(b)(1): (1) widening the stair would require reconfiguration of the existing hotel floorplates and would result in the loss of rooms; and (2) the existing hotel at the site would have to limit occupancy of the rooms on multiple stories during reconstruction of the deficient stair, resulting in significant lost revenue; and

WHEREAS, the Board agrees with the applicant that, as in 1939, there are practical difficulties in widening the existing stair; and

WHEREAS, the applicant contends that the proposal is within the spirit of the law; and

WHEREAS, the applicant states that minimum stair width requirements of the code exist to ensure that stairs can accommodate the anticipated occupant loads of the floors they serve; the applicant notes that the width and capacity of an exit stair is based upon the occupant load of each floor rather than the occupant load of the cumulative floors, because it is assumed that the lower floor occupants will have left the stairs when the upper floor occupants require them; and

WHEREAS, the applicant represents that the occupant loads per floor in the enlarged portion of the Building will actually be lower than those in the existing portion of the Building; thus, notwithstanding that the Building is being enlarged, there is effectively no increase in the number of persons who must use the deficient stair to exit the Building; and

WHEREAS, the applicant also notes that aside from the 0'-2" deficiency in the existing portion of the Building, the Building will fully comply with the egress requirements of the 1968 Building Code; and

WHEREAS, the Board agrees with the applicant that the proposal does not conflict with the spirit of the law; and

WHEREAS, as to public safety, the applicant states that the proposed enlargement of the Building will be accompanied by numerous fire and life safety systems upgrades, including a fire alarm system that complies with the 2014 Building Code, a new auxiliary radio communication system, and a modified and expanded smoke purge system; and

WHEREAS, the applicant adds that the mechanical, electrical, and plumbing systems in the enlargement will comply with the 2014 Building Code and that the enlargement will be non-combustible, two-hour fire-rated construction; in addition, the entire Building will be protected with sprinklers; and

WHEREAS, the Board agrees that the proposal includes sufficient improved measures and will not compromise public safety; and

WHEREAS, as to substantial justice, the applicant

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contends and the Board agrees that allowing the continued use of a deficient stair that was previously authorized by the Board and does not impact the safety of the occupants of the Building does substantial justice; and

Therefore it is Resolved, that Board of Standards and Appeals *modifies* the decision of the Department of Buildings, dated May 5, 2014, and *grants* this application, limited to the decision noted above, and *reopens* and *amends* BSA Cal. No. 665-39-A, having been adopted on May 31, 1939, so that as amended this portion of the resolution shall read: “to permit the enlargement and conversion of the Building to hotel use, to eliminate the fire tower and fire escape requirements, as well as the condition regarding the maximum height of the Building, and to allow continued use of the eastern rear stair at a minimum width of 2’-10”, contrary to 1968 Building Code § 27-375(b)(1), *on condition* construction shall substantially conform to the plans filed with the application marked, ‘Received January 23, 2015’ – twenty-two sheets (22) sheets”; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB objections related to the MDL;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 30, 2015.

110-14-A thru 112-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for WRR Realty Corp., owner.

SUBJECT – Application May 29, 2014 – Proposed construction of buildings that does not front a legally mapped street, pursuant the Article 3, Section 36 of the General City Law. R3A zoning district.

PREMISES AFFECTED – 115, 109, 105 Roswell Avenue, north side of Roswell Avenue, 149.72 feet east of Wild Avenue, Block 2642, Lot 88, 91, 92, Borough Staten Island

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decisions of the Department of Buildings (“DOB”) dated April 28, 2014, acting on DOB Application Nos. 520192185, 520192238, 520192247, read in pertinent part:

The street giving access to the proposed building is not duly placed the official map of the City of New York, therefore,

A) No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 of the General City Law;

B) Proposed construction does not have at least 8% of the total perimeter of building fronting directly upon a legally mapped street or frontage space contrary to section 502.1 of the 2008 NYC Building Code; and

WHEREAS, this is an application to allow the construction of three two-story, single-family dwellings which do not front on a mapped street, contrary to General City Law (“GCL”) § 36; and

WHEREAS, a public hearing was held on this application on January 13, 2015, after due notice by publication in *The City Record*, and then to decision on January 30, 2015; and

WHEREAS, Commissioner Montanez performed an inspection of the site, premises, surrounding area and neighborhood; and

WHEREAS, the subject site is located north side of Roswell Avenue, within an R3A zoning district; and

WHEREAS, Roswell Avenue is an unmapped access road that is paved and improved to a width of 50 feet; Roswell Avenue provides two-way access between Wild Avenue to the west and Dean Avenue to the east; and

WHEREAS, the applicant proposes to construct on the site three two-story, single-family dwellings, each with approximately 1,423 sq. ft. (0.58 FAR); and

WHEREAS, by letter dated January 16, 2015, the Fire Department states that it has no objection to the proposal provided that the proposed buildings are sprinklered throughout in compliance with the NYC Fire Code and the NYC City Building Code; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant approval of the application, subject to certain conditions set forth herein.

Therefore it is Resolved, that the decisions of the DOB, dated April 28, 2014, are modified by the power vested in the Board by Section 36 of the General City Law, and that these appeals are granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received November 18, 2014”-(1) sheet; that the proposal will comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval shall be limited to the relief granted by the Board in response to objections cited by DOB;

THAT dwellings shall be fully-sprinklered in compliance with the NYC Fire Code and the NYC City Building Code; and

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its

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jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 30, 2015.

32-14-A

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Little Morrow LLC, owner.

SUBJECT – Application February 13, 2014 – Proposed construction of a retail/warehouse building located partially within the bed of a mapped street contrary to Article 3, Section 35 of the General City Law and waiver of bulk non-compliances under §72-01-(g). M-2-1 Zoning District. PREMISES AFFECTED – 2560 Forest Avenue, southwest corner of intersection of Forest Avenue and Elizabeth Grove Road, Block 1384, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for decision, hearing closed.

95-14-A

APPLICANT – Bernard Marson, for BBD & D Ink., owner. SUBJECT – Application May 5, 2014 – MDL 171 & 4.35 to allow for a partial one-story vertical enlargement (*Penthouse*) of the existing 3 story and basement building located on the site. Pursuant to the 310 MDL. R8 zoning district.

PREMISES AFFECTED – 237 East 72nd Street, north Side of East 72nd Street 192.6' West of 2nd Avenue, Block 1427, Lot 116, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

163-14-A thru 165-14-A

APPLICANT – Ponte Equities, for Ponte Equities, Ink, owner.

SUBJECT – Application July 10, 2014 – Appeal seeking waiver of Section G304.1.2 of the NYC Building Code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A zoning district. PREMISES AFFECTED – 502, 504, 506 Canal Street, Greenwich Street and Canal Street, Block 595, Lot 40, 39, 38, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

131-11-A thru 133-11-A

159-14-A thru 161-14-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Dalip Karpuzzi, Luizime Karpuzzi, owners.

SUBJECT – Application September 6, 2011 & July 7, 2014 - Proposed construction of three two story dwellings with parking garages located within the bed of a mapped street, contrary to General City Law Section 35. R3-1 zoning district.

PREMISES AFFECTED – 464, 468 Arthur Kill Road, 120 Pemberton Avenue, intersection of Arthur Kill Road and Giffords Lane, Block 5450, Lot 35, 36, 37, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

ZONING CALENDAR

186-13-BZ

APPLICANT – Harold Weinberg, P.E., for Apostollis Goutsios, owner.

SUBJECT – Application June 21, 2013 – Special Permit (§73-622) for an enlargement to an existing single family home, contrary to side yard regulations (ZR 23-461) of the zoning resolution. R5 (BR) zoning district.

PREMISES AFFECTED – 117 Gelston Avenue, east side 125'-13/8" south of 90th Street and 92nd Street, Block 6089, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #10BK

ACTION OF THE BOARD – Application granted on condition.

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated June 18, 2013, acting on DOB Application No. 320729984, reads in pertinent part:

1. Proposed north side yard in an R5B zone in the Bay Ridge Special Zoning District must be 8'-0" and is contrary to section 23-461 ZR.

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R5B zoning district, within the Bay Ridge Special Zoning District, the proposed enlargement of a single-family home which does not comply with the zoning requirements for side yards contrary to ZR §23-461; and

WHEREAS, a public hearing was held on this application on October 7, 2014, after due notice by publication in *The City Record*, with continued hearings on December 9, 2014 and January 13, 2015, and then to decision on January 30, 2015; and

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WHEREAS, Vice Chair Hinkson and Commissioners Montanez and Ottley-Brown performed an inspection of the subject premises and site, together with its surrounding area and neighborhood; and

WHEREAS, Community Board 10, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of Gelston Avenue, between 90th Street and 92nd Street, within an R58 zoning district, within the Special Bay Ridge District; and

WHEREAS, the site has approximately 25 feet of frontage along Gelston Avenue and approximately 2,904 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-family residence with 3,443 sq. ft. of floor area (1.2 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the building and increase its floor area from 3,443 sq. ft. (1.2 FAR) to 3,845 sq. ft. (1.3 FAR); the maximum permitted floor area is 3,925 sq. ft. (1.35 FAR); and

WHEREAS, the applicant seeks to maintain an existing side yard of 4'- 3" at the north of the building and of 0'-3" at the south of the building, notwithstanding that there exists fewer than 8' of open space between the subject building and the residential building to its south; the requirement is a single side yard with a minimum total width of 8'-0" and a total of 8' between buildings containing residential uses; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R5B zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for side yards contrary to ZR § 23-461; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "January 20, 2015"– (8) sheets; and *on further condition*:

THAT the applicant will maintain a side yard with a minimum width of 4'- 3" at the north of the building and a

side yard with a minimum width of 0'- 3" at the south of the building, as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

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

THAT substantial construction be completed in accordance with ZR § 73-70; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 30, 2015.

271-13-BZ

APPLICANT – Eric Palatnik, P.C., for Viktoriya Midyany, owner.

SUBJECT – Application September 17, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and lot coverage (§23-141); side yard (§23-461) and rear yard (§23-47) regulations. R3-1 zoning district.

PREMISES AFFECTED – 129 Norfolk Street, Norfolk Street, between Shore Boulevard and Oriental Boulevard, Block 8757, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings ("DOB"), dated September 16, 2013, acting on DOB Application No. 320765043, reads in pertinent part:

The proposed horizontal and vertical enlargement of the existing one-family residence in an R3-1 Zoning District:

1. Creates a new non-compliance with respect to Lot Coverage and is contrary to Section 23-141(b) ZR.
2. Creates a new non-compliance with respect to Floor Area and is contrary to Section 23-141(b) ZR.
3. Creates a new non-compliance with respect to the Rear Yard and is contrary to Section 23-47 ZR.
4. Increases the degree of non-compliance with respect to the side yard(s) and is contrary to Sections 23-461(a) ZR and 54-31 ZR.

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the

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proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on July 29, 2014, after due notice by publication in *The City Record*, with continued hearings on September 9, 2014, October 7, 2014, November 18, 2014, and January 6, 2015, and then to decision on January 30, 2015; and

WHEREAS, Chair Perlmutter, Vice Chair Hinkson and Commissioners Montanez and Ottley-Brown performed inspections of the subject premises and site, together with its surrounding area and neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of Norfolk Street, between Shore Boulevard and Oriental Boulevard, within an R3-1 zoning district; and

WHEREAS, the site has 25 feet of frontage along Norfolk Street and 2,500 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story, single-family home with 751 sq. ft. of floor area (0.30 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the single-family home by enlarging the first floor of the existing building and adding a second floor, thereby increasing the floor area of the building from 751 sq. ft. (0.30 FAR) to 2,579 sq. ft. (1.02 FAR) (the maximum permitted floor area is 1,500 sq. ft. (0.60 FAR)) and increasing the height of the building from 14'-5" to 32'-0"; and

WHEREAS, in order to comply with applicable flood regulations the applicant shall raise the building by removing the existing floor beams from the north and south walls thereof, increasing the height of the shelf upon which the existing floor currently rests using solid brick masonry and replacing the existing floor beams so that the first floor elevation will be increased from 6'-7" to 14'-10"; and

WHEREAS, upon raising the first floor of the building, the applicant will create a cellar at the subject premises, which shall stand upon a 6" concrete slab above 4" of gravel, and which shall have a height of 7'-10" and which shall be used for a single accessory parking space and for storage; and

WHEREAS, the applicant seeks to decrease the open space ratio from 70 percent to 52 percent; the minimum required open space ratio is 65 percent; and

WHEREAS, the applicant seeks to maintain an existing side yard width of 0'-11" and increase the width of a non-complying side yard from 0'-7" to 4'-3"; the general requirement is two side yards with a minimum total width of 13'-0" and a minimum width of 5'-0" each, however, as per ZR § 23-48, the minimum total width of 13'-0" is not required at the subject site; and

WHEREAS, the applicant also seeks to decrease its rear yard depth from 30'-2" to 20'-0"; a rear yard with a minimum depth of 30'-0" is required; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, the applicant asserts that the proposed lot 1.02 FAR and 2,579 sq. ft. of floor area is consistent with the bulk and lot area of one and two-family homes in the surrounding area; and

WHEREAS, in support of this assertion, the applicant provided evidence of ten one or two-family homes within 400' of the subject site with an FAR in excess of 1.10 and floor area in excess of 3,000 sq. ft.; and

WHEREAS, at hearing, the Board directed the applicant to narrow its analysis of neighborhood character to focus on the block on which the site is located, as such character is, in the subject area, block specific; and

WHEREAS, in response, the applicant identified one and two-family homes on the subject block which consist of two or more stories and provided a streetscape which included the proposed building; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "December 23, 2014"– (14) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 2,579 sq. ft. (1.02 FAR), a minimum open space of 52 percent, side yards with minimum widths of 4'-3" and 0'-11", and a minimum rear yard depth of 20'-0", as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

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

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THAT substantial construction be completed in accordance with ZR § 73-70; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 30, 2015.

38-14-BZ

APPLICANT – Eric Palatinik, P.C., for Yury Dreysler, owner.

SUBJECT – Application February 28, 2014 – Special Permit (§73-622) for the enlargement of single family home, contrary to floor area, lot coverage and open space (§23-141), side yard (§23-461) and less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 116 Oxford Street, between Shore boulevard and Oriental Boulevard, Block 8757, Lot 89, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated February 4, 2014, acting on DOB Application No. 320870063, reads in pertinent part:

1. Proposed floor area ratio is contrary to ZR 23-141(a).
2. Proposed open space contrary to ZR 23-141(a).
3. Proposed lot coverage is contrary to ZR 23-141(a).
4. Proposed side yards (exist. Non-compliance) contrary to ZR 23-461(a).
5. Proposed rear yard is contrary to ZR 23-47.
Minimum required: 30’
Proposed: 20’

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on October 7, 2014, after due notice by publication in *The City Record*, with continued hearings on November 18, 2014, November 25, 2014, and January 6, 2015, and then to decision on January 30, 2015; and

WHEREAS, Chair Perlmutter, Vice Chair Hinkson and Commissioners Montanez and Ottley-Brown performed

inspections of the subject premises and site, together with its surrounding area and neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the west side of Oxford Street, between Shore Boulevard and Oriental Boulevard, within an R3-1 zoning district; and

WHEREAS, the site has 25 feet of frontage along Oxford Street and approximately 2,500 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story, single-family home with 834 sq. ft. of floor area (0.33 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the single-family home by enlarging the first floor of the existing building and adding an additional two floors, thereby increasing the floor area of the building from 834 sq. ft. (0.33 FAR) to 2,489 sq. ft. (0.99 FAR) (the maximum permitted floor area is 1,500 sq. ft. (0.6 FAR) which includes the 300 square feet (0.1 FAR) that must be provided directly under a sloping roof) and increasing the height of the building from 16’-9” to 35’-0”;

WHEREAS, in order to comply with applicable flood regulations the applicant shall raise the building by removing the existing floor beams from the north and south walls thereof, increasing the height of the shelf upon which the existing floor currently rests using solid brick masonry and replacing the existing floor beams so that the first floor elevation will be increased from 6’-7” to 13’-00”;

WHEREAS, the applicant seeks to decrease the open space ratio from 67 percent to 60 percent; the minimum required open space ratio is 65 percent; and

WHEREAS, the applicant seeks to maintain existing side yard widths of 0’-1” and 2’-11”;

the general requirement is two side yards with a minimum total width of 13’-0” and a minimum width of 5’-0” each, however, as per ZR § 23-48, the minimum total width of 13’-0” is not required at the subject site; and

WHEREAS, the applicant also seeks to decrease its rear yard depth from 34’-2” to 20’-8”;

a rear yard with a minimum depth of 30’-0” is required; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, the applicant asserts that the proposed 0.99 FAR and 2,489 sq. ft. of floor area is consistent with the bulk and lot area of one and two-family homes in the surrounding area; and

WHEREAS, in support of this assertion, the applicant provided evidence of 19 one- or two-family homes within 400’ of the subject site with an FAR equal to or in excess of 0.99 and floor area equal to or in excess of 2,450 sq. ft.; and

WHEREAS, at hearing, the Board directed the applicant to narrow its analysis of neighborhood character to focus on

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the block on which the site is located, as such character is, in the subject area, block specific; and

WHEREAS, in response, the applicant identified one and two-family homes on the subject block which consist of two or more stories and provided a streetscape which included the proposed building; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “December 18, 2014”– (10) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of to 2,489 sq. ft. (0.99 FAR), a minimum open space of 60 percent, side yards with minimum widths of 0’-1” and 2’-11”, and a minimum rear yard depth of 20’-8”, as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

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

THAT substantial construction be completed in accordance with ZR § 73-70; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 30, 2015.

125-14-BZ

CEQR #14-BSA-169M

APPLICANT – Goldman Harris LLC, for 350 East Houston LLC c/o BLDG Management Inc., owner.

SUBJECT – Application June 5, 2014 – Variance (§72-21) to facilitate the construction of a ten-story mixed-use forty-six (46) residential dwelling units and retail on the ground floor and cellar. R8A zoning district.

PREMISES AFFECTED –11 Avenue C, between East 2nd Street & East Houston Street, Block 384, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 7, 2014, acting on DOB Application No. 121185092, reads in pertinent part:

1. Proposed Use Group 6 is not permitted as-of-right in an R8A district, per ZR 22-10;
2. Proposed lot coverage (corner lot and through lot portion) exceeds the maximum permitted, and is therefore contrary to ZR 23-145; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R8A zoning district, the construction of a ten-story mixed residential and commercial building that does not comply with the zoning requirements for use and lot coverage, contrary to ZR §§ 22-10 and 23-145; and

WHEREAS, a public hearing was held on this application on November 25, 2014, after due notice by publication in the *City Record*, with a continued hearing on January 6, 2015, and then to decision on January 30, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 3, Manhattan, and Councilmember Rosie Mendez recommend disapproval of this application and identify the following primary concerns with the proposal: (1) it lacks affordable housing units; (2) it includes a Use Group 6 use on the ground floor, which is undesirable and incompatible with the neighborhood; (3) it is not the minimum variance necessary; (4) it will result in the removal of a gasoline station, which is an important community resource; and (5) it does not include a community facility, which would be an important community resource; and

WHEREAS, certain members of the surrounding community, including the East Village Community Coalition, submitted testimony in opposition to the application (the “Opposition”), citing many of Community Board 3 and

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Councilmember Mendez's concerns, as well as the following additional concerns: (1) the toxic condition of the site; and (2) the height of the proposed building and its incompatibility with the low-rise character of the Lower East Side and East Village; and

WHEREAS, the subject site is a trapezoidal corner lot located entirely within an R8A zoning district within an Inclusionary Housing Designated Area; its shape is formed by the intersection of East Second Street, Avenue C, and East Houston Street; and

WHEREAS, the site has 122.22 feet of frontage along East Second Street, 40.36 feet of frontage along Avenue C, 123.28 feet of frontage along East Houston Street, and 5,874.3 sq. ft. of lot area; and

WHEREAS, the applicant represents that the site has been operated as a gasoline service station (Use Group 16) since at least 1960, when, under BSA Cal. No. 381-60-BZ, the Board authorized such operation for a term of 20 years; the 1960 grant was amended and extended at various times and reinstated in 2000 under BSA Cal. No. 130-99-BZ and in 2008 under BSA Cal. No. 55-08-BZ; the 2008 grant was for a term of ten years, to expire on July 1, 2018; and

WHEREAS, the applicant proposes to construct a ten-story mixed residential (Use Group 2) and commercial (Use Group 6) building with 42,293 sq. ft. of floor area (7.20 FAR) (37,743 sq. ft. of residential floor area (6.43 FAR) and 4,550 sq. ft. of commercial floor area (0.77 FAR)), 100 percent lot coverage, 46 dwelling units, and a building height of 105 feet; the applicant notes that the proposed 7.20 FAR reflects an increase that will be achieved through the purchase of bonus development rights through a qualified generating site pursuant to the Inclusionary Housing Program set forth in ZR § 23-90; and

WHEREAS, in order to construct the building as proposed, the applicant seeks the following waivers: (1) use (commercial uses are not permitted in the subject R8A district, per ZR § 22-10); and (2) lot coverage (a maximum lot coverage of 78 percent is permitted, per ZR § 23-145); and

WHEREAS, the applicant states that, in accordance with ZR § 72-21(a), the following are unique physical conditions which create practical difficulties and unnecessary hardships in developing the site in compliance with applicable regulations: (1) the irregular shape of the site; and (2) the site's subsurface contamination; and

WHEREAS, the applicant states that the site has an irregular trapezoidal shape owing to its location at the intersection of three streets; as a result, the depth of the site (measured north to south) varies from approximately 56 feet at its western boundary to approximately 40 feet at its eastern boundary; thus, the site at all points is unusually shallow; in addition, the site is wide (measured east to west) relative to depth, with a lot width of approximately 122 feet; and

WHEREAS, the applicant contends that the site shape is unique and submitted a study of nearby sites, which supports this contention; and

WHEREAS, the applicant also asserts that the site's irregular shape creates a practical difficulty complying with

the lot coverage requirements of the subject R8A district, in that if the site is limited to 78-percent lot coverage, the building is limited to a depth of 40 to 43 feet, which results in awkward, inefficient floorplates, which, in turn, creates undersized apartments with acute angles and unusable spaces; and

WHEREAS, further, the applicant states that, above 85 feet, the required setbacks of ten feet at the East Houston Street façade and 15 feet at both the Avenue C and East Second Street façades, result in a building depth of 25 feet and apartments that are unmarketably long and narrow; and

WHEREAS, thus, the applicant asserts that a building with complying lot coverage yields apartments that are well below the market standard; and

WHEREAS, the applicant also contends that the site's irregular shape in combination with the prevailing soil conditions in the surrounding area—a tendency towards soil liquefaction up to 50 feet below the ground, which impairs the soil's bearing capacity—results in premium construction costs that are unique to the site; and

WHEREAS, in particular, the applicant's geotechnical consultant represents that due to the site's shallowness, substantial width, and substandard soil conditions, construction of a foundation will require grade and tie beams between the pile caps for structural stability; in addition, end bearing piles are required to extend through the liquefiable zone down to bedrock, which the consultant estimates to be at a depth of 90 to 100 feet; the applicant notes that such piles are more costly than typical piles; and

WHEREAS, the applicant states that in addition to its potential for liquefaction, the soil is highly-contaminated due to the site's more than 50 years of use as a gasoline service station, including a petroleum spill (New York State Department of Environmental Conservation ("DEC") Spill No. 90-01894), which is subject to a DEC Consent Order and a Remedial Action Plan; and

WHEREAS, the applicant attributes \$865,371 in premium construction costs due to the contaminated soil and estimates the total premium construction costs due to the unique characteristics of the site (irregular shape and contaminated soil) to be \$2,922,917; and

WHEREAS, the applicant asserts that there is a direct nexus between the unique shape of the site and the requested lot coverage waiver, in that allowing full lot coverage alleviates the burden inherent in the site's trapezoidal shape; likewise, the proposed commercial use at the first story (with accessory storage in the cellar) will provide a higher return on investment than would conforming uses in the same space, and as such, will help defray the premium construction costs of developing a contaminated site; and

WHEREAS, based upon the above, the Board finds that the site's irregular shape and soil contamination create unnecessary hardships and practical difficulties in developing the site in compliance and conformance with the applicable zoning regulations; and

WHEREAS, the applicant contends that, per ZR § 72-21(b), there is no reasonable possibility of development of the

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site in compliance and conformance with the Zoning Resolution; and

WHEREAS, the applicant represents, as noted above, that the site's unique conditions create \$2,922,917 in premium construction costs; and

WHEREAS, the applicant considered the following four scenarios: (1) an as-of-right residential development with ten stories, 37,296 sq. ft. of floor area (6.35 FAR), and 53 dwelling units; (2) to further illustrate the hardships inherent in the site, an as-of-right development on a typical, rectangular site with 12 stories, 41,760 sq. ft. of floor area (7.20 FAR), and 51 dwelling units; (3) a lesser-variance scenario including only a waiver for lot coverage with ten stories, 41,826 sq. ft. of floor area (7.12 FAR), and 51 dwelling units; and (4) the proposal; and

WHEREAS, at hearing, the Board directed the applicant to: (1) align the land sales and development rights sales in time; (2) provide additional retail rent comparables; and (3) justify the capitalization rate used; and

WHEREAS, in response, the applicant provided an amended economic analysis, which supports its assertion that only the proposal would realize a reasonable rate of return on investment; and

WHEREAS, based upon its review of the applicant's economic analysis, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in compliance and conformance with applicable zoning requirements would provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by medium- and high-density residential buildings, with active ground floor commercial uses along Avenue C, heavy automobile traffic along East Houston Street; in addition, there are nearby parks (East River Park, El Jardin Del Paraiso Park, and Hamilton Fish Park) and playgrounds (Nathan Straus Playground and Baruch Playground) within walking distance of the site; and

WHEREAS, as to adjacent uses, the applicant states, as noted above, that the site is trapezoidal and bounded on three sides by streets, and on its west side by a multiple dwelling; and

WHEREAS, turning to bulk, the applicant states that, in addition to complying with the height and setback requirements of the subject R8A district, the proposed ten-story building is contextual with the built character and profile of buildings in the immediate vicinity; in support of this statement, the applicant provided a height study, which reflects that of the 19 buildings within 1,000 feet of the site with eight or more stories, 12 buildings have ten or more stories; and

WHEREAS, further, the applicant notes that the

proposed lot coverage waiver allows the building to maintain an uninterrupted street wall, rather than the jagged setbacks that would be required for a complying building; and

WHEREAS, at hearing, the Board directed the applicant to revise its application to reflect the location of nearby parks and to indicate the effect, if any, of shadows upon such parks; and

WHEREAS, in response, the applicant provided an amended Environmental Assessment Statement ("EAS"), reflecting the requested shadow analysis; and

WHEREAS, as to the concerns articulated by Councilmember Mendez, the Opposition, and the Community Board, the Board observes that although the proposed building itself will not include affordable apartments, the building is being constructed via the purchase of bonus development rights through a qualified generating site pursuant to the Inclusionary Housing Program – as such, the site is contributing to the creation of affordable housing in New York City; and

WHEREAS, as to the proposed commercial use at the ground floor, the applicant contends and the Board agrees that commercial use is well-established at the site, in that a gasoline station (Use Group 16) has been operating on it for nearly six consecutive decades; thus, the Board finds that the proposed Use Group 6 commercial use reflects a significant reduction in the intensity of the non-residential use, particularly with respect to automobile traffic; and

WHEREAS, as to the lack of community facility use at the site, the Board observes that nothing in the Zoning Resolution mandates the inclusion of a community facility use at this site; further, the Board accepts the applicant's economic analysis, which reflects that a commercial use is necessary to achieve a reasonable return; and

WHEREAS, as to the proposed height of the building, the Board notes that it complies with the subject R8A district regulations; and

WHEREAS, the Board reviewed the remaining concerns of the Opposition and found them without merit; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is due to the peculiarities of the site; and

WHEREAS, the Board also finds that this proposal is the minimum necessary to afford the owner relief, in accordance with ZR § 72-21(e); and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final EAS CEQR No. 14-

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BSA-169M, dated January 8, 2015; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the site is subject to "E" designations for noise (E-216) under CEQR number 07DCP078M and hazardous materials (E-359) under CEQR number 14BSA169M; and

WHEREAS, the "E" designation requires an environmental review by the New York City Office of Environmental Remediation ("OER"), which must be satisfied before DOB will issue building permits for the property; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 to permit, on a site within an R8A zoning district, the construction of a ten-story mixed residential and commercial building that does not comply with the zoning requirements for use and lot coverage, contrary to ZR §§ 22-10 and 23-145; *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 30, 2015"– thirteen (13) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: a maximum of ten stories, a maximum floor area of 42,293 sq. ft. of floor area (7.20 FAR) (37,743 sq. ft. of residential floor area (6.43 FAR) and 4,550 sq. ft. of commercial floor area (0.77 FAR)), 100 percent lot coverage, 46 dwelling units, and a maximum building height of 105 feet, as reflected on the BSA-approved plans;

THAT an E designation (E-359) is placed on the subject site to ensure proper hazardous materials remediation;

THAT prior to the issuance by DOB of permits that involve any soil disturbance, the applicant shall receive approvals from OER for the hazardous materials remediation plan and construction-related health and safety plan;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by January

30, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 30, 2015.

81-12-BZ

APPLICANT – Eric Palatnik, P.C., for McDonald's Real Estate Co., owner.

SUBJECT – Application April 5, 2012 – Special Permit (§73-243) to permit the demolition and reconstruction of an eating and drinking establishment (Use Group 6) with an accessory drive-through and on-site parking. C1-3/R3-2/R3A zoning district.

PREMISES AFFECTED –98-01/05 Metropolitan Avenue, northeast corner of 69th Road, Block 3207, Lot(s) 26 & 23, Borough of Queens.

COMMUNITY BOARD #6Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Otley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for decision, hearing closed.

176-13-BZ

APPLICANT – Sheldon Lobel, P.C., for 31 BSP LLC, owner.

SUBJECT – Application June 17, 2013 – Variance (§72-21) to permit Use Group 2 residential in an existing 6-story building with a new penthouse addition, contrary to Section 42-10 of the zoning resolution. M1-5B zoning district.

PREMISES AFFECTED – 31 Bond Street, southern side of Bond Street approximately 1170' from Lafayette Street, Block 529, Lot 25, Borough of Manhattan.

COMMUNITY BOARD # 2M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Otley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for decision, hearing closed.

188-13-BZ & 189-13-A

APPLICANT – Rothkrug Rothkrug & Spector, for Linwood Avenue Building Corp., owner.

SUBJECT – Application June 25, 2013 – Special Permit (§73-125) to permit an ambulatory diagnostic or treatment health care facility.

MINUTES

Proposed building does not front on legally mapped street, contrary to Section 36 of the General City Law. R3-1 zoning district.

PREMISES AFFECTED – 20 Dea Court, south side of Dea Court, 101' West of intersection of Dea Court and Madison Avenue, Block 3377, Lot 100, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

222-13-BZ

APPLICANT – Eric Palatnik, P.C., for 2464 Coney Island Avenue, LLC, owner.

SUBJECT – Application July 23, 2013 – Special Permit (§73-44) to allow the reduction of required parking for the use group 4 ambulatory diagnostic treatment healthcare facility. C8-1/R5 zoning district.

PREMISES AFFECTED – 2472 Coney Island Avenue, southeast corner of Coney Island Avenue and Avenue V, Block 7136, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

321-13-BZ

APPLICANT – Eric Palatnik, P.C., for Alejandro Finardo, owner.

SUBJECT – Application December 18, 2013 – Variance (§72-21) for the construction of a three family home on a vacant lot, contrary to side yard requirements (§23-462(a)) and the parking space requirements of (§25-32). R5 zoning district.

PREMISES AFFECTED – 37-19 104th Street, between 37th Avenue and 37th Road, Block 1771, Lot 42, Borough of Queens.

COMMUNITY BOARD #3Q

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

327-13-BZ

APPLICANT – Goldman Harris LLC, for JCWH Coney Island LLC, owner.

SUBJECT – Application December 23, 2014 – Special Permit (§73-44) to reduce the required number of accessory parking spaces from 346 to 272 spaces for a mixed use building containing UG4 health care and UG 6 office uses. C8-2, C2-3/R5 zoning district.

PREMISES AFFECTED – 1504 Coney Island Avenue, aka 1498, 1526, 1528, 1532-1538 Coney Island Avenue, property occupies the northwest corner of Coney Island Avenue and Avenue L. Block 6536, Lot(s) 28, 30, 34, 40, 41, 42, 43, Borough of Brooklyn.

COMMUNITY BOARD # 12BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 24, 2015, at 10 A.M., for decision, hearing closed.

5-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Israel Ashkenazi & Racquel Ashkenazi, owner.

SUBJECT – Application January 9, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141); side yards (§23-461) and rear yard (§23-47) regulations. R3-2 zoning district.

PREMISES AFFECTED – 1807 East 22nd Street, east side of East 22nd Street between Quentin Road and Avenue R, Block 6805, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for adjourned hearing.

17-14-BZ

APPLICANT – Moshe M. Friedman, PE, for Cong Chasdei Belz Beth Malka, owner.

SUBJECT – Application January 28, 2014 – Variance (§72-21) to add a third and fourth floor to an existing school building (*Congregation Chasidei Belz Beth Malka*), contrary to floor area (§24-11) lot coverage, maximum wall height (§24-521), side yard (§24-35), front yard (§24-34) and rear yard (§24-361) regulations. R5 zoning district.

PREMISES AFFECTED – 600 McDonald Avenue aka 14 Avenue C, aka 377 Dahill Road, south west corner of Avenue C and McDonald Avenue 655', 140'W, 15'N, 100'E, 586'N, 4"E, 54'N, 39.67'East, Block 5369, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #12BK

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

28-14-BZ

APPLICANT – Eric Palatnik, P.C. for McDonald Corporation, owner; Brooklyn Avenue U Enterprises Corporation, lessee.

SUBJECT – Application February 10, 2014 – Special Permit (§73-243) to permit the continued use and (Use Group 6) eating and drinking establishment with an accessory drive-through. C1-2/R4 zoning district.

PREMISES AFFECTED – 3540 Nostrand Avenue, westside of Nostrand Avenue, between Avenue V and Avenue W. Block 7386, Lot(s) 114 and 117. Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

MINUTES

63-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 188 W. 230th Street Corporation, owner; Atlas Athletics, Inc., lessee.

SUBJECT – Application April 23, 2014 – Special Permit (§73-36) to allow the legalization of an existing physical culture establishment (*Astral Fitness*). M1-1 zoning district. PREMISES AFFECTED – 5500 Broadway, southeast corner of intersection of Broadway and W 230th Street, Block 3264, Lot 109, Borough of Bronx.

COMMUNITY BOARD #8BX

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

94-14-BZ

APPLICANT – Dennis D. Dell'Angelo, for Rivka Shapiro, owner.

SUBJECT – Application May 5, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-141) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1150 East 22nd Street, west side of East 22nd Street, 140' north of Avenue "K", Block 7603, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to February 24, 2015, at 10 A.M., for adjourned hearing.

141-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP., for 24655 Broadway Associates, owner; Soul Cycle 2465 Broadway, LLC, lessee.

SUBJECT – Application June 23, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*SoulCycle*) on the first floor of an existing commercial building, contrary to (§32-31). C4-6A zoning district.

PREMISES AFFECTED – 2465 Broadway, east side of Broadway, 50ft. south of intersection of West 92nd Street, Block 1239, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #7M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for decision, hearing closed.

REGULAR MEETING

FRIDAY AFTERNOON, JANUARY 30, 2015
1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez

ZONING CALENDAR

44-14-BZ

APPLICANT – Sheldon Lobel, P.C., for AA Olympic LLC., owner;

The Live Well Company LLC., lessee.

SUBJECT – Application March 17, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Live Well*) on the first floor of the existing building, located within C6-3A & C6-2A zoning districts in a historic district.

PREMISES AFFECTED – 92 Laight Street aka 256 West Street, 416 Washington Street, block bounded by Washington Street, West Street, and Vestry Street, Block 218, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

148-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 11 Avenue A Realty LLC, owner.

SUBJECT – Application June 24, 2014 – Variance (§72-21) to permit multi-family residential use at the premises. R8A/C2-5 zoning districts.

PREMISES AFFECTED – 11 Avenue A, west side of Avenue A between East 1st Street and East 2nd Street, Block 429, Lot 39, Borough of Manhattan.

COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for decision, hearing closed.

175-14-BZ

APPLICANT – Greenberg Traurig, LLP, for 1162 Broadway LLC, owner.

SUBJECT – Application July 24, 2014 – Variance (§72-21) proposed the construction a new 14-story hotel building seeking waivers for setback and side yard requirements, located within a M1-6 zoning district in a historic district.

PREMISES AFFECTED – 1162 Broadway, east side of Broadway between W 27th Street and W 28th Street, Block 829, Lot 28, Borough of Manhattan.

MINUTES

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

216-14-BZ

APPLICANT – Law Office of Stuart Klein, for 150 Amsterdam Avenue Holdings LLC, owner; Flywheel Sports Inc., lessee.

SUBJECT – Application September 4, 2014 – Special Permit (§73-36) to permit the legalization of a physical culture establishment (*Flywheel*) located on portions of the first floor and cellar of the existing building. R8 zoning district.

PREMISES AFFECTED – 150 Amsterdam Avenue, northwest corner of Amsterdam Avenue and West 66th Street, Block 1158, Lot 7507/129, Borough of Manhattan.

COMMUNITY BOARD #7M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for decision, hearing closed.

217-14-BZ

APPLICANT – Law Office of Stuart Klein, for NY REIT, Inc., owner; Flywheel Sports Inc., lessee.

SUBJECT – Application September 4, 2014 – Special Permit (§73-36) to allow for the legalization of a physical culture establishment (*Flywheel*) on a portion of the first floor of the building and a portion of the cellar. C6-2A zoning resolution.

PREMISES AFFECTED – 245 West 17th Street, north side of W. 17th Street, 325' east of 8th Avenue, between 7th and 8th Avenue, Block 767, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for decision, hearing closed.

222-14-BZ

APPLICANT – Sheldon Lobel, P.C., for GP NY Partners LLC, owners.

SUBJECT – Application September 5, 2014 – Special Permit (§73-36) to allow for physical culture establishment (*Envy Spa*) on a portion of the ground floor and cellar of the existing building. C2-8 and R8B zoning districts.

PREMISES AFFECTED – 344 East 63rd Street, bounded by East 63rd Street and 1st Avenue, Block 1437, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for decision, hearing closed.

246-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for NYC DCAS, owner; SoulCycle, Joralemon Street, LLC, lessee.

SUBJECT – Application October 10, 2014 – Special Permit (§73-36) to operate a physical culture establishment (*Soul Cycle*) within an existing landmarked building. C5-2A (DB), C5- zoning districts.

PREMISES AFFECTED – 210 Joralemon Street aka 45/63 Court Street, southwest corner formed by Joralemon Street and Court Street, Block 266, Lot 7501, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

BULLETIN

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February 11, 2015

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DOCKETS

New Case Filed Up to February 3, 2015

18-15-BZ

90 5th Avenue, Northwest corner of West 14th Street& Fifth Avenue, Block 816, Lot(s) 37, Borough of **Manhattan, Community Board: 5**. Special Permit(73-36) to allow for a PCE special permit on 10th & 11th floors of an 11- story commercial building, located within an C6-4M zoning district. C6-4M district.

19-15-BZ

92-77 Queens boulevard, Through-block site with frontage on Queens boulevard and 93 Street, between 62 Avenue and Hharding Expressway, Block 2075, Lot(s) 39, Borough of **Queens, Community Board: 6**. Special Permit (73-36) to allow for physical culture establishment to be located at second-story level (plus entrance at ground-floor level) of a new two-story building, located within an R7-1/C@-2 zoning district. R7-1C2-2 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

FEBRUARY 24, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, February 24, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

131-93-BZ

APPLICANT – Eric Palatnik, P.C., for Paul Memi, owner.
SUBJECT – Application April 25, 2014 – Extension of Term (§11-411) of a previously approved variance which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses which expires on November 22, 2014. C2-2/R5 zoning district.
PREMISES AFFECTED – 3743-3761 Nostrand Avenue, north of the intersection of Avenue "Y", Block 7422, Lot 53, Borough of Brooklyn.
COMMUNITY BOARD #15BK

FEBRUARY 24, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, February 24, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

98-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 404-414 Richmond Terrace Inc., owner.
SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the reestablishment of a banquet facility (catering hall -UG 9) with accessory parking. Located in an R5 and R3A zoning districts within the St. George Historic District.
PREMISES AFFECTED – 404 Richmond Terrace, southeast corner of Richmond Terrace and Westervelt Avenue, Block 3, Lot(s) 40, 31, Borough of Staten Island.
COMMUNITY BOARD #1SI

157-14-BZ

APPLICANT – Lewis Garfinkel, for Cham Tessler, owner.
SUBJECT – Application July 3, 2014 – Special Permit (§73-622) for the enlargement of an existing single family, two story semi-detached residence to be combined into a single family, two story detached residence contrary to floor area and open space ZR 23-141; side yard ZR 23-461 and less than the required rear yard ZR 23-47. R-2 zoning

district.

PREMISES AFFECTED – 1151 East 29th Street, east side of East 29th St. 360 feet north from the corner of Avenue L, Block 7629, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #14BK

170-14-BZ

APPLICANT – Mango & Lacoviello, LLP, for Mansion Realty LLC, owner; David Barton Gym, lessee.

SUBJECT – Application July 21, 2014 – Special Permit (§73-36) to allow the operation of the proposed physical culture establishment (*David Barton Gym*) on the first floor second & third floors, located within an C6-2-A, C6-4A zoning districts.

PREMISES AFFECTED – 652-662 Avenue of the Americas, northeast corner of West 20th Street and Avenue of the Americas, Block 822, Lot(s) 1 & 2, Borough of Manhattan.

COMMUNITY BOARD #5M

Ryan Singer, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, FEBRUARY 3, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

545-56-BZ

APPLICANT – Eric Palatnik, P.C., for Williamsbridge Road Realty corporation, owner.

SUBJECT – Application June 12, 2014 – Extension of Term (§11-411) to seek the term of a previously granted variance for a gasoline service station and maintenance which expired October 19, 2012; Waiver of the Rules. C2-4/R5D zoning district.

PREMISES AFFECTED – 2001-2007 Williamsbridge Road aka 1131 Neil Avenue, southeast corner of Williamsbridge Road and Neil Avenue, Block 4306, Lot 20, Borough of Bronx.

COMMUNITY BOARD #11BX

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for continued hearing.

ZONING CALENDAR

25-14-BZ

CEQR #14-BSA-111K

APPLICANT – Law Office of Lyra J. Altman, for Yeshiva of Flatbush, LLC, owner.

SUBJECT – Application February 6, 2014 – Variance (§72-21) to permit the enlargement of an existing four story Yeshiva (*Yeshiva of Flatbush*). R2 & R5 zoning districts.

PREMISES AFFECTED – 1601-1623 Avenue J aka 985-995 East 16th Street & 990-1026 East 17th Street, Block 6709, Lot(s) 32, 34, 36, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez3

Negative:.....0

Absent: Chair Perlmutter.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated January 29, 2015, acting on DOB Application No. 121532608, reads in pertinent part:

1. Existing building floor area is non-compliant in R2 lot portion per ZR 24-11 and proposed floor area in R2 lot portion is contrary to ZR 54-31, increasing the degree of non-compliance;

2. Proposed lot coverage in both R2 and R5 are contrary to 24-11;
3. Proposed side yard for the enlargement in the R5 zoning district is less than eight feet, contrary to ZR 24-35;
4. Proposed enlargement in the R5 zoning district does not comply with the sky exposure plane, contrary to ZR 24-521;
5. Proposed side yards for the enlargement in both R2 and R5 are less than ten percent of the aggregate width of street walls, contrary to ZR 24-35;
6. Proposed rear yards for the enlargement in both R2 and R5 districts are less than the 30 feet required, contrary to ZR 24-36;
7. Proposed building height for the enlargement does not comply with the required side setbacks in both R2 and R5 districts, contrary to ZR 24-551;
8. No parking is proposed for the proposed enlargement of the school as required in the R2 district portion of the lot, contrary to ZR 25-31; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within an R2 zoning district and partially within an R5 zoning district, the enlargement of an existing religious school (Use Group 3), that does not comply with zoning parameters for floor area, lot coverage, side yards, sky exposure plane, rear yards, height and setback, and parking, contrary to ZR §§ 24-11, 24-31, 24-35, 24-36, 24-521, 24-551, 25-31, and 54-31; and

WHEREAS, the application is brought on behalf of Yeshiva of Flatbush (the “School”), a non-profit educational institution for high school-aged boys and girls; and

WHEREAS, a public hearing was held on this application on September 16, 2014, after due notice by publication in the *City Record*, with continued hearings on November 18, 2014, December 9, 2014, and January 13, 2015, and then to decision on February 3, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application, on condition that the School form a community advisory board to address ongoing community concerns; and

WHEREAS, certain members of the surrounding community, some through counsel, provided testimony in opposition to the application (the “Opposition”); and

WHEREAS, the Opposition advances the following primary concerns: (1) that the height and proximity of the proposed School building will have a negative impact on neighboring homes; (2) that the northern side yard width of eight feet will be inadequate to provide a proper buffer between the building and the adjacent home; (3) that the School has exhibited inadequate refuse management, which

MINUTES

will only be aggravated by the proposed increase in enrollment; (4) that the proposal will result in an increase in vehicular and pedestrian traffic along East 16th Street and East 17th Street; (5) that the proposed plans lack HVAC and other mechanical equipment detailing, which, if provided, could reveal potential sources of noise and emissions; (6) that the EAS contains errors and inaccuracies that prevent the Board from examining the potential environmental impacts of the proposal; and (7) that the proposal is incompatible with residential use and will reduce nearby property values; and

WHEREAS, the subject site is the U-shaped parcel formed by Tax Lots 32, 34, and 36 within Block 6709; the site spans the north side of Avenue J between East 16th Street and East 17th Street and is located partially within an R2 zoning district and partially within an R5 zoning district; and

WHEREAS, the site has 200 feet of frontage along Avenue J, 100 feet of frontage along East 16th Street, 300 feet of frontage along East 17th Street, and approximately 46,200 sq. ft. of lot area (30,000 sq. ft. of floor area in the R2 portion of the site, which is mapped to a depth of 100 feet along East 17th Street and 16,200 sq. ft. of floor area in the R5 portion of the site, which is mapped to a depth of 100 feet along East 16th Street); and

WHEREAS, the site is occupied by four buildings; historic Lot 36 is occupied by the School's main building, which was completed in 1964 and has four stories and 49,880 sq. ft. of floor area (1.08 FAR); Lot 34 is occupied by a two-story single-family home, a one-story shed, and a one-story garage; Lot 32 is vacant; and

WHEREAS, the existing School building is configured as follows: (1) the sub-cellar has mechanical rooms, storage areas, a kitchen, a faculty lounge, a gymnasium, the lower portion of the swimming pool at the cellar level, a boys locker room, restrooms, a canteen, and two small offices; (2) the cellar has an art room, a book room, two large offices and four small offices, a copy room, a lab, one storage room, several mechanical rooms, a swimming pool, a girls locker room, two classrooms, and storage areas; (3) the first story has a large auditorium, a Beit Midrash, lobby areas, one classroom, restrooms, and the main faculty and staff offices; (4) the second story has restrooms, one small office, and 11 classrooms; (5) the third story has two physics and chemistry rooms, one general science room, a biology room, a science demonstration room, four general classrooms, and two small offices, and restrooms; and (6) the fourth story has restrooms and 11 classrooms; and

WHEREAS, the applicant has identified the following existing non-compliances with respect to the School building: (1) FAR (1.0 FAR is permitted, per ZR § 24-11; the building has an FAR of 1.43 in the R2 portion of the site); (2) lot coverage (55 percent lot coverage is permitted for the interior lot portion of the site and 60 percent lot coverage is permitted for the corner lot portion of the site, per ZR § 24-11; the lot coverage in the interior lot portion of the R2 portion of the site is 44.2 percent, which complies;

however, the lot coverage in the corner lot portion of the R2 portion of the site is 71.8 percent, which is non-complying); (3) rear yard (a rear yard with a minimum depth of 30 feet is required, per ZR § 24-36; the building has a rear yard with a depth of 19 feet in the interior lot portion of the R2 portion of the site; and (4) parking (a minimum of 31 parking spaces are required in the R2 portion of the site, per ZR § 25-31; no parking is provided at the site); and

WHEREAS, the applicant notes that the School has operated in its current building since the early 1960s and currently has an enrollment of approximately 700 students; the applicant states that the existing School building is outmoded and unable to accommodate the needs of the existing student body; further, the building cannot handle the School's anticipated growth; accordingly, the School seeks to modernize and expand its facilities, which the applicant asserts can only be accomplished with certain waivers of the Zoning Resolution; and

WHEREAS, the School proposes to demolish all buildings on Lot 34 and enlarge the existing School building from 49,880 sq. ft. to 74,741 sq. ft. (a total enlargement of 24,861 sq. ft.); the applicant states that 10,519 sq. ft. of floor area will be located in the R5 portion of the site and 14,432 sq. ft. of floor area will be located in the R2 portion of the site; the enlargement will include a one-story portion along East 17th Street and a three-story portion along East 16th Street; and

WHEREAS, the proposed School building will be configured as follows: (1) the sub-cellar will continue to include mechanical rooms, storage areas, kitchen, and faculty lounge, however, they will be expanded, modernized, and/or rearranged to provide a more efficient layout; the gymnasium will be maintained at its current location and size; the swimming pool will be replaced with an auxiliary gym and a new refrigerated refuse room will be added; (2) the cellar will be expanded to include additional mechanical space; existing offices, the lab, the book room, and the art room will be combined and converted into a dedicated music department, with a large classroom, orchestra space, small practice rooms, and an office; (3) the first story will continue to include the auditorium lobby areas, restrooms, and main faculty and staff offices; the existing Beit Midrash will be converted to a large group classroom, and, within the new portions of the first story, a new Beit Midrash will be constructed, along with a library, student common areas, two small group study rooms, and additional restrooms; (2) the second story in the existing portion of the building will not change; the new second story will include faculty offices, a large classroom, restrooms, and college and Israel preparation rooms; and (3) the third story in the existing portion of the building will not change; the new portion of the third story will include a new art room, a technology lab, a fabrication lab, a small office, and storage space; and

WHEREAS, the applicant states that within the R2 portion of the site the proposal triggers the following variance requests: (1) 1.53 FAR, contrary to ZR § 24-11, which permits a maximum FAR of 1.0; (2) 71.5 percent lot

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coverage in the interior lot portion of the site and 75.7 percent lot coverage in the corner lot portion of the site, contrary ZR § 24-11, which permits 55 percent lot coverage in the interior lot portion and 60 percent in the corner lot portion; (3) a northern side yard with a width of 16 feet, contrary to ZR § 24-35, which requires a minimum side yard width of 22.51 feet; (4) no rear yard, contrary to ZR § 24-36, which requires a minimum rear yard depth of 30 feet; (5) side setbacks of 16 feet above a height of 35 feet, contrary to ZR § 24-551, which requires setbacks of 21.5 feet; and (6) no parking, contrary to ZR § 25-31, which requires 31 parking spaces; and

WHEREAS, the applicant states that within the R5 portion of the site the proposal triggers the following variance requests: (1) 62.5 percent lot coverage in the interior lot portion of the site, contrary to ZR § 24-11, which permits 55 percent lot coverage in the interior lot portion; (2) no side yard along the southern side of the interior lot portion of the site, contrary to ZR § 24-35, which requires a side yard with a minimum width of eight feet; (3) a northern side yard with a width of 16 feet, contrary to ZR § 24-35, which requires a minimum side yard width of 22.51 feet; (4) encroachment of the building into the one-to-one sky exposure plane, contrary to ZR § 24-521; (5) a rear yard depth of 8.16 feet in the interior lot portion of the site, contrary to ZR § 24-36, which requires a minimum rear yard depth of 30 feet; and (6) side setbacks of 16 feet above a height of 35 feet, contrary to ZR § 24-551, which requires setbacks of 21.5 feet; and

WHEREAS, the applicant states that requested waivers will enable the School to construct a facility that meets its programmatic needs; and

WHEREAS, the School identifies the following primary programmatic needs: (1) to expand the arts curriculum, including providing spaces that will support motion graphics, three dimensional printing, and computer-controlled fabrication; (2) to expand, consolidate, and modernize the music curriculum; (3) to overcome the practical administrative difficulties, including scheduling and space assignments, and programmatic hardships, including curriculum development and teaching, of the current facilities; (4) to provide a modern research library, with adequate space for both group and individual study and informal collaborative learning; (5) to provide a larger Beit Midrash for full-grade assembly and religious study; (6) to allow for simultaneous physical education for boys and girls; (7) to have a designated counseling and college guidance area; and (8) to provide a facility that can accommodate an additional 100 students (800 students in total), in order to respond to the growing demand for the School; and

WHEREAS, the applicant notes that the current facility was designed to accommodate 600 to 650 students and that the current enrollment of 700 students results in a substantial shortfall of academic spaces, elective spaces, fitness facilities, administrative spaces, and gathering spaces; and

WHEREAS, likewise, the applicant states that

classrooms were designed to accommodate 24 to 26 students but often are occupied by 30 students (and sometimes by ten or fewer); as such, many classrooms are too small while others are too large to properly function for their designated academic purpose; and

WHEREAS, the applicant also notes that due to space constraints, it is forced to utilize temporary structures for certain academic functions, including administration and student support; such structures are physically disconnected from the School, do not foster an environment for fulfilling their programmatic purpose, and pose a security risk; and

WHEREAS, the applicant represents that the proposal reflects 158 gross sq. ft. per student which is consistent with similar urban high school facilities; in contrast, the existing configuration yields 132 gross sq. ft. per student; and

WHEREAS, the Board also acknowledges the following physical conditions of the site and existing building which lead to a hardship: (1) the irregularly-shaped zoning lot is split over two zoning districts and is subject to both corner and interior lot regulations, which produce conflicting bulk restrictions that are incompatible with the use of the zoning lot for educational purposes; and (2) the existing School building has non-compliances which would not allow for any enlargement without increasing the degree of such non-compliances; and

WHEREAS, the applicant analyzed an as-of-right scenario and a lesser variance scenario, in which complying side and rear yards would be provided; and

WHEREAS, as to the as-of-right scenario, the applicant states that it would be inadequate to satisfy the School's current and anticipated programmatic needs, as follows: (1) it would result in a library that would be too small to accommodate the students' needs to study and conduct research; (2) it would result in a Beit Midrash that would be too small to allow the students to assemble for religious instruction and debate; (3) it would require elimination of the designated counseling and college guidance area; (4) it would eliminate the link between the existing School building and the newly-constructed areas; and (5) it would require the maintenance of temporary structures for administration and student support; and

WHEREAS, as to the lesser variance scenario, the applicant states that it would require the elimination of the new third story and a significant reduction in the new first and second stories, which would result in substantial reductions in the art and music spaces, the Beit Midrash, and the library; as such, it would not result in a building that would satisfy the School's programmatic needs; and

WHEREAS, the applicant states that as a non-profit educational institution, the Board must grant deference to the School and allow it to rely on its programmatic needs to form the basis for its waiver requests; the applicant cites to the decisions of New York State courts in support of its claim that the school warrants deference; and

WHEREAS, specifically, the applicant cites to Pine Knolls Alliance Church v. Zoning Board of Appeals of the Town of Moreau, 6 N.Y.3rd 407 (2005); the Pine Knolls court

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stated as follows:

In assessing a special permit application, zoning officials are to review the effect of the proposed expansion on the public's health, safety, welfare or morals, concerns grounded in the exercise of police power, "with primary consideration given to the over-all impact on the public welfare" (Trustees of Union College, 91 N.Y.2d at 166). Applications may not be denied based on considerations irrelevant to these concerns.

We made clear in Cornell University that it is not the role of zoning officials to second-guess expansion needs of religious and educational institutions; and

WHEREAS, in analyzing the applicant's waiver requests, the Board notes at the outset that the School, as a non-profit New York State chartered educational institution, may rely on its programmatic needs, which further its mission, as a basis for the requested waivers; and

WHEREAS, as noted by the applicant, under well-established precedents of the courts and this Board, applications for variances that are needed in order to meet the programmatic needs of non-profit institutions, particularly educational and religious institutions, are entitled to significant deference (*see, e.g., Cornell University v. Bagnardi*, 68 N.Y.2d 583 (1986)); and

WHEREAS, the Board observes that such deference has been afforded to comparable institutions in numerous other Board decisions, certain of which were cited by the applicant in its submissions; and

WHEREAS, the applicant states that based on an extensive review of its facility and operations, the proposal is the most efficient and effective use of its educational programmatic space, and the applicant concludes that bulk relief requested is necessary to meet the School's programmatic needs; and

WHEREAS, the Board finds that the proposal has been designed to be consistent and compatible with adjacent uses and with the scale and character of the surrounding neighborhood and is, therefore, consistent with the standard established by the decision in Cornell; and

WHEREAS, the Board concurs that the waivers will facilitate construction that will meet the School's articulated needs; and

WHEREAS, in sum, the Board concludes that the applicant has fully explained and documented the need for the waivers to accommodate the School's programmatic needs; and

WHEREAS, the Board also acknowledges the hardships associated with developing an irregularly-shaped site with a split-lot condition that is occupied by a 50-year-old, non-complying academic building; and

WHEREAS, the Opposition argues that the applicant has failed to make the finding set forth at ZR § 72-21(a) because, unlike in Cornell, there are negative impacts to the public welfare, namely the nearby residences, which are not outweighed by the proposal's benefits; and

WHEREAS, the Board finds that the applicant's submissions, which include statements, plans, and other evidence, provide the required specificity concerning its programmatic space requirements, establish that the requested variances are necessary to satisfy its programmatic needs consistent with Cornell, and that the Opposition has failed to establish that any potential negative impacts either meet the threshold set forth by the courts or outweigh the benefits; and

WHEREAS, in Cornell, the New York Court of Appeals adopted the presumptive benefit standard that had formerly been applied to proposals for religious institutions, finding that municipalities have an affirmative duty to accommodate the expansion needs of educational institutions; and

WHEREAS, the Board finds that the Opposition misapplies the guiding case law; and

WHEREAS, as to the guiding case law on educational deference, the Board disagrees with the Opposition and finds that the courts place the burden on opponents of a project to rebut the presumption that an educational institution's proposal is beneficial unless it is established to have an adverse effect upon the health, safety, or welfare of the community; the Board notes that courts specifically state that general concerns about traffic and disruption of the residential character of a neighborhood are insufficient basis for denying a request (*see Westchester Reform Temple v. Brown*, 22 N.Y.2d 488 (1968), Cornell, and Pine Knolls); and

WHEREAS, the Board notes that where a non-profit organization has established the need to place its program in a particular location, it is not appropriate for a zoning board to second-guess that decision (*see Guggenheim Neighbors v. Bd. of Estimate*, June 10, 1988, N.Y. Sup. Ct., Index No. 29290/87, *see also Jewish Recons. Syn. of No. Shore v. Roslyn Harbor*, 38 N.Y.2d 283 (1975)); and

WHEREAS, furthermore, a zoning board may not wholly reject a request by an educational institution, but must instead seek to accommodate the planned use; (*see Albany Prep. Charter Sch. v. City of Albany*, 31 A.D.3rd 870 (3rd Dep't 2006); Trustees of Union Col. v. Schenectady City Cnl., 91 N.Y.2d 161 (1997)); and

WHEREAS, the Board finds that the Opposition's position is contrary to the decisions of New York State courts and contrary to the Board's many variances for educational institutions which have either been upheld by New York State courts or remain unchallenged; and

WHEREAS, in sum, the Board has reviewed the Opposition's submissions, as well as the applicant's responses, and finds that the Opposition has failed to rebut the applicant's substantiated programmatic need for the proposal or to offer evidence, much less establish, that it will negatively impact the health, safety, or welfare of the surrounding community in the sense the courts envision; and

WHEREAS, accordingly, the Board finds that the applicant has sufficiently established that the School's programmatic needs create an unnecessary hardship and

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practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the School is a non-profit institution and each of the required waivers are associated with its educational use and are sought to further its non-profit educational mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant asserts that, consistent with ZR § 72-21(c), the noted bulk waivers will not alter the essential neighborhood character, impair the use or development of adjacent property, nor be detrimental to the public welfare; and

WHEREAS, the applicant contends that the neighborhood is characterized by the diversity of its uses and bulk, which include low- to medium-density residential and community facility uses; the applicant states that within a 400-foot radius of the site, although detached one- and two-family dwellings predominate, there is a public library, two synagogues, and two multiple dwellings; the applicant also notes that within the same study area, buildings range from one to six stories; and

WHEREAS, the applicant notes that the proposal reflects an expansion of a conforming use, which is entirely compatible with nearby uses and has existed since 1964; and

WHEREAS, the applicant states—and supports with a streetscape analysis—that its design respects the prevailing building forms and heights along its frontages; the applicant states that along East 17th Street, the building is significantly set back from the street, is sheltered by trees, and will not be directly adjacent to any residence; along East 16th Street, where the building will be directly adjacent to a residence, the building height has been reduced in the R2 portion of the site to be well below the height that a home could be as-of-right; likewise, the proposal reflects a 16-foot yard adjacent to the residence along the northern boundary of the site, where an as-of-right home could have as few as five feet; and

WHEREAS, the applicant notes that, initially, it proposed a northern side yard width of eight feet; however, in response to the concerns raised by the Board and by Opposition, it amended the proposal to reflect a width of 16 feet; and

WHEREAS, further, in response to the Board's concerns about neighborhood character and impact on adjoining properties, the applicant amended its proposal as follows: (1) an outdoor roof terrace along the northern boundary was altered to be an inaccessible roof; (2) additional street trees and plantings were added to the site plan; and (3) a refrigerated refuse room was provided; and

WHEREAS, at hearing, the Opposition requested an explanation as to why the existing building could not be vertically enlarged; and

WHEREAS, in response, the applicant provided a letter from its consultant, which indicates that the existing School building was not constructed to capacitate additional loads and that substantial structural reinforcement would be

required to build atop the existing roof, at significant cost; further, the applicant asserts that a vertically-enlarged building would not satisfy the School's programmatic needs and would require complete cessation of the School's operations for extended periods of time; and

WHEREAS, the Board acknowledges that vertically enlarging the existing School building is not financially feasible and would be technically difficult, in addition to not satisfying the School's articulated programmatic needs; and

WHEREAS, as to the Opposition's concerns regarding pick-up and drop-off traffic, the applicant states that it will confine pick-ups and drop-offs to the Avenue J frontage; in addition, the applicant represents that the vast majority of students use public transportation (the Q train is less than one block away and several bus lines service nearby Coney Island Avenue) and only 6.6 percent of students drive or are driven to and from School; the applicant notes that even when enrollment reaches 800 students, less than 40 students will drive or be driven to School; and

WHEREAS, the Board has reviewed the Opposition's remaining concerns and determined them to be without merit; and

WHEREAS, based upon the above, the Board finds that the subject variances will not alter the essential character of the surrounding neighborhood, impair the appropriate use and development of adjacent property, or be detrimental to the public welfare; and

WHEREAS, the applicant states that, per ZR § 72-21(d), the practical difficulties and unnecessary hardship encountered by compliance with the zoning regulations is not self-created but is rather due to the combination of the School's programmatic needs with the physical constraints inherent in the site; and

WHEREAS, the Board agrees that the practical difficulties and unnecessary hardship that necessitate this application have not been created by the School or a predecessor in title; and

WHEREAS, the applicant states that the requested bulk waivers represent the minimum variance necessary to allow the School to meet its programmatic needs, in accordance with ZR § 72-21(e); and

WHEREAS, as noted above, the applicant analyzed an as-of-right scenario and a lesser variance scenario and concluded that neither alternative can accommodate the School's programmatic needs; and

WHEREAS, the Board therefore finds that the requested waivers represent the minimum variance necessary to allow the School to meet its programmatic needs; and

WHEREAS, accordingly, based upon its review of the record and its site visits, the Board finds that the applicant has provided sufficient evidence to support each of the findings required for the requested variances; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has identified and considered relevant areas of environmental

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concern about the project documented in the Final Environmental Assessment Statement (EAS) CEQR 14-BSA-111K, dated January 30, 2015; and

WHEREAS, at hearing, the Board directed the applicant to amend and clarify certain statements contained within the EAS and to respond to the Opposition's assertion that the EAS should have reflected the use of the School building by Touro College; and

WHEREAS, in response, the applicant revised the EAS to: (1) add the area and volume of subsurface disturbance; (2) note that the project will be completed in multiple phases; and (3) note that the project will result in a substantial physical alteration to the streetscape; and

WHEREAS, as to the impact of Touro College's use, the applicant asserts and the Board agrees that Touro College's use of the site will be substantially less intense (a total of 65-120 persons per day) than the School's and occur during off-peak School hours (four evenings per week for approximately three-and-one-half hours); and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site partially within an R2 zoning district and partially within an R5 zoning district, the enlargement of an existing religious school (Use Group 3), that does not comply with zoning parameters for floor area, lot coverage, side yards, sky exposure plane, rear yards, height and setback, and parking, contrary to ZR §§ 24-11, 24-31, 24-35, 24-36, 24-521, 24-551, 25-31, and 54-31; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 21, 2015" – Seventeen (17) sheets; and *on further condition*:

THAT the proposed building will have the following parameters: (1) a maximum floor area of 74,741 sq. ft. (28,923 sq. ft. in the R5 portion of the site and 45,818 sq. ft.

in the R2 portion of the site); (2) maximum FARs of 1.79 in the R5 portion of the site and 1.53 in the R2 portion of the site; (3) maximum lot coverage as follows: 62.5 percent for the interior lot portion and 40.2 percent for the corner lot portion of the R5 portion of the site; and 71.5 percent for the interior lot portion and 75.7 percent for the corner lot portion of the R2 portion of the site; (4) all yards and setbacks as depicted on the Board-approved plans; and (5) no parking spaces;

THAT refuse shall be stored within a refrigerated storage area and shall not be placed on the sidewalk until immediately before pick-up;

THAT student drop-offs and pick-ups shall be limited to the Avenue J frontage;

THAT all fencing, trees, and plantings shall be maintained in good condition and in accordance with the BSA-approved drawings;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited DOB/other jurisdiction objection(s) only;

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by February 3, 2019;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 3, 2015.

185-14-BZ
CEQR #15-BSA-042M

APPLICANT – Sheldon Lobel, P.C., for Roza 14 WLLC, owner; 14 Wall Day Spa LLC, lessee.

SUBJECT – Application August 6, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*The Vault Spa*) on the cellar and sub-cellar floor of the existing building at the premises, which is located in a C5-5 zoning district.

PREMISES AFFECTED – 14 Wall Street, north side of Wall Street with frontage on Nassau Street and Pine Street, Block 46, Lot 9, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez3

Negative:.....0

Absent: Chair Perlmutter.....1

THE RESOLUTION –

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WHEREAS, the decision of the Department of Buildings (“DOB”), dated July 30, 2014, acting on DOB Application No. 121857614, reads, in pertinent part:

Proposed change of use to physical culture establishment, as defined by ZR 12-10, is contrary to ZR 32-10 ...

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to operate, on a Landmark Site within a C5-5 zoning district, within the Special Lower Manhattan District, a physical culture establishment (the “PCE”) at basement level “B” and basement level “C” of a 30-story commercial use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on December 16, 2014 after due notice by publication in the *City Record*, and then to decision on February 3, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Montanez performed an examination of the premises and surrounding area and neighborhood; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located within a C5-5 zoning district, within the Special Lower Manhattan District, and consists of a through lot with approximately 160 feet of frontage on Wall Street, 196 feet of frontage on Nassau Street, and 177 square feet of frontage on Pine Street, containing approximately 32,947 sq. ft. of floor area;

WHEREAS, the subject site was designated as a Landmark Site by the New York City Landmarks Preservation Commission on January 14, 1997, Designation List 276 LP-1949; and

WHEREAS, the proposed PCE shall operate in the basement and sub-basement of the building; and

WHEREAS, the proposed PCE shall occupy approximately 9,870 sq. ft. of floor area on basement level “B” of the building and approximately 5,374 sq. ft. of floor area on basement level “C” of the building for a total approximate floor area of 15,244 sq. ft. (.46 FAR); and

WHEREAS, the PCE shall operate as The Vault Spa; and

WHEREAS, the hours of operation for the PCE will be daily, from 9:00 a.m. to 10:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Landmarks Preservation Commission

has approved the proposed alterations of the building by Certificate of No Effect No. 16-6873, dated January 14, 2015; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-042M, dated August 6, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a Landmark Site within a C5-5 zoning district, within the Special Lower Manhattan District, the operation of a PCE on basement level “B” and basement level “C”, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received November 26, 2014”–Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on February 3, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by February 3, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

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Adopted by the Board of Standards and Appeals,
February 3, 2015.

216-14-BZ

CEQR #15-BSA-060M

APPLICANT – Law Office of Stuart Klein, for 150 Amsterdam Avenue Holdings LLC, owner; Flywheel Sports Inc., lessee.

SUBJECT – Application September 4, 2014 – Special Permit (§73-36) to permit the legalization of a physical culture establishment (*Flywheel*) located on portions of the first floor and cellar of the existing building. R8 zoning district.

PREMISES AFFECTED – 150 Amsterdam Avenue, northwest corner of Amsterdam Avenue and West 66th Street, Block 1158, Lot 7507/129, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez3
Negative:.....0
Absent: Chair Perlmutter.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated August 11, 2014, acting on DOB Application No. 121755546, reads, in pertinent part:

A Physical Culture Establishment is not an “As-of-Right” use, in an R8 / C2-5 zoning district...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize the operation, on a site within an R8 (C2-5) zoning district, of a physical culture establishment (“PCE”) on the cellar and ground floor of a 42-story mixed residential and commercial use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 30, 2015, after due notice by publication in the *City Record*, and then to decision on February 3, 2015; and

WHEREAS, Vice-Chair Hinkson performed an examination of the premises and surrounding area and neighborhood; and

WHEREAS, Community Board 7, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the northwest corner of the intersection of Amsterdam Avenue and West 66th Street; it is located within an R8 (C2-5) zoning district; and

WHEREAS, the site has 200 feet of frontage along West 66th Street and 250 feet of frontage along Amsterdam Avenue, consisting of 50,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 42-story mixed residential and commercial building; and

WHEREAS, the PCE operates as Flywheel Sports Inc. d/b/a Flywheel, and occupies 2,750 sq. ft. of floor area on the

ground floor of the subject building as well as 2,125 sq. ft. of floor space at the cellar level of the subject building; and

WHEREAS, the PCE shall not operate beyond that portion of the subject building which is within the C2-5 commercial overlay; and

WHEREAS, the PCE’s hours of operation are 5:30 a.m. to 9:00 p.m., seven days a week; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15-BSA-060M, dated August 28, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an R8 (C2-5) zoning district, the operation of a PCE on the cellar and ground floor a 42-story mixed residential and commercial building, contrary to ZR §32-10; *on condition* that all work will substantially conform to drawings filed with this application marked “Received February 2, 2015 2015”- Eight (4) sheets and “Received January 22, 2015 2015”- One (1) sheet, *on further condition*:

THAT the term of the PCE grant will expire on May 1, 2024;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

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THAT the PCE shall operate entirely within that portion of the subject building which is located within the C2-5 commercial overlay;

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 3, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 3, 2015.

217-14-BZ

CEQR #15-BSA-061M

APPLICANT – Law Office of Stuart Klein, for NY REIT, Inc., owner; Flywheel Sports Inc., lessee.

SUBJECT – Application September 4, 2014 – Special Permit (§73-36) to allow for the legalization of a physical culture establishment (*Flywheel*) on a portion of the first floor of the building and a portion of the cellar. C6-2A zoning resolution.

PREMISES AFFECTED – 245 West 17th Street, north side of W. 17th Street, 325' east of 8th Avenue, between 7th and 8th Avenue, Block 767, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez3
Negative:.....0
Absent: Chair Perlmutter.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated August 14, 2014, acting on DOB Application No. 122062230, reads, in pertinent part:

The proposed Physical Culture Establishment in zoning district C6-2A is not a permitted use as of right...; and

WHEREAS, this is an application under ZR §§ 73-36

and 73-03, to legalize the operation, on a site within a C6-2A zoning district, of a physical culture establishment (“PCE”) on the first floor of a 12-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 30, 2015, after due notice by publication in the *City Record*, and then to decision on February 3, 2015; and

WHEREAS, Community Board 4, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on a through lot with approximately 50 feet of frontage along West 18th Street and 50 feet of frontage along West 17th Street, between Eighth Avenue, to the west, and Seventh Avenue, to the east, in Manhattan, within a C6-2A zoning district; and

WHEREAS, the site has approximately 9,200 sq. ft. of lot area and is occupied by a 12-story commercial building; and

WHEREAS, the PCE operates as Flywheel Sports Inc. d/b/a Flywheel, and occupies 3,395 sq. ft. of floor area on the first floor of the subject building; and

WHEREAS, the PCE’s hours of operation are 5:00 a.m. to 9:00 p.m., seven days a week; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither: (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15-BSA061M, dated August 28, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and

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§ 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-2A zoning district, the operation of a PCE on the first floor a 12-story commercial building, contrary to ZR §32-10; *on condition* that all work will substantially conform to drawings filed with this application marked “January 7, 2015”- Three (3) sheets; *on further condition*:

THAT the term of the PCE grant will expire on August 1, 2024;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 3, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 3, 2015.

222-14-BZ

CEQR #15-BSA-064M

APPLICANT – Sheldon Lobel, P.C., for GP NY Partners LLC, owners.

SUBJECT – Application September 5, 2014 – Special Permit (§73-36) to allow for physical culture establishment (*Envy Spa*) on a portion of the ground floor and cellar of the existing building. C2-8 and R8B zoning districts.

PREMISES AFFECTED – 344 East 63rd Street, bounded by East 63rd Street and 1st Avenue, Block 1437, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice-Chair Hinkson, Commissioner Ottley-

Brown and Commissioner Montanez3

Negative:.....0

Absent: Chair Perlmutter.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated August 14, 2014, acting on DOB Application No. 122076145, reads, in pertinent part:

Proposed ‘Physical Culture Establishment’ in C2-8, C2-5, R8B zoning district is not permitted as-of-right as per section ZR 32-31...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize the operation, on a site within an R8B (C2-5) / C2-8 zoning district, of a physical culture establishment (“PCE”) on the ground floor and cellar of a 16-story story mixed residential and commercial use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 30, 2015, after due notice by publication in the *City Record*, and then to decision on February 3, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Montanez performed an examination of the premises and surrounding area and neighborhood; and

WHEREAS, Community Board 8, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is an irregularly shaped lot with frontage on East 63rd Street and First Avenue, in Manhattan; it is located within an R8B (C2-5) / C2-8 zoning district; and

WHEREAS, the site has 45 feet of frontage along East 63rd Street with a depth of approximately 100 feet, and 25 feet of frontage along First Avenue, located approximately 25 feet south of East 63rd Street and extending south to a point approximately 150 feet north of East 62nd Street, and consists of approximately 6,522 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 16-story mixed residential and commercial building; and

WHEREAS, the PCE operates as Massage Envy Spa, and occupies 3,140 sq. ft. of floor area on the ground floor of that portion of the subject building which has frontage on East 63rd Street, together with an accessory storage room on the cellar level; and

WHEREAS, the PCE’s hours of operation are Monday through Friday 8:00 a.m. to 10:00 p.m., Saturday 8:00 a.m. to 6:00 p.m., and Sunday 10:00 a.m. to 6:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither: (1) alter the essential character of the surrounding neighborhood; (2) impair the use or

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development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15-BSA-064M, dated September 2, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an R8B (C2-5)/C2-8 zoning district, the operation of a PCE on the cellar and ground floor a 16-story mixed residential and commercial building, contrary to ZR §32-10; *on condition* that all work will substantially conform to drawings filed with this application marked "January 22, 2015"- Four (4) sheets; *on further condition*:

THAT the term of the PCE grant will expire on December 1, 2024;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 3, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its

jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 3, 2015.

286-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 20 Orlando Street, Block 0340, Lot 30016. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application withdrawn.

Adopted by the Board of Standards and Appeals, February 3, 2015.

310-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 297 Colony Avenue, Block 0381, Lot 40032, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application withdrawn.

Adopted by the Board of Standards and Appeals, February 3, 2015.

350-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Overcoming Love Ministries, owner.

SUBJECT – Application December 31, 2012 – Variance (§72-21) to permit the construction of an 11-story community facility/residential building, contrary to use regulations (§42-00). M3-1 zoning district.

PREMISES AFFECTED – 5 32nd Street, southeast corner of 2nd Avenue and 32nd Street, Block 675, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for continued hearing.

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155-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Cong Kozover Zichron Chaim Shloime, owners.

SUBJECT – Application May 15, 2013 – Variance (§72-21) to permit the enlargement of an existing synagogue (*Congregation Kozover Sichron Chaim Shloime*) and rabbi's residence (UG 4) and the legalization of a Mikvah, contrary to floor area (§24-11), lot coverage (§24-11), wall height and setbacks (§24-521), front yard (§24-34), side yard (§24-35), rear yard (§24-36), and parking (§25-18, 25-31) requirements. R3-2 zoning district.

PREMISES AFFECTED – 1782-1784 East 28th Street, west side of East 28th Street between Quentin road and Avenue R, Block 06810, Lots 40 & 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

91-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for 3428 Bedford LLC by Jeffrey Mehl, owner.

SUBJECT – Application May 2, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-141) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 3420 Bedford Avenue, southwest corner of Bedford Avenue and Avenue M, Block 7660, Lot (tentative) 45, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

114-14-BZ

APPLICANT – Eric Palatnik, P.C., for Boris Vaysburb, owner.

SUBJECT – Application May 30, 2014 – Special Permit (§73-622) for enlargement of an existing two story single family dwelling contrary to floor area ratio, open space and lot coverage (ZR 23-141); side yard (ZR 23-461) and less than the rear yard requirements (ZR 23-47). R4 zoning district.

PREMISES AFFECTED – 2442 East 14th Street, between Avenue X and Avenue Y, Block 7415, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

118-14-BZ

APPLICANT – Rampulla Associates Architects, for Mangone Developers Corporation, owner.

SUBJECT – Application June 3, 2014 – Variance (§72-21) to allow a three-story sixteen unit condominium contrary to use regulations, with accessory parking for thirty six cars. Located within R3X, R1-2 split zoning district and in an NA-1 designated area.

PREMISES AFFECTED – 1891 Richmond Road, northwest side of Richmond 2667.09' southwest of the corner of Four Corners Road and Richmond Road, Block 895, Lot (s) 61, 63, 65, 67 (61 tentative), Borough of Staten Island.

COMMUNITY BOARD #2SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for decision, hearing closed.

124-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Yuriy Teyf, owner.

SUBJECT – Application June 2, 2014 – Special Permit (§73-622) for the enlargement of a single-family detached residence to be converted into a two-family home contrary to floor area, lot coverage and open space (ZR 23-141); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R4 zoning district.

PREMISES AFFECTED – 1112 Gilmore Court, southern side of Gilmore Court between East 11th Street and East 12th Street, Block 7455, Lot 74, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

177-14-BZ

APPLICANT – Eric Palatnik, PC, for MADDD Properties LLC 34 Arden Lane, owner; CF Flatbush LLC, lessee.

SUBJECT – Application July 24, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Crunch Fitness*) within a portion of an altered building. C4-4A/R6A zoning district.

PREMISES AFFECTED – 1038 Flatbush Avenue, 180' south of intersection of Flatbush Avenue and Regent Place, Block 5123, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 24, 2015, at 10 A.M., for decision, hearing closed.

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285-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 84 McLaughlin Street, Block 0341, Lot 20049. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for adjourned hearing.

288-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 131 Cedar Grove Avenue, Block 0408, Lot 70002. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for adjourned hearing.

297-14-BZ & 298-14-A

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 6 Topping Street, between Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 50042 Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for adjourned hearing.

299-14-BZ & 300-14-A

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 28 Topping Street, between

Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 50043. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for adjourned hearing.

307-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 540 Hunter Avenue, Block 0379, Lot 60024 Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for adjourned hearing.

308-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 179 Kiswick Street, Block 50042, Lot 60024 Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for adjourned hearing.

312-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 65 Hempstead Avenue, Block 0381, Lot 00008, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for continued hearing.

MINUTES

**REGULAR MEETING
TUESDAY AFTERNOON, FEBRUARY 3, 2015
1:00 P.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

301-13-BZ

APPLICANT – Eric Palatnik, P.C., for Rabbi Mordechai Jofen, owner.

SUBJECT – Application November 12, 2013 – Variance (72-21) to add three floors to an existing one story and basement UG 4 synagogue for a religious-based college and post graduate (UG 3) with 10 dormitory rooms, contrary to sections 24-11, 24-521, 24-52,24-34(a),24-06. R5B zoning district.

PREMISES AFFECTED – 1502 Avenue N, southeast Corner of East 15th Street and Avenue N, Block 6753, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

303-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for SoBro Development Corporation, owner.

SUBJECT – Application November 15, 2013 – Variance (§72-21) to allow a new mixed use building with 36 residential units and community facility space. R6 & C1-4 zoning districts.

PREMISES AFFECTED – 506-510 Brook Avenue, east side of Brook Avenue between 147th and 148th Street, Block 2274, Lot(s) 6, 7 and 8, Borough of Bronx.

COMMUNITY BOARD #1BX

ACTION OF THE BOARD – Laid over to March 3, 2015, at 1:00 P.M., for postponed hearing.

309-13-BZ

APPLICANT – Law office of Lyra J. Altman, for Miriam Josefovich and Mark Josefovich, owners.

SUBJECT – Application November 22, 2013 – Special Permit (73-622) for the enlargement of an existing single family home, contrary to floor area and open space (23-141); side yards (23-461) and less than the required rear yard (23-47). R2 zoning district.

PREMISES AFFECTED – 965 East 24th Street, east side of East 24th Street between Avenue I and Avenue J, Block 7588, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

60-14-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for Sephardic Congregation of Kew Gardens Hills, owners.

SUBJECT – Application April 11, 2014 – Variance (§72-21) to enlarge a community facility (*Sephardic Congregation*), contrary to floor lot coverage rear yard, height and setback (24-00). R4-1 zoning district.

PREMISES AFFECTED – 141-41 72nd Avenue, 72nd Avenue between Main Street and 141st Street, Block 6620, Lot 41, Borough of Queens.

COMMUNITY BOARD #8Q

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for continued hearing.

154-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Peter Agrapides, owner.

SUBJECT – Application July 1, 2014 – Special Permit (§73-621) to allow an addition to the existing mixed commercial and residential building. C1-3/R6B zoning district.

PREMISES AFFECTED – 6934 5th Avenue, northwest corner of the intersection of Ovington Avenue and 5th Avenue, Block 5873, Lot 57, Borough of Brooklyn.

COMMUNITY BOARD #10BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for decision, hearing closed.

232-14-BZ

APPLICANT – Warshaw Burstein, LLP, for Pennsylvania Associates, LLC., owner; Pennsylvania Avenue Fitness Group, LLC, lessee.

SUBJECT – Application September 26, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Planet Fitness*) within a portion of an existing commercial building. M1-1 zoning district.

PREMISES AFFECTED – 946 Pennsylvania Avenue aka 1000 Pennsylvania Avenue, west side of Pennsylvania Avenue between Wortman Avenue and Cozine Avenue, Block 04389, Lot 0001, Borough of Brooklyn.

COMMUNITY BOARD #5BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director

MINUTES

CORRECTION

This resolution adopted on January 13, 2015, under Calendar No. 168-14-BZ and printed in Volume 100, Bulletin No. 4, is hereby corrected to read as follows:

168-14-BZ

CEQR #15-BSA-027M

APPLICANT – Warsaw Burnstein, LLP, for Michael Baum, LLC, owner; Barry's Boot camp NYC, LLC, lessee. SUBJECT – Application July 14, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Barry's Bootcamp*) within the existing building, M1-5B zoning district.

PREMISES AFFECTED – 419 Lafayette Street, east side of Lafayette Street between East 4th Street and Astor Place, Block 544, Lot 13, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated June 25, 2014, acting on DOB Application No. 122022060, reads, in pertinent part:

Proposed ‘Physical Culture Establishment’ at zoning M1-5B is not permitted as-of-right per ZR 42-10...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within an M1-5B zoning district, within the NoHo Historic District, an existing physical culture establishment (the “PCE”) on the cellar and first story of an eight-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on December 16, 2014 after due notice by publication in the *City Record*, and then to decision on January 13, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Montanez performed an examination of the premises and surrounding area and neighborhood; and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the subject site has approximately 52 feet of frontage along the east side of Lafayette Street, between Astor Place and East 4th Street, in Manhattan, within an M1-5B zoning district, within the NoHo Historic District; and

WHEREAS, the site consists of approximately 8,062 sq. ft. of lot area; and

WHEREAS, the site is occupied by an eight-story commercial building which contains approximately 58,000 sq. ft. of floor area; and

WHEREAS, the PCE shall occupy approximately 1,332

sq. ft. of floor space at the cellar of the building and approximately 3,944 sq. ft. of floor area on the first floor of the building (.49 FAR), for a total of 5,276 sq. ft. of floor space, and shall operate as Barry’s Bootcamp; and

WHEREAS, the hours of operation for the PCE shall be daily from 5:00 a.m. to 11:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, at hearing, the Board inquired as to the PCE’s proposed sound isolation and noise attenuation measures, and the applicant submitted drawings showing acoustic wall, ceiling, and spring isolated floor details; and

WHEREAS, accordingly, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Landmarks Preservation Commission has approved the proposed alterations of the building by Certificate of No Effect (CNE 15-5043), issued on March 10, 2014; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15BSA027M, dated July 14, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-5B zoning district, within the NoHo Historic District, the operation of a PCE on the first story and cellar of an eight-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received September 11, 2014” – Four (4) sheets and “Received December 19, 2014” – One (1) sheet; and on further condition:

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THAT the term of the PCE grant shall expire on January 13, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by January 13, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 13, 2015.

The resolution has been amended to correct the 7th WHEREAS, which read “...8,062 sq. ft. of floor area...” now reads “...8,062 sq. ft. of lot area...”. Corrected in Bulletin No. 7, Vol. 100, dated February 11, 2015.

BULLETIN

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February 18, 2015

DIRECTORY

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DOCKETS

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20-15-BZ

461 Avenue X, between Ocean Parkway and East 4th Street, Block 7180, Lot(s) 75, Borough of **Brooklyn, Community Board: 4**. Variance (§72-21) to permit the construction of a Use Group 4A house of worship at the premises contrary to floor area, open space ratio, lot coverage side yards rear yard and parking regulations. R4(OP) zoning district. R4(OP) district.

21-15-BZ

112-35 69th Avenue, 69th Avenue, between 112th Street and Grand Central Parkway Service Road W., Block 2241, Lot(s) 48, Borough of **Queens, Community Board: 6**. Special Permit (73-621) to ;allow the enlargement of an existing on-family dwelling which will not provide the required open space ratio, located within an R1-2A zoning district. R1-2A district.

22-15-BZ

219 26th Street, 26th Street between 4th Avenue and 5th Avenue, Block 655, Lot(s) 55, Borough of **Brooklyn, Community Board: 7**. Variance (72-21) to pro posed to construct a residential building on a small lot at premises ,located in an M1-1D zoning district, contrary to (Section 42-00) not permitted as of right.. M1-1D district.

23-15-BZ

158 Beach 114th Street, Located approximately 400 feet south of the intersection of Rockaway Beach Blvd., and Beach 114th Street, Block 16186, Lot(s) 60, Borough of **Queens, Community Board: 14**. Variance (72-21) to permit the legalization of the Use Group 5 Transient Hotel located at the premises, as well as the Use Group 6 eating and drinking establishment on the ground floor, located within an R5A zoning district. R5A district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

MARCH 3, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 3, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

APPEALS CALENDAR

126-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for McAllister Maritime Holdings, LLC, owner.
SUBJECT – Application June 5, 2014 – Proposed construction of a warehouse building located partially within the bed of mapped unbuilt street, pursuant Article 3 Section 35 of the General City Law. M3-1 zoning district.
PREMISES AFFECTED – 3153 Richmond Terrace, north side of Richmond Terrace at intersection of Richmond Terrace and Grandview Avenue, Block 1208, Lot 15, Borough of Staten Island.
COMMUNITY BOARD #1SI

MARCH 3, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, March 3, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

303-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for SoBro Development Corporation, owner.
SUBJECT – Application November 15, 2013 – Variance (§72-21) to allow a new mixed use building with 36 residential units and community facility space. R6 & C1-4 zoning districts.
PREMISES AFFECTED – 506-510 Brook Avenue, east side of Brook Avenue between 147th and 148th Street, Block 2274, Lot(s) 6, 7 and 8, Borough of Bronx.
COMMUNITY BOARD #1BX

37-14-BZ

APPLICANT – Eric Palatnik, P.C., for FHM Roosevelt FLP, owner;
Executive Fitness Gym Inc., lessee.
SUBJECT – Application February 28, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Enterprise Fitness Gym*), which will occupy a portion of

the second floor of a two story building. C2-3/R6 zoning district.

PREMISES AFFECTED – 86-10 Roosevelt Avenue, west corner of Elbertson Street and Roosevelt Avenue, Block 1502, Lot 6, Borough of Queens.
COMMUNITY BOARD #4Q

127-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Sean Banayan, owner.
SUBJECT – Application June 5, 2014 – Variance (§72-21) to permit construction of a cellar and two-story, two-family dwelling on a vacant lot that does not provide two required side yards, and does not provide two off street parking spaces. R4 zoning district.
PREMISES AFFECTED – 32-41 101st Street, east side of 101st, 180' north of intersection with Northern Boulevard, Block 1696, Lot 48, Borough of Queens.
COMMUNITY BOARD #3Q

289-14-BZ

APPLICANT – Sheldon Lobel, P.C., 22-32 31st Street LLC, owner.
SUBJECT – Application November 6, 2015 – Special Permit (§73-42) to extend the conforming Use Group 6 restaurant use located partially within a C4-2A zoning district into the adjacent R5B zoning district.
PREMISES AFFECTED – 22-32/36 31st Street, located on the west side of 31st Street. Block 844, Lot 49, 119, 149. Borough of Queens.
COMMUNITY BOARD #1Q
ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

324-14-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for Kulwanty Pittam, owner.
SUBJECT – Application December 15, 2014 – Reinstatement (§11-411) for an automotive repair facility (UG 16B) granted under Cal. No. 909-52-BZ, expiring January 29, 2000; Amendment to permit the sale of used cars; Waiver of the Rules. C2-2/R5 zoning district.
PREMISES AFFECTED – 198-30 Jamaica Avenue, Southwest corner of Jamaica Avenue. Block 10829, Lot 56. Borough of Queens.
COMMUNITY BOARD #12Q
ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, FEBRUARY 10, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

25-57-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for
221-016 Merrick Blvd. Associates, LLC, owner.

SUBJECT – Application July 31, 2014 – Amendment (§11-
413) to permit a change in use (UG 6 retail use) of an
existing commercial building in conjunction with alteration
of an existing commercial building, demolition of three
existing commercial buildings and construction of a new
commercial building located within a C2-3 and R3A zoning
district.

PREMISES AFFECTED – 221-18 Merrick Blvd, southwest
corner of intersection of Merrick Blvd. and 221st Street,
Block 13100, Lot(s) 22 & 26, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to March
10, 2015, at 10 A.M., for continued hearing.

164-94-BZ

APPLICANT – Jeffrey Chester, Esq., for Tuckahoe Realty
LLC., owner; LRHC Park Chester NY Ink., lessee.

SUBJECT – Application March 28, 2014 – Extension of
Term of a previously approved Variance (§72-21) which
permitted the operation of physical culture establishment
(*Lucille Roberts*), which expired on March 1, 2014. C1-
2/R6 zoning district.

PREMISES AFFECTED – 84 Hugh Grant Circle, Cross
Bronx Expressway Sr. South, Block 3794, Lot 109, Borough
of Bronx.

COMMUNITY BOARD #9BX

ACTION OF THE BOARD – Laid over to March
24, 2015, at 10 A.M., for continued hearing.

76-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Alexander and
Inessa Ostrovsky, owners.

SUBJECT – Application April 25, 2014 – Amendment to
modify the previously granted special permit (§73-622) for
the enlargement of an existing single-family detached
residence. R3-1 zoning district.

PREMISES AFFECTED – 148 Norfolk Street, west side of
Norfolk Street between Oriental Boulevard and Shore
Boulevard, Block 8756, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to March

10, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

32-14-A

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for
Little Morrow LLC, owner.

SUBJECT – Application February 13, 2014 – Proposed
construction of a retail/warehouse building located partially
within the bed of a mapped street contrary to Article 3,
Section 35 of the General City Law and waiver of bulk
non-compliances under §72-01-(g). M-2-1 Zoning District.
PREMISES AFFECTED – 2560 Forest Avenue, southwest
corner of intersection of Forest Avenue and Elizabeth Grove
Road, Block 1384, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Application granted on
condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice Chair Hinkson,
Commissioner Montanez and Commissioner Ottley-
Brown.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island
Commissioner Borough Commissioner, dated January 24,
2014, acting on Department of Buildings Application No.
520144683, reads in pertinent part:

Proposed construction located in the bed of a
mapped street is contrary to section 35 of the
General City Law. Therefore, Board of Standards
and Appeals approval is required; and
Proposed new building has bulk non-compliances
resulting from the location of such mapped street
obtain BSA approval; and

WHEREAS, this is an application to allow the
construction of a one-story retail /warehouse space located on
the southern portion of the subject zoning lot. The proposed
building will be located partially in the bed of a mapped but
unbuilt portion of Morrow Street; and

WHEREAS, a public hearing was held on this
application on December 9, 2014, after due notice by
publication in *The City Record*, with a continued hearing on
January 27, 2015, and then to decision on February 10, 2015;
and

WHEREAS, the premises and surrounding area had site
and neighborhood examinations by Commissioner Montanez;
and

WHEREAS, the subject site has 142.99 ft. of frontage
on the south side of Forest Avenue, 170.44 ft. of frontage on
the west side of Elizabeth Grove Road, and 100 ft. of frontage
on the north side of Morrow Street for a total lot area of
12,497 sq. ft., and is located within an M2-1 zoning district
within Community Board 1, Staten Island; and

WHEREAS, by letter dated October 16, 2014, the Fire

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Department states that it has reviewed the proposal and has offered no objections; and

WHEREAS, by letter dated March 14, 2014, the Department of Environmental Protection (“DEP”) states that (1) there are no existing City sewers in the bed of Morrow Street; (2) there is an existing 12” inch diameter City water main in the bed of Morrow Street between Forest Avenue and Elizabeth Grove Road; and (3) City Drainage Plan No. D9-2, Amendment D-9 (R-4), sheet 2 of 6, dated March 5, 1968, for the above-referenced location calls for a future 10-inch diameter sanitary sewer and a 39”/42” diameter storm sewer in the bed of Morrow Street east of Forest Avenue; and

WHEREAS, DEP further states that it requires the applicant to submit a survey/plan (1) showing the width of mapped Morrow Street, the width of the widening portion of the street, and the width of the traveled portion of the street at the above-referenced location; (2) providing the location of the hydrants and the distances from the hydrants to the lot lines of tentative lot #1; and (3) providing the distance between the 12” diameter water main and the lot line of tentative lot #1 in Morrow Street; and

WHEREAS, in response to DEP’s request, the applicant submitted a topographical survey which shows 70’ of the adopted width of the mapped Morrow Street at the above-referenced location, and the 27.6’ of the width to the edge of the pavement of the street at the narrowest point, which will be available for the installation, maintenance and or reconstruction of the existing and future water mains and sewers; and

WHEREAS, by letter dated June 30, 2014, DEP states that, based on the drawing submitted by the applicant, it has no objection to the proposed application; and

WHEREAS, by correspondence dated December 9, 2014, the Department of Transportation (“DOT”) requested that the applicant (1) provide information regarding the number of vehicles entering and exiting out of the parking area and commercial delivery vehicles for warehouses and the daily anticipated left turns in and out of this development; (2) address what effect this development will have on the level of service on Forest Avenue; (3) perform a title search of the street and, when title issues are resolved, provide an 8 ft. wide uniform sidewalk along Elizabeth Grove Road, maintaining the existing roadway width; (4) provide a 20 ft. wide sidewalk along Forest Avenue and keep the same alignment as on Block 1380 east of Elizabeth Grove Road; and (5) provide a 5 ft. wide continuous uniform sidewalk along Morrow Street frontage, aligning the sidewalk on Block 1380 east of Elizabeth Grove Road; and

WHEREAS, by letter dated January 14, 2015 in response to DOT’s request, the applicant submitted a revised plan (1) demonstrating that the proposed building would be in compliance with applicable M1-2 yard regulations; (2) depicting proposed street trees; (3) showing proposed sidewalks, including a 20 ft. sidewalk along Forest Avenue, a 5 ft. sidewalk along Morrow Street, and an 8 ft. sidewalk along Elizabeth Grove Road; and (4) showing that the widening line of Morrow Street has been extended; and

WHEREAS, the applicant also states that although no specific tenants are in place at this time they do not reasonably anticipate any adverse impacts, on Forrest Avenue or surrounding streets, from the planned as-of-right use of the premises; and

WHEREAS, the applicant notes that notwithstanding that the initially proposed development included building within the bed of mapped Elizabeth Grove Road, the applicant no longer plans to build within the bed of Elizabeth Grove Road were abandoned; and

WHEREAS, the applicant represents that Morrow Street is not part of the City’s ten-year capital improvement plan; and

WHEREAS, there are other structures along Morrow Street that would require demolition if the street were mapped to its full width; and

WHEREAS, the Board notes that pursuant to GCL Section 35, it may authorize construction within the bed of the mapped street subject to reasonable requirements; and

WHEREAS, the Board notes that pursuant to ZR § 72-01(g), the Board may waive bulk regulations where construction is proposed in part within the bed of a mapped street, that such bulk waivers will be only as necessary to address non-compliances resulting from the location of construction within and outside of the mapped street, and that the zoning lot will comply to the maximum extent feasible with all applicable zoning regulations as if the street were not mapped; and

Therefore it is Resolved, that the decision of the Staten Island Borough Commissioner, dated January 24, 2014 acting on Department of Buildings Application No. 520144683 is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above, and that the Board also waives the bulk regulations associated with the presence of the mapped but unbuilt street pursuant to Section 72-01(g) of the Zoning Resolution to grant this appeal; *on condition* that construction will substantially conform to the drawings filed with the application marked “Received February 6, 2015,” one (1) sheet; that the proposal will comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations will be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT DOT confirms in writing that Morrow Street is not a part of the City’s ten-year capital improvement plan;

THAT DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution, including planting strip requirements;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of

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plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on February 10, 2015.

300-08-A

APPLICANT – Law office of Marvin B. Mitzner LLC, for Steven Baharestani, owner.

SUBJECT – Application April 24, 2014 – Extension of time to complete construction and obtain a Certificate of Occupancy for the construction of a hotel under common law vested rights. M1-2 /R5-B zoning district.

PREMISES AFFECTED – 39-35 27th Street, east side of 27th Street between 39th and 40th Avenues, Block 397, Lot 2, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for continued hearing.

140-14-A

APPLICANT – Eric Palatnik, P.C., for 1016 East 13th Realty, LLC, owner.

SUBJECT – Application June 16, 2014 – Appeal seeking a determination that the owner has acquires a common law vested rights to complete construction under the prior C4-3A/R6 zoning district. R5 zoning district

PREMISES AFFECTED – 1016 East 16th 13th Street, Block 6714, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

153-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Rabbi Jacob Joseph School, owner.

SUBJECT – Application July 1, 2014 – Proposed construction of a community facility building school located partially within the bed of a unbuilt mapped street pursuant to Article 3 Section 35 of the General City Law and waive of bulk regulations under ZR Section 72-01-(g). R3-2 Zoning district.

PREMISES AFFECTED – 200 Cambridge Avenue, 114.71' north of intersection on of Auburn Avenue and Cambridge Avenue, Block 1511, Lot 210, Borough of Staten Island.

COMMUNITY BOARD

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for decision, hearing closed.

192-14-A thru 198-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Thomas Mantione, owner.

SUBJECT – Application August 15, 2014 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-2(SRD) zoning district.

PREMISES AFFECTED –

10 Winslow Place, Block 6373, Lot 40
12 Winslow Place, Block 6373, Lot 42
18 Winslow Place, Block 6373, Lot 43
20 Winslow Place, Block 6373, Lot 45
26 Winslow Place, Block 6373, Lot 145
30 Winslow Place, Block 6373, Lot 146
32 Winslow Place, Block 6373, Lot 147

COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 24, 2015, at 10 A.M., for decision, hearing closed.

ZONING CALENDAR

185-13-BZ

CEQR #13-BSA-159K

APPLICANT – Eric Palatnik P.C., for 97 Franklin Avenue LLC, owner.

SUBJECT – Application June 20, 2013 – Variance (§72-21) to permit the development of a proposed three story, two-unit residential development, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 97 Franklin Avenue, Franklin Avenue, Between Park and Myrtle Avenue, Block 899, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 24, 2013, acting on DOB Application No. 320574295, reads in pertinent part:

ZR42-00 Residential building proposed in [M1-1] [zoning district] [SIC] is not permitted per section...; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-1 zoning district, the construction of a three-story multiple dwelling (Use Group 2), contrary to ZR § 42-00; and

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WHEREAS, a public hearing was held on this application on July 15, 2014, after due notice by publication in the *City Record*, with subsequent hearings August 19, 2014, October 7, 2014, December 9, 2014, and to decision on February 10, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, the subject site is located on the east side of Franklin Avenue, between Park Avenue and Myrtle Avenue, within an M1-1 zoning district; and

WHEREAS, the site has 26 feet of frontage along Franklin Avenue, a depth of 100 feet, and approximately 2,600 sq. ft. of lot area; and

WHEREAS, the site is vacant; and

WHEREAS, the applicant notes that residential use of the subject zoning district was disallowed as of December 15, 1961, when the M1-1 designation took effect; and

WHEREAS, the applicant seeks a use variance consistent with the character and historic residential use of surrounding area to permit the construction of a new three-story, two-family residential building with 4,933 sq. ft. of floor area (1.9 FAR), 64 percent lot coverage, a front yard of 6'-0", no side yards, a rear yard depth of 30'-0", and a building height of 40'-0"; and

WHEREAS, the applicant represents that, per ZR § 72-21(a), the following are unique physical conditions which create unnecessary hardship in developing the site in conformance with applicable regulations: (1) the site's narrowness, small size, and vacancy; and (2) the adjacency of residential uses; and

WHEREAS, the applicant states that the site is too narrow and too small to accommodate a conforming use; and

WHEREAS, in particular, the applicant contends that the site's narrowness yields a conforming manufacturing or commercial building with small, inefficient, and narrow floor plates; and

WHEREAS, in addition, the applicant asserts that unlike sites with conforming uses in the surrounding area, the site lacks an existing building that was constructed to accommodate a conforming use; and

WHEREAS, the applicant also represents that there are residential buildings adjacent to the site on all sides and throughout the subject block and surrounding area; as such, the site is not desirable for modern manufacturing and commercial uses; and

WHEREAS, the Board agrees with the applicant that the fact that the site is vacant, its adjacency to other residential uses (the predominant use on the block), and narrow width and small size are unique physical conditions, which, in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, to satisfy ZR § 72-21(b), the applicant submitted a feasibility study which analyzed the rate of return on an as-of-right industrial building at the site as well as the

rate of return on the proposed development; and

WHEREAS, according to the study, a one-story building with approximately 2,600 sq. ft. of floor area occupied by a manufacturing use would yield an unreasonable rate of return; the proposed residential building, on the other hand, would realize a reasonable return; and

WHEREAS, based upon its review of the feasibility study, the Board has determined that because of the subject site's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable use requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states, as noted above, that the subject block is primarily developed with residential buildings; and

WHEREAS, as to adjacent uses, as noted above, there are residential uses on all adjacent lots and throughout the subject block and surrounding area; and

WHEREAS, accordingly, the applicant contends that the proposal is more consistent with the neighborhood character than a conforming use would be; and

WHEREAS, as to bulk, the applicant states that the building is consistent with the character of the district in which it is located and presented the Board with a land use study which provides examples of 16 residential buildings in the area surrounding the subject site of four stories or more; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the site's unique physical conditions; and

WHEREAS, finally, the Board finds that the proposal is the minimum variance necessary to afford relief, as set forth in ZR § 72-21(e); and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement ("EAS") CEQR No. 13-BSA-159K, dated June, 10, 2013; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions;

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Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21, and grants a variance to permit, on a vacant site within an M1-1 zoning district, the construction of a three-story multiple dwelling (Use Group 2), contrary to ZR § 42-00; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 11, 2014" – ten (10) sheets; and *on further condition*:

THAT the following are the bulk parameters of the building: a maximum of 4,933 sq. ft. of floor area (1.9 FAR), two dwelling units, a maximum lot coverage of 64 percent, a minimum rear yard depth of 30'-0", a minimum front yard depth of 6'-0" and a maximum building height of 40'-0", as indicated on the BSA-approved plans;

THAT the layouts of the dwelling units will be as reviewed and approved by DOB;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 10, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 10, 2015.

26-14-BZ

CEQR #14-BSA-112M

APPLICANT – Francis R. Angelino, Esq., for The Hewitt School, owner.

SUBJECT – Application February 6, 2014 – Variance (§72-21) to permit the enlargement of an existing community facility (*Hewitt School*), contrary to maximum building height (24-591); street wall height (§24-592); and rear yard requirements (§24-36). R8B zoning district.

PREMISES AFFECTED – 45 East 75th Street aka 42-76 East 76th Street, north side, East 75th Street through block to south side E 76th between Park & Madison Avenues, Block 1390, Lot(s) 28, 46, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated January 15, 2014, acting on DOB Application No. 121333878, reads in pertinent part:

1. ZR 24-591 – The proposed vertical addition exceeds the maximum height; contrary to ZR 24-591;
2. ZR 24-592 – The proposed vertical addition for the street wall less than 45'-0" wide on Lot 46 exceeds height permitted; contrary to ZR 24-592;
3. ZR 24-382(a) – The proposed building portion above 23'-0" in height occurs in the required rear yard equivalent for the through lot portion; contrary to ZR 24-382(a);
4. ZR 24-36 – The proposed building portion above 23'-0" in height occurs in the required rear yard for the interior lot portion; contrary to ZR 24-36; and
5. ZR 24-11 – The proposed building portion above 23'-0" in height in the rear yard equivalent exceeds the maximum lot coverage; contrary to ZR 24-11; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R8B zoning district, within a Limited Height District (LH-1A), within the Upper East Side Historic District, the conversion and enlargement of an existing building to be occupied as a school (Use Group 3), which does not comply with zoning regulations for lot coverage, rear yard, rear yard equivalent, and height and setback, contrary to ZR §§ 24-11, 24-36, 24-382, 24-591, and 24-592; and

WHEREAS, a public hearing was held on this application on October, 28, 2014, after due notice by publication in the *City Record*, with subsequent hearings held December 9, 2014 and January 6, 2015, then to decision on

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February 10, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 8, Manhattan, recommends approval of the application; and

WHEREAS, this application is brought on behalf of the Hewitt School (the "School"), a nonprofit educational institution for girls, which serves students from grades kindergarten through 12; and

WHEREAS, the subject site is an interior through lot located on the block bounded by Madison Avenue, East 75th Street, Park Avenue, and East 76th Street; it comprises Tax Lots 28 and 46 and is within an R8B zoning district, within a Limited Height District (LH-1A), within the Upper East Side Historic District; and

WHEREAS, the site has 51 feet of frontage along East 75th Street, 58 feet of frontage along East 76th Street, and approximately 11,136 sq. ft. of lot area; and

WHEREAS, the site is occupied by three buildings, two of which currently comprise the School's campus and are classified within Use Group 3: the four-story building located at 45 East 75th Street (Lot 46), which was the original School building; the five-story building located at 44-46 East 76th Street (Lot 46), which was acquired by the School in 1966; and the five-story multiple dwelling (Use Group 2) located at 42 East 76th Street (Lot 28) (the "Townhouse"), which was acquired in 2011; and

WHEREAS, the applicant represents that the buildings have a combined existing floor area of approximately 37,754 sq. ft. (3.4 FAR) and the applicant notes that the maximum permitted floor area of the site is 56,796 sq. ft. (5.1 FAR); and

WHEREAS, the applicant states that the School proposes to renovate and vertically and horizontally enlarge the Townhouse and combine it with the existing School buildings; specifically, the proposal reflects the construction of a sixth story atop the Townhouse, resulting in an increase in building height from 61'-10" to 69'-11" and an increase in floor area from 37,754 sq. ft. (3.4 FAR) to 39,261 sq. ft. (3.5 FAR); in addition, the existing approximately 6'-0" x 10'-0" court at the rear of the Townhouse will be filled in, with the rear wall being extended to the eastern lot line (which is the western lot line of Lot 28); and

WHEREAS, the applicant states that the renovated Townhouse will accommodate the following: (1) at the cellar, a dance room, a changing room, a restroom, and storage and mechanical rooms; (2) at the first story, offices, a lobby, a choir room with related storage, and a conference room; (3) at the second story, a science classroom and laboratory space; (4) at the third story, a digital arts room, and a drama room; (5) at the fourth story, faculty office space and a conference room; (6) at the fifth story, two multipurpose rooms; and (7) at the sixth story, a dedicated art studio for the Lower School (kindergarten through grade five); and

WHEREAS, the applicant states that proposal requires the following waivers: (1) height and setback, in that the

proposed building height (69'-11") is contrary to ZR §§ 24-591 and 24-592 (which permit a maximum building height of 60'-0"); (2) rear yard, in that, within the interior lot portion of the site and above a height of 23'-0" and one story, the proposed depth of 24'-7¼" is contrary to ZR § 24-36 (which requires a minimum depth of 30'-0"); (3) rear yard equivalent, in that, within the through lot portion of the site and above a height of 23'-0" and one story, the proposed depth of 24'-7¼" is contrary to ZR § 24-382 (which requires an open area with a minimum depth of 30'-0"); and (4) lot coverage, in that within the through lot portion of the site and above a height of 23'-0" and one story, the proposed lot coverage is 90 percent, contrary to ZR § 24-11 (which permits a maximum lot coverage of 70 percent); and

WHEREAS, the applicant notes that the rear yard and rear yard equivalent waivers are required only for a small portion of the Townhouse at the second and third stories (approximately 65 sq. ft. on each story) and that the fourth, fifth, and sixth stories would be—in terms of yard provisions—as-of-right, in that each provides a rear setback with a depth of 30'-0"; as to lot coverage, the applicant states that with the inclusion of the Townhouse, the site's non-complying lot coverage will be reduced from 95 percent to 90 percent; and

WHEREAS, because the enlargement does not comply with the applicable bulk regulations in the subject zoning district, the applicant seeks the requested variance; and

WHEREAS, the applicant states that the variance is necessary to meet the School's programmatic need to expand and improve existing classroom space and create new adjacencies and additional classrooms, all of which will result in a significantly more efficient use of the School buildings and enable the School to remain competitive—in terms of resources, faculty office space, and classroom square footage-per-student—with similar institutions, such as the Spence School, the Nightingale-Bamford School, and the Chapin School; and

WHEREAS, the applicant also notes that the proposal is to accommodate the School's existing needs and is not intended to facilitate an increase in enrollment; and

WHEREAS, the applicant asserts that while the as-of-right configuration is similar to the proposal, it does not fully satisfy the School's programmatic needs; and

WHEREAS, specifically, the applicant states that the as-of-right configuration results in the following: (1) the loss of the entire sixth story, which provides a new arts classroom that is specifically designed for younger children and adjacent to Lower School classrooms in the existing School Building; and (2) the loss of significant program space in the science classroom on the second story and the digital arts/drama classroom on the third story, where the Townhouse's existing rear wall configuration creates unusable space and reduces the number of students below the School's standard 16-18 students per class; and

WHEREAS, thus, the applicant contends that the requested waivers are both modest and essential to the School's full utilization of the Townhouse for its

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programmatic needs; and

WHEREAS, the applicant also contends that, per ZR § 72-21(a), the site is uniquely burdened by an unusual lot shape and a history of piecemeal development, which create practical difficulties in developing the site in compliance with the Zoning Resolution; and

WHEREAS, the applicant states that particularly with the inclusion of Lot 28, the site has an irregular shape, with multiple rear lot lines, and both interior and through lot portions; and

WHEREAS, in addition, as noted above, the applicant states that the School has expanded at different times within different existing buildings over the past 60 years, which has resulted in a disjointed maze of inaccessible, narrow, and winding hallways connecting the north and south ends of the School that are impractical and that interfere with the unity of the school; and

WHEREAS, the Board acknowledges that the School, as an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in *Cornell Univ. v Bagnardi*, 68 NY2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the School along with the existing constraints of the site create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the School is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant represents that, pursuant to ZR § 72-21(c), the variance, if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the immediate neighborhood is characterized by medium-density residential and community facility uses in the mid-block and higher-density mixed residential, commercial, and community facility uses on the avenues; and

WHEREAS, the applicant notes that the site is located within a Limited Height District (LH-1A) within the Upper East Side Historic District and the applicant states that the proposal was designed to be consistent with the appearance and bulk of the surrounding buildings; and

WHEREAS, in addition, the applicant states that the proposed sixth story of the Townhouse will be virtually

invisible from all sightlines and that the second and third story enlargement will result from the horizontal extension of an existing, non-complying rear wall; and

WHEREAS, the applicant also notes that the proposed 39,261 sq. ft. of floor area (3.5 FAR) is well below the maximum permitted at the site (56,796 sq. ft. (5.1 FAR)) and that the inclusion of the Townhouse (Lot 28) decreases the non-compliance of the site with respect to lot coverage; and

WHEREAS, finally, the applicant states, as noted above, that the proposal is not intended to allow an increase in the number of students at the School; thus, the applicant does not anticipate any changes to pedestrian or vehicular traffic; and

WHEREAS, accordingly, the applicant asserts that the proposal will have no negative impacts on the surrounding neighborhood; and

WHEREAS, because the site is within the Upper East Side Historic District, the applicant has obtained Certificate of Appropriateness No. 16-7281 from the Landmarks Preservation Commission ("LPC"), dated January 26, 2015; and

WHEREAS, the Board agrees with the applicant that the proposal will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant states that the hardship was not self-created, and that no as-of-right development that would meet the programmatic needs of the School could occur given the existing conditions of the School buildings and the site; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner; and

WHEREAS, the applicant represents that, consistent with ZR § 72-21(d), the requested waivers are the minimum necessary to accommodate the School's current and projected programmatic needs; and

WHEREAS, the Board finds that the requested relief is the minimum necessary to allow the School to fulfill its programmatic needs; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist, 14-BSA-112M dated February 6, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R8B zoning district, within a Limited Height District (LH-1A), within the Upper East Side Historic District,

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the conversion and enlargement of an existing building to be occupied as a school (Use Group 3), which does not comply with zoning regulations for lot coverage, rear yard, rear yard equivalent, and height and setback, contrary to ZR §§ 24-11, 24-36, 24-382, 24-591, and 24-592, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received September 22, 2014”– seventeen (17) sheets; and *on further condition*:

THAT the site shall be limited to a maximum floor area of 39,261 sq. ft. (3.5 FAR) and the total building height of the Townhouse shall be limited to 69’-11”, exclusive of bulkheads and parapets, as illustrated on the BSA-approved plans;

THAT any change in the use, occupancy, or operator of the School shall require the Board’s approval;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 10, 2019;

THAT all construction shall be in conformance with the LPC Certificate of Appropriateness No. 16-7281, dated January 26, 2015;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 10, 2015.

141-14-BZ

CEQR #14-BSA-181M

APPLICANT – Rothkrug Rothkrug & Spector LLP., for 24655 Broadway Associates, owner; Soul Cycle 2465 Broadway, LLC, lessee.

SUBJECT – Application June 23, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*SoulCycle*) on the first floor of an existing commercial building, contrary to (§32-31). C4-6A zoning district.

PREMISES AFFECTED – 2465 Broadway, east side of Broadway, 50ft. south of intersection of West 92nd Street, Block 1239, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated January 12, 2015, acting on DOB Application No. 100795917, reads, in pertinent part:

The proposed Physical Culture Establishment, including the extension of 25 ft. into a Residential District, requires special permits pursuant to [the Zoning Resolution]...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to allow the proposed operation, on a site a portion of which is located within a C4-6A zoning district and also within a Special Enhanced Commercial District and another portion of which is located within an R8 zoning district, of a physical culture establishment (“PCE”) on a portion the first floor and cellar of a three-story commercial building, contrary to ZR § 32-10; and

WHEREAS, this is also an application under ZR § 73-52, to permit the extension of the proposed PCE 25 feet into the R8 district; and

WHEREAS, a public hearing was held on this application on October 7, 2014, after due notice by publication in the *City Record*, and then to decision on February 10, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioners Montanez and Ottley-Brown performed an examination of the premises and surrounding area and neighborhood; and

WHEREAS, Community Board 7, Manhattan, recommends approval of this application; and

WHEREAS, the site is an irregularly shaped lot with approximately 101 feet of frontage along Broadway in Manhattan, with a depth, for approximately 50 feet at the northerly half of the site, of 100 feet, and of approximately 150 feet at the southerly half of the site, consisting of approximately 12,550 sq. ft. of lot area; and

WHEREAS, a portion of the site is located within a C4-6A zoning district and also within a Special Enhanced Commercial District and a portion of the site is located within an R8 zoning district not within the Special Enhanced Commercial District; and

WHEREAS, approximately 10,100 sq. ft. of the site’s lot area is located within the C4-6A zoning district; and

WHEREAS, the site is occupied by a three-story commercial building; and

WHEREAS, ZR § 73-52 provides that when a zoning lot that is (a) in single ownership as of December 15, 1961 and (b) divided by district boundaries in which two or more uses are permitted, the Board may permit a use which is permitted in the district in which more than 50 percent of the lot area of the zoning lot is located to extend not more than 25 feet into the remaining portion of the zoning lot where such use is not permitted, provided that: (1) without any such extension, it would not be economically feasible to use or develop the remaining portion of the zoning lot for a permitted use; and (2) such extension will not cause impairment of the essential character or the future use or development of the surrounding area; and

WHEREAS, the applicant submitted documents reflecting the history of ownership of the subject lot and has

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demonstrated to the satisfaction of the Board that the zoning lot was in single ownership prior to December 15, 1961; and

WHEREAS, as to the 50-percent lot area requirement, the applicant submitted a site plan indicating that approximately 10,100 sq. ft. of the site's 12,550 sq. ft. of lot area (approximately 80 percent) is located within a C4-6A zoning district; and

WHEREAS, accordingly, the Board finds that the site meets the threshold requirements for ZR § 73-52; and

WHEREAS, as to economic feasibility, the applicant represents that it would not be economically feasible to use or develop the R8 portion of the site for a permitted use; specifically, the applicant states that use of the remainder of the zoning lot for a permitted use would necessitate additional entry to and corridors through the existing building which would interrupt the commercial use thereof; and

WHEREAS, accordingly, absent the requested extension of the PCE into the residential space, a substantial portion of the building would be unusable and remain vacant; and

WHEREAS, the Board agrees that it would not be economically feasible to use or develop the remaining portion of the zoning lot, zoned R8, for a permitted use; and

WHEREAS, as to the extension's effect on the surrounding area, the applicant states that the proposed extension is consistent with existing land use conditions and anticipated projects in the immediate area, in that the area surrounding the site is predominated by high-density commercial and residential uses; further, the proposed PCE will be entirely within the existing building; and

WHEREAS, accordingly, the Board finds that the proposed extension of the C4-6A zoning district portion of the lot into the R8 portion will not impair the essential character or the future use or development of the surrounding area, nor will it be detrimental to the public welfare; and

WHEREAS, the Board, therefore, has determined that the evidence in the record supports the requisite findings pursuant to ZR § 73-52; and

WHEREAS, the applicant maintains that absent the proposed special permit pursuant to ZR § 73-52, it would not be feasible to use or develop that portion of the zoning lot located within the R8 zoning district for a permitted use; and

WHEREAS, extending the PCE use into the R8 portion of the lot will not impair the essential character or the future use or development of the surrounding area; and

WHEREAS, the PCE shall operate as SoulCycle, and shall occupy 2,710 sq. ft. of floor area on the ground floor of the building and an additional 460 sq. ft. of floor space at the cellar level of the building; and

WHEREAS, the PCE's hours of operation shall be Monday through Saturday 5:30 a.m. to 11:00 p.m., and Sunday 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be

satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither: (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36, 73-03, and 73-52; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 14-BSA-181M, dated June 17, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site a portion of which is located within a C4-6A zoning district and also within a Special Enhanced Commercial District and another portion of which is located within an R8 zoning district, the operation of a PCE on the cellar and ground floor of a three-story commercial building, contrary to ZR §32-10; and under ZR § 73-52, to permit the extension of the proposed PCE 25 feet into the R8 district; *on condition* that all work will substantially conform to drawings filed with this application marked "Received January 28, 2015"- Three (3) sheets; *on further condition*:

THAT the PCE shall not extend further than 25 ft. into that portion of the subject lot that is within the R8 zoning district;

THAT the term of the PCE grant will expire on February 10, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

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THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 10, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 10, 2015.

246-14-BZ

CEQR #15-BSA-084K

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for NYC DCAS, owner; SoulCycle, Joralemon Street, LLC, lessee.

SUBJECT – Application October 10, 2014 – Special Permit (§73-36) to operate a physical culture establishment (*Soul Cycle*) within an existing landmarked building. C5-2A (DB), C5- zoning districts.

PREMISES AFFECTED – 210 Joralemon Street aka 45/63 Court Street, southwest corner formed by Joralemon Street and Court Street, Block 266, Lot 7501, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated October 6, 2014, acting on DOB Application No. 320447370, reads, in pertinent part:

A Physical Culture Establishment requires Board of Standards and Appeals permit as per ZR-73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site partially within a C5-2A zoning district and partially within a C5-4 zoning district, within the Borough Hall Skyscraper Historic District, within the Special Downtown Brooklyn District, a physical culture establishment (the “PCE”) on the cellar and first story of a 15-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 27, 2015 after due notice by publication in the *City Record*, and then to decision on February 10, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioners Montanez and Ottley-Brown; and

WHEREAS, Community Board 2, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is a corner and through lot with approximately 273.75 feet of frontage on Joralemon Street, 180.04 feet of frontage on Court Street, and 36.17 feet of frontage on Livingston Street, consisting of approximately 62,930 sq. ft.; and

WHEREAS, the site is located within a C5-2A / C5-4 zoning district, within the Borough Hall Skyscraper Historic District, within the Special Downtown Brooklyn District; and

WHEREAS, the site is occupied by a 15-story commercial building which contains approximately 533,333 sq. ft. of floor area;

WHEREAS, the proposed PCE shall occupy 1,348 sq. ft. of floor space in the cellar of the building and 2,439 sq. ft. of floor area on the first floor of the building; and

WHEREAS, the proposed PCE shall operate as SoulCycle; and

WHEREAS, the hours of operation for the PCE will be Monday through Saturday, from 5:30 a.m. to 11:00 p.m., and Sunday from 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Landmarks Preservation Commission has approved the proposed alterations of the building by Certificate of No Effect No. 16-4292, dated October 29, 2014; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-084K, dated October 10, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in

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accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site partially within a C5-2A and partially within a C5-4 zoning district, within the Borough Hall Skyscraper Historic District, within the Special Downtown Brooklyn District, the operation of a PCE on the first story and cellar of a 15-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received January 28, 2015”-(5) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on February 10, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by February 10, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 10, 2015.

285-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 84 McLaughlin Street, Block 0341, Lot 20049. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear and side yards, contrary to ZR §§ 23-45, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on December 16th, 2015, after due notice by publication in *The City Record*, and then to decision on February 10, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the west side of McLaughlin Street between Agnes Place and Olympia Boulevard, within an R3X zoning district; and

WHEREAS, the site has 20 feet of frontage along McLaughlin Street and 2,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with 502 sq. ft. of floor area (0.25 FAR); the existing site has the following yard non-compliances: one side yard (southern side yard) with a width of 3’-3” (the requirement is two side yards with minimum widths of 5’-0”, and a minimum distance between adjacent buildings along a side lot line of 8’-0”, per ZR § 23-461); and a rear yard depth of 0’-5” (a minimum rear yard depth of 30’-0” is required, per ZR § 23-47); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, similarly, the applicant represents and the Board accepts that the existing building has certain lawful non-compliances as depicted in the site plan, which existed as of December 15, 1961, and/or the date of any applicable

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subsequent amendment of the Zoning Resolution; as such, the Board acknowledges the applicability of ZR §54-00 to the site and to the building; and

WHEREAS, finally, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a one-story, single-family home with 839 sq. ft. of floor area (0.42 FAR); the new building will provide a front yard depth of 13'-11", a rear yard depth of 13'-1", a northern side yard width of 3'-2½", and southern side yard width of 3'-2½"; and

WHEREAS, in addition, the applicant states that the proposed building may be less than 8'-0" from the buildings directly north and south of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 13'-11", a rear yard depth of 13'-1", side yards with minimum widths of 3'-2½", and a minimum distance of less than 8'-0" from the buildings directly north and south of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings: (a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measured from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side

and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, side, and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in rear yard depth from 0'-5" to 13'-1", an increase in the width of one side yard, and the inclusion of two parking spaces; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear and side yards, contrary to ZR §§ 23-45, 23-461 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received January 22, 2015"- four (4) sheets; and *on further condition*:

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THAT the following shall be the bulk parameters of the building: a maximum floor area of 839 sq. ft. (0.42 FAR), a minimum front yard depth of 13'-11", a minimum rear yard depth of 13'-1", and side yards with widths of 3'-2½", as illustrated on the BSA-approved plans;

THAT the building may be located less than 8'-0" from the buildings directly north and south of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 10, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 10, 2015.

288-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 131 Cedar Grove Avenue, Block 0408, Lot 70002. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear and side yards, contrary to ZR §§ 23-45, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on

February 10, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development ("HPD") on behalf of the owner and in connection with the Mayor's Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner's Authorization); and

WHEREAS, the subject site is located on the west side of Cedar Grove Avenue between Garibaldi Avenue and Cedar Grove Court, within an R3X zoning district; and

WHEREAS, the site has 20 feet of frontage along Cedar Grove Avenue and 2,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with 616 sq. ft. of floor area (0.30 FAR); the existing site has the following yard non-compliances: a front yard depth of 7'-8¾" (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); one side yard (northern side yard) with a width of 5'-8" (the requirement is two side yards with minimum widths of 5'-0", and a minimum distance between adjacent buildings along a side lot line of 8'-0", per ZR § 23-461); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, similarly, the applicant represents and the Board accepts that the existing building has certain lawful non-compliances as depicted in the site plan, which existed as of December 15, 1961, and/or the date of any applicable subsequent amendment of the Zoning Resolution; as such, the Board acknowledges the applicability of ZR § 54-00 to the site and to the building; and

WHEREAS, finally, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a one-story, single-family home with 839 sq. ft. of floor area (0.42 FAR); the new building will provide a front yard depth of 14'-2", a rear yard depth of 24'-0", a northern side yard width of 3'-2½", and southern side yard width of 3'-2½"; and

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WHEREAS, in addition, the applicant states that the proposed building may be less than 8'-0" from the buildings directly north and south of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 14'-2", a rear yard depth of 24'-0", side yards with minimum widths of 3'-2½", and a minimum distance of less than 8'-0" from the buildings directly north and south of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measured from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, side, and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus,

the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 7'-8¾" to a 14'-2", an increase in the widths of both side yards, and the inclusion of two parking spaces; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear and side yards, contrary to ZR §§ 23-45, 23-461 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received February 4, 2015"- four (4) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 839 sq. ft. (0.42 FAR), a minimum front yard depth of 14'-2", a minimum rear yard depth of 24'-0", and side yards with widths of 3'-2½", as illustrated on the BSA-approved plans;

THAT the building may be located less than 8'-0" from the buildings directly north and south of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by

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February 10, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 10, 2015.

297-14-BZ & 298-14-A

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 6 Topping Street, between Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 50042 Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front and side yards, contrary to ZR §§ 23-45 and 23-461; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on February 10, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the south side of Topping Street between Dustan Street and Cedar Grove Avenue, within an R3X zoning district; and

WHEREAS, the site has 40 feet of frontage along Topping Street, a lot depth of 62 feet, and 2,480 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with 948 sq. ft. of floor area (0.38 FAR); the existing site has the following yard non-compliances: a front yard with a depth of 2’-4 1/8” (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); and one side yard with a width of 3’-11 7/8” (western side yard) and one side yard with a width of 10’-8” (eastern side yard) (the requirement is two side yards with minimum widths of 5’-0”, a minimum combined width of 13’-0”, and a minimum distance between adjacent buildings along a side lot line of 8’-0”, per ZR § 23-461); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, similarly, the applicant represents and the Board accepts that the existing building has certain lawful non-compliances as depicted in the site plan, which existed as of December 15, 1961 and/or the date of any applicable subsequent amendment of the Zoning Resolution; as such, the Board acknowledges the applicability of ZR §54-00 to the site and to the building; and

WHEREAS, finally, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-52; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.51 FAR); the new building will provide a front yard depth of 14’-1”, a rear yard depth of 22’-0”, a western side yard width of 4’-0”, an eastern side yard width of 11’-7”, and two parking spaces; and

WHEREAS, in addition, the applicant states that the proposed building may be less than 8’-0” from the building directly west of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 14’-1”, one side yard with minimum width of 4’-0”, and a minimum distance of less than 8’-0” from the building directly west of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow

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for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measured from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and front yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front and side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding

neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 2'-4 1/8" to 14'-1", increases in the widths of both side yards, and the inclusion of two parking spaces; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front and side yards, contrary to ZR §§ 23-45 and 23-461; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received February 4, 2015"- four (4) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 1,272 sq. ft. (0.51 FAR), a minimum front yard depth of 14'-1", a minimum rear yard depth of 22'-0", and side yards with widths of 4'-0" and 11'-7", as illustrated on the BSA-approved plans;

THAT the building may be located less than 8'-0" from the building directly west of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 10, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals,

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February 10, 2015.

299-14-BZ & 300-14-A

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 28 Topping Street, between Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 50043. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 23-52; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on February 10, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the south side of Topping Street between Dustan Street and Cedar Grove Avenue, within an R3X zoning district; and

WHEREAS, the site has 40 feet of frontage along Topping Street, a lot depth of 62 feet, and 2,480 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged,

one-story, single-family home with 1,093 sq. ft. of floor area (0.44 FAR); the existing site has the following yard non-compliances: a front yard with a depth of 9’-7” (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); a rear yard depth of 4’-7” (a minimum front yard depth of 22’-0” is required, per ZR §§ 23-47 and 23-52; and one side yard with a width of 3’-6” (western side yard) and one side yard with a width of 10’-0” (eastern side yard) (the requirement is two side yards with minimum widths of 5’-0”, a minimum combined width of 13’-0”, and a minimum distance between adjacent buildings along a side lot line of 8’-0”, per ZR § 23-461); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, similarly, the applicant represents and the Board accepts that the existing building has certain lawful non-compliances as depicted in the site plan, which existed as of December 15, 1961 and/or the date of any applicable subsequent amendment of the Zoning Resolution; as such, the Board acknowledges the applicability of ZR §54-00 to the site and to the building; and

WHEREAS, finally, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-52; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.51 FAR); the new building will provide a front yard depth of 18’-0”, a rear yard depth of 18’-1¼”, a western side yard width of 5’-0”, an eastern side yard width of 10’-5¼”, and two parking spaces; and

WHEREAS, in addition, the applicant states that the proposed building may be less than 8’-0” from the building directly west of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 18’-1¼”, and a minimum distance of less than 8’-0” from the building directly west of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant

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to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measured from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the rear and side yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested rear and side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 9'-7" to 18'-", increases in the widths of both side yards, an increase in the rear yard depth from 4'-7" to 18'-1¼" and an increase in the number of parking spaces from one to two; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 23-52; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received January 22, 2015"- four (4) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 1,272 sq. ft. (0.51 FAR), a minimum front yard depth of 18'-0", a minimum rear yard depth of 18'-1¼", and side yards with widths of 5'-0" and 10'-5¼", as illustrated on the BSA-approved plans;

THAT the building may be located less than 8'-0" from the building directly west of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 10, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 10, 2015.

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307-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 540 Hunter Avenue, Block 0379, Lot 60024 Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for side yards, contrary to ZR §§ 23-461 and 23-48; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on February 10, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the south side of Hunter Avenue between Grimbsy Street and Freeborn Street, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Hunter Avenue and 2,160 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with 1,140 sq. ft. of floor area (0.53 FAR); the existing site has the following yard non-compliances: a front yard with a depth of 6’-9 5/8” (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); no side yards (the requirement is two side yards with minimum widths of 5’-0” and a minimum distance between adjacent buildings along a side lot line of 8’-0”, per ZR §

23-461); and a rear yard depth of 21’-4 7/8” (a minimum rear yard depth of 30’-0” is required, per ZR § 23-47); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, similarly, the applicant represents and the Board accepts that the existing building has certain lawful non-compliances as depicted in the site plan, which existed as of December 15, 1961, and/or the date of any applicable subsequent amendment of the Zoning Resolution; as such, the Board acknowledges the applicability of ZR §54-00 to the site and to the building; and

WHEREAS, finally, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,430 sq. ft. of floor area (0.55 FAR); the new building will provide a front yard depth of 18’-0”, a rear yard depth of 35’-8”, a western side yard width of 3’-0”, an eastern side yard width of 3’-5”, and two parking spaces; and

WHEREAS, in addition, the applicant states that the proposed building may be less than 8’-0” from the building directly west of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with side yards with widths of 3’-0” and 3’-5” and a minimum distance of less than 8’-0” from the buildings directly east and west of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measured from the flood-resistant

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construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, substantial increases in the depths and widths of all yards, including the provision of a complying front yard and a rear yard with a depth of more than 35 feet; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and
Therefore it is Resolved, that the Board of Standards

and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for side yards, contrary to ZR §§ 23-461 and 23-48; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received November 10, 2014"- four (4) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 1,430 sq. ft. (0.55 FAR), a minimum front yard depth of 18'-0", a minimum rear yard depth of 35'-8", side yards with widths of 3'-0" and 3'-5", and two parking spaces, as illustrated on the BSA-approved plans;

THAT the building may be located less than 8'-0" from the buildings directly east and west of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 10, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 10, 2015.

308-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 179 Kiswick Street, Block 50042, Lot 60024 Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice Chair Hinkson,

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Commissioner Montanez and Commissioner Ottley-Brown.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for side yards, contrary to ZR §§ 23-461 and 23-48; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on February 10, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the west side of Kiswick Street between Bedford Avenue and Midland Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 30 feet of frontage along Kiswick Street and 3,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with 1,052 sq. ft. of floor area (0.35 FAR); the existing site has the following yard non-compliances: no front yard (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); side yards with widths of 1’-5” (southern side yard) and 3’-0” (northern side yard) (the requirement is two side yards with minimum widths of 5’-0” and a minimum distance between adjacent buildings along a side lot line of 8’-0”, per ZR § 23-461); and a rear yard depth of 9’-0” (a minimum rear yard depth of 30’-0” is required, per ZR § 23-47); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, similarly, the applicant represents and the Board accepts that the existing building has certain lawful non-compliances as depicted in the site plan, which existed as of December 15, 1961 and/or the date of any applicable subsequent amendment of the Zoning Resolution; as such,

the Board acknowledges the applicability of ZR §54-00 to the site and to the building; and

WHEREAS, finally, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,506 sq. ft. of floor area (0.50 FAR); the new building will provide a front yard depth of 18’-0”, a rear yard depth of 38’-1¼”, side yards with widths of 3’-8 5/8”, and two parking spaces; and

WHEREAS, in addition, the applicant states that the proposed building will be less than 8’-0” from the buildings directly north and south of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with side yards with widths of 3’-8 5/8” and a minimum distance of less than 8’-0” from the buildings directly north and south of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measured from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood’s potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the

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proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, substantial increases in the depths and widths of all yards, including the provision of a complying front yard and a rear yard with a depth of more than 38 feet, and the inclusion of two parking spaces, where none were previously provided; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for side yards, contrary to ZR §§ 23-461 and 23-48; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received January 23, 2015"- four (4) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the

building: a maximum floor area of 1,506 sq. ft. (0.50 FAR), a minimum front yard depth of 18'-0", a minimum rear yard depth of 38'-1¼", side yards with widths of 3'-8 5/8", and two parking spaces, as illustrated on the BSA-approved plans;

THAT the building may be located less than 8'-0" from the buildings directly north and south of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 10, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 10, 2015.

312-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 65 Hempstead Avenue, Block 0381, Lot 00008, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear and side yards, contrary to ZR §§ 23-45, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on February 10, 2015; and

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WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development ("HPD") on behalf of the owner and in connection with the Mayor's Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner's Authorization); and

WHEREAS, the subject site is located on the north side of Hempstead Avenue between Baden Place and Patterson Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 30 feet of frontage along Hempstead Avenue and 2,342 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with 933 sq. ft. of floor area (0.40 FAR); the existing site has the following yard non-compliances: a front yard depth of 10'-7" (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); side yards widths of 2'-7³/₄" (eastern side yard) and 4'-2 1/8" (western side yard) (the requirement is two side yards with minimum widths of 5'-0", and a minimum distance between adjacent buildings along a side lot line of 8'-0", per ZR § 23-461); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, similarly, the applicant represents and the Board accepts that the existing building has certain lawful non-compliances as depicted in the site plan, which existed as of December 15, 1961, and/or the date of any applicable subsequent amendment of the Zoning Resolution; as such, the Board acknowledges the applicability of ZR §54-00 to the site and to the building; and

WHEREAS, finally, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a one-story, single-family home with 839 sq. ft. of floor area (0.36 FAR); the new building will provide a front yard depth of 18'-0", a rear yard depth of 14'-5", side yards with widths of 3'-0", and two parking spaces; and

WHEREAS, in addition, the applicant states that the proposed building may be less than 8'-0" from the buildings directly east and west of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 14'-5", side yards with minimum widths of 3'-0", and a minimum distance of less than 8'-0" from the buildings directly east and west of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measured from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, side, and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is

MINUTES

inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 10'-7" to a 18'-0", an increase in the width of one side yard and the rear yard, and the inclusion of two parking spaces; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear and side yards, contrary to ZR §§ 23-45, 23-461 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received February 4, 2015"- four (4) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 839 sq. ft. (0.36 FAR), a minimum front yard depth of 18'-0", a minimum rear yard depth of 14'-5", and side yards with widths of 3'-0", as illustrated on the BSA-approved plans;

THAT the building may be located less than 8'-0" from the buildings directly east and west of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 10, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 10, 2015.

65-13-BZ

APPLICANT – Eric Palatnik, Esq., for Israel Rosenberg, owner.

SUBJECT – Application February 12, 2013 – Variance (§72-21) to permit a residential development, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 123 Franklin Avenue, between Park and Myrtle Avenues, Block 1899, Lot 108, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over without date for decision.

248-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Moshe Benefeld, owner.

SUBJECT – Application August 23, 2014 – Special Permit (§73-622) for the enlargement of an existing single-family home, contrary to floor area and open space (23-141a); side yards (23-461). R2 zoning district.

PREMISES AFFECTED – 1179 East 28th Street, east side of East 28th Street, approximately 127' north of Avenue L, Block 7628, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

264-13-BZ

APPLICANT – Francis R. Angelino, Esq., for David Lowenfeld, owner; BB Fitness dba Brick Crossfit NYC, lessee.

SUBJECT – Application September 6, 2013 – Special Permit (§73-36) to legalize a physical culture establishment (*Brick CrossFit*) on the ground floor and cellar of an existing 10-story building. C6-2A zoning district.

PREMISES AFFECTED – 257 West 17th Street, north side, West 17th Street, between 7th & 8th Avenues, Block 767, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for continued hearing.

MINUTES

329-13-BZ

APPLICANT – Alexander Levkovich, for Sam Ravit, owner.

SUBJECT – Application December 31, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (23-141). R3-1 zoning district.

PREMISES AFFECTED – 145 Girard Street, east side of Girard Street, appoximately 600’ south of intersection with Hampton Avenue, Block 8750, Lot 386, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for decision, hearing closed.

45-14-BZ

APPLICANT – Eric Palatnik, P.C., for Athina Orthodoxou, owner.

SUBJECT – Application March 18, 2014 – Special Permit (§73-622) to enlarge an existing semi-detached two story dwelling and to vary the floor area ratio requirements, and to convert the one family home into a two family home. R4-1 zoning district.

PREMISES AFFECTED – 337 99th Street, between 3rd and 4th Avenues, Block 6130, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #10BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for decision, hearing closed.

59-14-BZ

APPLICANT – Caroline G. Harris, for School Settlement Association Ink., owner.

SUBJECT – Application April 10, 2014 – Variance (§72-21) to permit the construction of a four-story plus penthouse community facility (UG 4), contrary to (24-11). R6B zoning district.

PREMISES AFFECTED – 114-122 Jackson Street, located on the SW corner of the Intersection of Jackson Street and Manhattan Avenue. Block 2748, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for continued hearing.

122-14-BZ

APPLICANT – Lewis E Garfinkel, for Ariel Boiangiu,

owner.

SUBJECT – Application October 21, 2014 – Special Permit (§73-622) for the enlargement of an existing single family semi-detached home contrary to floor area and open space ZR 23-141; side yards ZR 23-461 and less than the required rear yard ZR 23-47. R2 zoning district.

PREMISES AFFECTED – 1318 East 28th Street, west side of 28th Street 140 feet of Avenue M, Block 7663, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

203-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 16 West 8th LLC, owner; 305 Fitness, lessee.

SUBJECT – Application August 25, 2014 – Special Permit §73-36 to permit a physical culture establishment (*305 Fitness*) within portions of an existing commercial building. C4-5 zoning district.

PREMISES AFFECTED – 18 West 8th Street, South side of West 8th Street, 97.2 feet east of intersection of West 8th Street and MacDougal Street. Block 551, Lot 23. Borough of Manhattan.

COMMUNITY BOARD #2M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for decision, hearing closed.

MINUTES

**REGULAR MEETING
TUESDAY AFTERNOON, FEBRUARY 10, 2015
1:00 P.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez

ZONING CALENDAR

249-14-BZ

CEQR #15-BSA-089X

APPLICANT – Akerman LLP, for Sam Shalem, owner;
Capital fitness-"Bay Plaza LLC, lessee.

SUBJECT – Application October 15, 2014 – Special Permit
(§73-36) to obtain a special permit to operate a physical
culture establishment (*X Sport Fitness*) within an existing
commercial building. (C4-3) zoning district.

PREMISES AFFECTED – 200 Baychester Avenue,
Hutchinson River Parkway and Baychester Avenue, Block
5141, Lot 6, Borough of Bronx.

COMMUNITY BOARD #10BX

ACTION OF THE BOARD – Application granted on
condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice Chair Hinkson,
Commissioner Montanez and Commissioner Ottley-
Brown.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of
Buildings (“DOB”), dated August 11, 2014, acting on DOB
Application No. 220140274, reads, in pertinent part:

Proposed Physical Culture Establishment in a C4-3
zoning district is contrary to Section 42-10 Zoning
Resolution [SIC]...; and

WHEREAS, this is an application under ZR §§ 73-36
and 73-03, to permit the operation, on a site within a C4-3
zoning district, of a physical culture establishment (“PCE”) on
the third and fourth floors of a four-story commercial building,
contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this
application on February 10, 2015, after due notice by
publication in the *City Record*, and then to decision on the
same date; and

WHEREAS, Community Board 10, Bronx, recommends
approval of this application; and

WHEREAS, the subject site is located within a C4-3
zoning district and is part of the Mall at Bay Plaza, which is
comprised of lots 1, 3, 6, 8, 9, 11, 12, 15, and 17 on block
5141, in the Bronx; and

WHEREAS, the site has approximately 581.5 feet of
frontage along the Hutchinson River Parkway, is located north
of Baychester Avenue and south of Bartow Avenue, and
consists of 201,720 sq. ft. of lot area; and

WHEREAS, the site is occupied by a four-story

commercial building; and

WHEREAS, the PCE shall operate as Capital Fitness –
Bay Plaza, LLC d/b/a Export Fitness, and shall occupy
18,366sq. ft. of floor area on the third floor of the subject
building and 19,222 sq. ft. of floor area on the fourth floor of
the subject building, for a total floor area of 37,588 sq. ft.; and

WHEREAS, the PCE shall operate seven days a week,
24 hours a day; and

WHEREAS, the Department of Investigation has
performed a background check on the corporate owner and
operator of the establishment and the principals thereof, and
issued a report which the Board has determined to be
satisfactory; and

WHEREAS, the Fire Department states that it has no
objection to the proposal; and

WHEREAS, the PCE does not interfere with any
pending public improvement project; and

WHEREAS, accordingly, the Board finds that this
action will neither: (1) alter the essential character of the
surrounding neighborhood; (2) impair the use or
development of adjacent properties; nor (3) be detrimental
to the public welfare; and

WHEREAS, the Board finds that, under the conditions
and safeguards imposed, any hazard or disadvantage to the
community at large due to the proposed special permit use is
outweighed by the advantages to be derived by the
community; and

WHEREAS, therefore, the Board has determined that
the evidence in the record supports the requisite findings
pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted
Action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental
review of the proposed action and has documented relevant
information about the project in the Final Environmental
Assessment Statement (EAS) CEQR No.15-BSA-089X, dated
October 15, 2014 ; and

WHEREAS, the EAS documents that the project as
proposed would not have significant adverse impacts on Land
Use, Zoning, and Public Policy; Socioeconomic Conditions;
Community Facilities and Services; Open Space; Shadows;
Historic Resources; Urban Design and Visual Resources;
Neighborhood Character; Natural Resources; Waterfront
Revitalization Program; Infrastructure; Hazardous Materials;
Solid Waste and Sanitation Services; Energy; Traffic and
Parking; Transit and Pedestrians; Air Quality; Noise; and
Public Health; and

WHEREAS, no other significant effects upon the
environment that would require an Environmental Impact
Statement are foreseeable; and

WHEREAS, the Board has determined that the
proposed action will not have a significant adverse impact on
the environment; and

Therefore it is Resolved, that the Board of Standards and
Appeals issues a Negative Declaration determination prepared
in accordance with Article 8 of the New York State

MINUTES

Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-3 zoning district, the operation of a PCE on the third and fourth floors of a four-story commercial building, contrary to ZR §32-10; *on condition* that all work will substantially conform to drawings filed with this application marked "Received December 23, 2014"-(6) sheets; *on further condition*:

THAT the term of the PCE grant will expire on February 10, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans; THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 10, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 10, 2015.

186-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Bond Street Owner, LLC, owners.

SUBJECT – Application August 15, 2014 – Variance (§72-21) to permit the construction of a new hotel building with ground floor retail contrary to allowable commercial floor area (ZR 33-122) located within C6-1/R6B District in the Downtown Brooklyn Special District.

PREMISES AFFECTED – 51-63 Bond Street aka 252-270 Schermerhorn Street, southeast corner of Bond Street and Schermerhorn Street, Block 172, Lot(s) 5, 7, 10, 13, 14, 15, 109, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for continued hearing.

238-14-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for DDG 100 Franklin, LLC., owner.

SUBJECT – Application October 1, 2014 – Variance (§72-21) to permit the construction of two mixed residential and commercial buildings on a single zoning lot contrary to §§35-21 & 23-145 (Lot Coverage), 35-24c (Height and setback), 35-52 and 33-23 (minimum width of open area along a side lot line and permitted obstruction regulations), 35-24b (Street wall location). C6-2A Zoning District, Historic District.

PREMISES AFFECTED – 98-100 Franklin Street, Bounded by Avenue of the Americas, Franklin and White Streets, West Broadway, Block 00178, Lot 0029, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

MINUTES

CORRECTION

This resolution adopted on November 18, 2014, under Calendar No. 104-14-BZ and printed in Volume 99, Bulletin Nos. 45-47, is hereby corrected to read as follows:

104-14-BZ

CEQR #14-BSA-155K

APPLICANT – Warshaw Burnstein, LLP., for Sam Spikes, LLC, owner; 287 Broadway Fitness Group, LLC., lessee.

SUBJECT – Application May 15, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) on a portion of the ground and second floors of a new building, contrary to (§32-31). C4-3 zoning district.

PREMISES AFFECTED – 282 South 5th Street aka 287 Broadway, between Broadway and West of Marcy Avenue, Block 2460, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 7, 2014, acting on DOB Application No. 320377454, reads, in pertinent part:

Proposed physical culture establishment use is not permitted as-of-right in a C4-3 zoning district, per ZR Section 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-3 zoning district, the operation of a physical culture establishment (“PCE”) in portions of the first and second stories of a 13-story mixed residential, community facility, and commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on October 7, 2014 after due notice by publication in the *City Record*, and then to decision on November 18, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Montanez and Commissioner Ottley-Brown; and

WHEREAS, Community Board 1, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is a through lot with frontages along South Fifth Street (140’-2”) and Broadway (140’-2”), between Marcy Avenue and Havemeyer Street, within a C4-3 zoning district; the site has 28,046 sq. ft. of lot area; and

WHEREAS, under construction at the site is a 13-story mixed residential, community facility, and commercial building with 105,906 sq. ft. of floor area (3.78 FAR); and

WHEREAS, the PCE will occupy a total 17,878 sq. ft.

of floor area, with 2,008 sq. ft. of floor area on the first story and 15,870 sq. ft. of floor area on the second story; and

WHEREAS, the PCE will operate as Planet Fitness; and

WHEREAS, the PCE’s hours of operation will 24 hours per day, seven days per week; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, at hearing, the Board directed the applicant to clarify its proposed sound attenuation measures; and

WHEREAS, in response, the applicant submitted amended plans to reflect the proposed sound attenuation measures, which include a buffer space between the PCE and the community facility space on the second story; the applicant also notes that no dwelling will share a demising wall with the PCE; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 14-BSA-155K, dated May 15, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-3 zoning district, the operation of a PCE in portions of the first and second stories of a 13-story mixed residential, community facility, and commercial building, contrary to ZR § 32-10; on condition that all work will substantially conform to drawings filed with this application marked “Received February 10, 2015”- (4) sheets; on further condition:

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THAT the term of the PCE grant will expire on November 18, 2024; THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by November 18, 2018;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 18, 2014.

The resolution has been amended to correct the Approved Plans date, which read “Received November 5, 2014”-Two (2) sheets” now reads “Received February 10, 2015”-(4) sheets”. Corrected in Bulletin No. 8, Vol. 100, dated February 18, 2015.

BULLETIN

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February 24, 2015

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24-15-BZ

71-17 Roosevelt Avenue, Frontage on Roosevelt Avenue and 72nd Street, Block 1282, Lot(s) 141,151,160, Borough of **Queens, Community Board: 3**. Special Permit (73-66): proposed to construct a 15-story building at a height of 161.5 feet above ground level containing a mix o f community facility, retail and residential uses in the above premises, located within an R6-C2-3 zoning district. R6/C2-3 district.

25-15-BZ

71 Lewis Avenue, 5-story building on the east side of Lewis Avenue between Willoughby Avenue and Hart Street., Block 1592, Lot(s) 1, Borough of **Brooklyn, Community Board: 3**. Special Permit (73-36) to allow accessory off-street parking spaces required for dwelling units created by a conversion a five-story community facility, located within an R6B zoning district. R3-6 district.

26-15-A

57 Alberta Avenue, North Side of Alberta Avenue between Victory Boulevard and Wild Avenue, Block 02637, Lot(s) 0019, Borough of **Staten Island, Community Board: 2**. Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3A zoning district. R3A district.

27-15-A

61 Alberta Avenue, North Side of Alberta Avenue between Victory Boulevard and Wild Avenue, Block 02637, Lot(s) 0020, Borough of **Staten Island, Community Board: 2**. Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3A zoning district. R3A district.

28-15-BZ

88 Fulton Street, Southeast corner of Fulton Street between William and Gold Street, Block 00077, Lot(s) 0024, Borough of **Manhattan, Community Board: 1**. Special Permit (§73-36) to allow the operation of a physical culture establishment (Spa 88) on the first, cellar and sub-cellar floors of the existing building. C6-4 zoning district C6-4 district.

29-15-BZ

200-204 East 61st Street, East side of 3rd Avenue between East 60th and East 61st Street, Block 01415, Lot(s) 7501, Borough of **Manhattan, Community Board: 8**. Special Permit (§73-36) to allow the operation of a physical culture establishment at the cellar level of an existing building. C6-4 zoning district C1-9 district.

30-15-BZ

224-12/16/20 Francis Lewis Boulevard, Located on the South side of Francis Lewis Boulevard between 224th and 225th Streets, Block 12825, Lot(s) 111, 112, 116, Borough of **Queens, Community Board: 13**. Variance (§72-21) to permit the construction of a House of Worship (UU 4) and Accessory Educational Facility with sleeping accommodations (UG 3) contrary to bulk regulation. R2A zoning district R2A district.

31-15-BZ

2800 Victory Boulevard, Canterbury Avenue and Victory Boulevard on Loop Road, Block 02040, Lot(s) 0001, Borough of **Staten Island, Community Board: 2**. Special Permit (§73-30) to permit the modification of an existing wireless facility. R3-2 zoning district R3-2 district.

32-15-BZ

2847 West 8th Street, East side of West 8th Street, 125.67 ft. south of the intersection of West 8th Street and Sheepshead Bay Road, Block 07279, Lot(s) 0162, Borough of **Brooklyn, Community Board: 13**. Special Permit (§73-36) to allow the operation of a physical culture establishment within portions of a existing building. C8-2 (OP) zoning district C8-2 (OP) district.

33-15-BZ

5510 Broadway, north east corner of Broadway and West 230th Street, Block 03266, Lot(s) 21 & 23, Borough of **Bronx, Community Board: 8**. Special Permit (§73-36) to allow the operation of a physical culture establishment within a new commercial building. C8-2 (OP) zoning district C4-4 district.

DOCKETS

34-15-BZ

2316 Ocean Parkway, between Avenue "W" and Lancaster Avenue, Block 07181, Lot(s) 0014, Borough of **Brooklyn**, **Community Board: 15**. Special Permit (§73-622) to permit the enlargement of an existing two story dwelling with attic contrary to floor area ratio, side yard and rear yard requirements. R4 zoning district. R4 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

MARCH 10, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 10, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

174-04-BZ

APPLICANT – Kramer Levin Naftalis & Franked LLP, for 124 West 24th Street Condominium, owner.

SUBJECT – Application October 31, 2014 – Amendment: to amend and the approval of the conveyance of unused development rights appurtenant to the subject site. The variance previously granted by the Board located within and M1-5 zoning district.

PREMISES AFFECTED – 124 West 24th Street, location on the south side of West 24th Street, between Sixth and Seventh Avenues. Block 799, Lots 1001, 1026. Borough of Manhattan.

COMMUNITY BOARD #4M

MARCH 10, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, March 10, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

46-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Boerum Place LLC, owner; for Blink Atlantic Avenue, Inc., lessee.

SUBJECT – Application March 20, 2014 – Special Permit (§73-36) to allow the physical culture establishment (*Blink Fitness*) within portions of a new commercial building. C2-4 (R6A) (DB) zoning districts.

PREMISES AFFECTED – 252/60 Atlantic Avenue, southeast corner of intersection of Atlantic Avenue and Boerum Place, Block 181, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

143-14-BZ

APPLICANT – Eric Palatnik, P.C., for Wanda Y. Ng, owner; 99 Health Club Inc., lessee.

SUBJECT – Application June 20, 2014 – Special Permit (§73-36) to allow for the proposed physical culture establishment (*99 Health Club Inc.*) in the cellar, first and

second floor of two story building in an M1-1 zoning district.

PREMISES AFFECTED – 746 61st Street, between 7th and 8th Avenue, Block 5794, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #7BK

241-14-BZ

APPLICANT – Warshaw Burstein, LLP, for Tiago Holdings, LLC, owner; East River Plaza Fitness Group, LLC, lessee.

SUBJECT – Application October 3, 2014 – Special Permit (§73-36) to allow the operation of physical culture establishment (*Planet Fitness*) on a portion of the third floor of the existing large scale development. C4-4 zoning district.

PREMISES AFFECTED – 517 East 117th Street, located within a large scale development located along FDR Drive between East 116th Street and 119th Streets, Block 1715, Lot(s) 22, 8, Borough of Manhattan.

COMMUNITY BOARD #11M

Ryan Singer, Executive Director

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REGULAR MEETING
TUESDAY MORNING, FEBRUARY 3, 2015
10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

131-93-BZ

APPLICANT – Eric Palatnik, P.C., for Paul Memi, owner.
SUBJECT – Application April 25, 2014 – Extension of
Term (§11-411) of a previously approved variance which
permitted the operation of an Automotive Service Station
(UG 16B) with accessory uses which expires on November
22, 2014. C2-2/R5 zoning district.

PREMISES AFFECTED – 3743-3761 Nostrand Avenue,
north of the intersection of Avenue "Y", Block 7422, Lot 53,
Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to April 14,
2015, at 10 A.M., for continued hearing.

318-06-BZ

APPLICANT – Eric Palatnik, LLP for Sun Company Inc.
(R&M), owner.

SUBJECT – Application August 9, 2013 – Extension of
Term (§11-411) of a previously approved variance which
permitted the operation of an automotive service station (UG
16B), which expired on May 22, 2013; Extension of Time to
Obtain a Certificate of Occupancy which expired on
November 22, 2007; Waiver of the Rules. R4 zoning
district.

PREMISES AFFECTED – 49-05 Astoria Boulevard,
Noreast corner of Astoria Boulevard and 49th Street. Block
1000, Lot 35, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to April 14,
2015, at 10 A.M., for adjourned hearing.

42-08-BZ

APPLICANT – Eric Palatnik, P.C., for David Nikchemny,
owner.

SUBJECT – Application July 22, 2014 – Extension of
Time to Complete Construction of a previously granted
Special Permit (73-622) for the enlargement of an existing
two family home to be converted into a single family home
which expired on January 27, 2013; Waiver of the Rules.
R3-1 zoning district.

PREMISES AFFECTED – 182 Girard Street, between
Oriental Boulevard and Hampton Street, Block 8749, Lot
25, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to April 14,

2015, at 10 A.M., for deferred decision.

APPEALS CALENDAR

113-14-A

APPLICANT – Howard Goldman, Esq., for Speakeasy 86
LLC c/o Newcastle Realty Service, owner.

SUBJECT – Application May 29, 2014 – Appeal seeking
revocation of a permit issued that allows a nonconforming
use eating/drinking establishment to resume after being
discontinued for several years. R6 zoning district.

PREMISES AFFECTED – 86 Bedford Street, northeastern
side of Bedford Street between Barrow and Grove Streets,
Block 588, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Application Denied.

THE VOTE TO GRANT –

Affirmative:0

Negative: Vice-Chair Hinkson, Commissioner Ottley-Brown
and Commissioner Montanez3

Absent: Chair Perlmutter.....1

THE RESOLUTION –

WHEREAS, this is an appeal of the Department of
Buildings' reinstatement of DOB Permit Number 120174658-
01-A, re-issued April 29, 2014 (the "Permit"), which
constitutes the final determination at issue herein and which
reads, in pertinent part:

Alteration Type 1 – Convert Existing 3 Family
House to 1 Family. Existing Restaurant to Remain
on Ground Floor...; and

WHEREAS, a public hearing was held on this appeal on
December 16, 2014, after due notice by publication in *The
City Record*, and then to decision on February 24, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner
Ottley-Brown performed inspections of the subject premises,
site and neighborhood; and

WHEREAS, the subject site is located at the northeast
corner of Bedford Street and Barrow Street, within an R6
zoning district, within the Greenwich Village Historic
District, in Manhattan; and

WHEREAS, the site is a single zoning lot occupied by
five buildings: the subject three-story building at 86
Bedford Street (the "Subject Building") and four other
buildings (82/84 Bedford Street, 58 Barrow Street and 56
Barrow Street) (collectively, the "Buildings"); and

WHEREAS, the Buildings were constructed in the
early 1800s; and

WHEREAS, the ground floor and cellar at the Subject
Building (the "Premises") have historically been occupied
by an eating and drinking establishment (Use Group 6)
known as Chumley's, with residential use above; and

WHEREAS, this appeal of DOB's issuance of the
Permit is brought by the owner of an adjacent building (88
Bedford Street) (the "Appellant"); and

WHEREAS, as set forth below, the Appellant asserts

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that DOB erred in reinstating the Permit, because the Permit authorizes the resumption of the non-conforming eating and drinking establishment use contrary to the Zoning Resolution; and

WHEREAS, DOB, the Appellant and the owner of the Subject Building (the "Owner"), all represented by counsel, appeared and made submissions in support of or in opposition to the instant appeal; and

BACKGROUND

WHEREAS, on May 12, 2006, the chimney and interior portions of 82/84 Bedford Street collapsed; and

WHEREAS, on or about April 4, 2007, the chimney and the south bearing wall of the Subject Building partially collapsed; on that same day, DOB was notified of the collapse and responded by issuing a Vacate Order; and

WHEREAS, the Vacate Order remains in effect and Chumley's has not operated since it was issued; and

WHEREAS, subsequent to the partial collapse of the chimney and south bearing wall of the Subject Building, the Owner was required to remove the existing south masonry wall and two chimneys from the Subject Building; and

WHEREAS, according to DOB and the Owner, the repair work related to the reconstruction of 82-84 Bedford Street and the Subject Building (the "Work") was complicated by the relationship of those two buildings to each other and to the remainder of the buildings on the zoning lot; and

WHEREAS, in order to facilitate the Work, the Owner regularly consulted with DOB and LPC personnel and was directed by representatives of the aforesaid agencies with respect to the Work; and

WHEREAS, after working with DOB to perform the Work for nearly two years, in March 2009, the Owner, at the direction of DOB, hired a DOB-licensed site safety manager to monitor the conditions at the Buildings; and

WHEREAS, thereafter, in addition to the Work which was supervised by DOB and LPC, the Owner was required to perform the following DOB-mandated repairs to the Buildings: (1) pursuant to a DOB Emergency Declaration dated July 2, 2009, the Owner was required to demolish the structurally compromised rear extension of the Subject Building and perform shoring and bracing of the exterior walls and interior floors of that building; (2) pursuant to a second DOB Emergency Declaration dated July 2, 2009, the Owner was directed to address structural conditions at 82-84 Bedford Street; and (3) pursuant to DOB Emergency Declaration dated December 9, 2009, the Owner was required to demolish and replace a bearing wall at 58 Barrow Street that was adjacent to the Subject Building; and

WHEREAS, in order to complete the Work, the Owner was required to file four applications with DOB and six post approval amendments related to the Subject Building; and

WHEREAS, on October 8, 2009, the Owner applied to DOB for the Permit, seeking approval to convert the Subject Building from a three-family to a one-family and to maintain the non-conforming eating and drinking establishment (Use Group 6) at the ground floor; and

WHEREAS, on December 20, 2010, DOB approved the

Permit; and

WHEREAS, on December 2, 2011, following an audit of the Permit, DOB issued a Notice of Objections including 12 objections pertaining to the Zoning Resolution and the Building Code; among the objections was a ZR § 52-61 objection that the non-conforming Use Group 6 was discontinued for two consecutive years and, therefore, that the eating and drinking establishment (Use Group 6) was not permitted; and

WHEREAS, based on the objections remaining unresolved, including the issue of discontinuance of the eating and drinking establishment, DOB revoked the approval and Permit on March 8, 2013; and

WHEREAS, on April 29, 2013, the Owner filed an appeal of DOB's revocation to the Board under BSA Cal. No. 123-13-A; and

WHEREAS, initially, DOB defended its revocation of the Permit; however, through the hearing process, DOB was persuaded that the Owner was entitled to resume its non-conforming use, and on January 21, 2014, DOB issued a letter to the Board stating that the discontinuance of the eating and drinking establishment use for a period of greater than two years was within the tolling standards set forth in *149 Fifth Avenue Corp. v Chin*, 305 AD2d 194 (1st Dept 2003); and

WHEREAS, in its letter to the Board, DOB stated that it:

has been provided with sufficient evidence that the repair work was diligently completed in light of the complexity of the task of repairing damage on landmark-designated buildings constructed in the early [1800s] on five interrelated buildings accessed through a narrow alley. The Department recognizes that the repair work, imposed by multiple emergency declarations and under supervision of a Department engineer who directed the sequence of repair work, is tantamount to being a legal mandate; and

WHEREAS, on April 8, 2014, DOB accepted the earlier audit and on April 29, 2014, it reinstated the Permit; and

WHEREAS, on May 6, 2014, the Owner withdrew the appeal before the Board, which the Board recognized had been rendered moot by DOB's determination that the two-year period of discontinuance had been tolled; and

WHEREAS, on May 29, 2014, the Appellant filed the subject appeal based on DOB's reinstatement of the Permit; and

RELEVANT ZONING RESOLUTION PROVISIONS

ZR § 12-10 (*Definitions*)

Non-conforming, or non-conformity

A "non-conforming" *use* is any lawful *use*, whether of a *building or other structure* or of a *zoning lot*, which does not conform to any one or more of the applicable *use* regulations of the district in which it is located, either on December 15, 1961 or as a result of any subsequent amendment thereto. . .

* * *

ZR § 52-11 (*Continuation of Non-Conforming*)

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Uses)

General Provisions

A *non-conforming use* may be continued, except as otherwise provided in this Chapter; and

* * *

ZR § 52-22 (*Structural Alterations*)

General Provisions

* * *

No structural alterations shall be made in a *building or other structure* substantially occupied by *non-conforming use*, except when made . . . (a) in order to comply with requirements of law . . . ;

* * *

ZR § 52-61 (*Discontinuance*)

General Provisions

If, for a continuous period of two years, either the *nonconforming use of land with minor improvements* is discontinued, or the active operation of substantially all the *non-conforming uses* in any *building or other structure* is discontinued, such land or *building or other structure* shall thereafter be used only for a conforming *use*. Intent to resume active operations shall not affect the foregoing . . .

Except in Historic Districts as designated by the Landmarks Preservation Commission, the provisions of this Section shall not apply to vacant ground floor or *basement* stores in *buildings designed for residential use* located in R5, R6 or R7 Districts where the changed or reactivated *use* is listed in Use Group 6A, 6B, 6C or 6F . . . ; and

THE ISSUE PRESENTED

WHEREAS, the issues to be decided on appeal are (1) whether DOB properly issued the Permit notwithstanding that the non-conforming use of the Premises was discontinued as of April 4, 2007, and (2) whether the Owner was permitted to perform structural alterations to the Building; and

LEGAL STANDARDS

THE RESUMPTION OF A NON-CONFORMING USE

WHEREAS, DOB and the Appellant agree that the site is currently within an R6 zoning district and that an eating and drinking establishment is not permitted as-of-right within the zoning district; and

WHEREAS, accordingly, in order to establish the Permit was issued in error, the Appellant must demonstrate that the Owner is precluded from reestablishing its non-conforming eating and drinking establishment (Use Group 6) at the Premises notwithstanding DOB's determination that (1) the Owner's use of the Premises meets the Zoning Resolution's criteria for a "non-conforming use" as defined at ZR § 12-10, and (2) that the Owner's discontinuance of the non-conforming use of the Premises does not preclude the reestablishment of such use pursuant to ZR § 52-61 because of the tolling doctrine announced in *149 Fifth Avenue Corp. v Chin*; and

WHEREAS, ZR § 12-10 defines "non-conforming" use as "any lawful *use*, whether of a *building or other structure* or

of a tract of land, which does not conform to any one or more of the applicable *use* regulations of the district in which it is located, either on December 15, 1961 or as a result of any subsequent amendment thereto"; and

WHEREAS, ZR § 52-61 (*Discontinuance, General Provisions*) states that: "[i]f, for a continuous period of two years, either the *non-conforming use of land with minor improvements* is discontinued, or the active operation of substantially all the *non-conforming uses* in any *building or other structure* is discontinued, such land . . . shall thereafter be used only for a conforming *use*"; and

WHEREAS, the Board acknowledges that in certain instances, the two-year period beyond which a non-conforming use may not be reestablished can be tolled pursuant to the doctrine set forth in *149 Fifth Avenue Corp. v Chin*, in which the owner of a non-conforming advertising sign removed the sign for a period of 27 months in order "to permit legally mandated building façade inspections and repairs." 305 AD2d at 194; and

WHEREAS, in *149 Fifth Avenue Corp.* the Appellate Division, First Department ruled that because the non-conforming use at issue was disrupted in order to perform "legally mandated, duly permitted and diligently completed repairs, the nonconforming use may not be deemed to have been 'discontinued' within the meaning of [ZR § 52-61]." *149 Fifth Avenue Corp. v Chin*, 305 AD2d at 195; and

WHEREAS, the Appellate Division, First Department reiterated that the two-year period set forth in ZR § 52-61 was appropriately tolled where the discontinuance of the underlying non-conforming use was occasioned by the owner's need "to satisfy a legal mandate." *Id.*; and

WHEREAS, thus, the Board will examine whether the discontinuance of the subject non-conforming use should be tolled pursuant to *149 Fifth Avenue Corp. v Chin*; and *THE OWNER'S ABILITY TO PERFORM STRUCTURAL ALTERATIONS TO A BUILDING SUBSTANTIALLY OCCUPIED BY A NON-CONFORMING USE*

WHEREAS, in order to establish that the Permit was issued in error, the Appellant must demonstrate that (1) structural alterations were made to the Subject Building; (2) that the Subject Building was substantially occupied by the non-conforming eating and drinking establishment (Use Group 6); and (3) that such structural alterations were not made (a) in order to comply with requirements of law, (b) in order to accommodate a conforming use, (c) in order to conform to the applicable district regulations or performance standards, or (d) in the course of enlargement permitted under ZR §§ 52-41 through 52-46; and

THE APPELLANT'S POSITION

WHEREAS, the Appellant raises two issues on appeal: (1) that the non-conforming use of the Premises was discontinued for a period of more than two years in violation of ZR § 52-61 and, therefore, that the Premises can only be used for a conforming use; and (2) that the Owner performed substantial structural alterations to the Subject Building thereby forfeiting the Owner's right to maintain the non-conforming use at the Premises; and

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WHEREAS, the Appellant's position is that the non-conforming eating and drinking establishment at the site was discontinued for a period longer than two years; therefore, per ZR § 52-61, the Owner is not permitted to resume such use; and

WHEREAS, specifically, the Appellant states that it is undisputed that the eating and drinking establishment has not operated since the April 2007 vacate order; and

WHEREAS, the Appellant argues that the period of discontinuance permitted pursuant to ZR § 52-61 cannot be tolled pursuant to *149 Fifth Avenue Corp.* and attempts to distinguish that case from the instant matter on the grounds that (1) the non-conforming use at issue in *149 Fifth Avenue Corp.* was an insignificant nuisance where as the subject non-conforming use is of significant nuisance potential for nuisance; (2) the discontinuation in *149 Fifth Avenue Corp.* was for a period of 27 months whereas the underlying discontinuance was for a period of over seven years; (3) that the granting of the subject appeal does not effect a regulatory taking while the lawful status of the non-conforming use at issue in *149 Fifth Avenue Corp.*, if vitiated, would have effected a taking; and

WHEREAS, the Appellant further argues that the final paragraph of ZR § 52-61, which exempts certain uses in certain buildings from the two-year discontinuance provision but excludes from that exemption buildings in historic districts designated by the LPC, suggests that the tolling doctrine announced in *149 Fifth Avenue Corp.* should not apply to ground floor commercial uses in R5, R6 and R7 districts which are also within historic districts; and

WHEREAS, the Appellant also asserts that the court in *149 Fifth Avenue Corp.* intended its decision to be narrow and to apply only in like circumstances; and

WHEREAS, accordingly, the appellant concludes that DOB's reinstatement of the permit was contrary to the plain text of ZR § 52-61 and inconsistent with *149 Fifth Avenue Corp.*; and

WHEREAS, in addition, the Appellant contends that that the Permit authorizes substantial structural alterations to the Subject Building in violation of ZR § 52-22, which, in relevant part, provides that:

[n]o structural alterations shall be made in a building or other structure substantially occupied by non-conforming use, except when made ... (a) in order to comply with requirements of law...; and

WHEREAS, the Appellant submits that ZR § 52-22 is intended to "phase-out" non-conforming uses and therefore prohibits the performance of structural alterations to buildings except when made to comply with the requirements of law; and

WHEREAS, the Appellant asserts that while the vacating and securing of the Subject Building were mandated by law, the structural alterations to the Subject Building were not; and

WHEREAS, therefore, the Appellant contends that DOB's issuance of the Permit violates ZR §§ 52-22 and 52-61; and

THE DEPARTMENT OF BUILDINGS' POSITION

WHEREAS, DOB states that the reinstatement was proper and conforms to the requirements of ZR § 52-61 as informed by *149 Fifth Avenue Corp.*; and

WHEREAS, DOB cites to *149 Fifth Avenue Corp.*, in which the Court stated:

Where, as here, interruption of a protected nonconforming use is compelled by legally mandated duly permitted and diligently completed repairs, the nonconforming use may not be deemed to have been "discontinued" in the meaning of Zoning Resolution § 52-61; and

WHEREAS, DOB states that by including the language "as here," the Court clearly contemplated applying its limited tolling principle in cases with facts different than those concerning a sign at *149 Fifth Avenue*; and

WHEREAS, DOB disagrees with the Appellant's position that the analysis in *149 Fifth Avenue Corp.* be limited to the specific facts and circumstances of the sign at 149 Fifth Avenue; and

WHEREAS, DOB states that the circumstances and work history at the site meet the criteria set forth by the Court in *149 Fifth Avenue Corp.*, thereby allowing the tolling of the two-year discontinuance provision of ZR § 52-61 and the issuance of the Permit; and

WHEREAS, specifically, DOB states that (1) it "legally mandated" the scope of work performed at the site; and (2) the Owner "diligently completed repairs" as per DOB's directives; and

WHEREAS, as to the legal mandate, DOB states that the work that was required to repair the damage to the Subject Building following the April 2007 partial collapse progressed under its direction and in response to unforeseen conditions at the site including that the zoning lot includes five interrelated Buildings which were constructed in the early 1800s; and

WHEREAS, specifically, DOB states that after the initial filing of the application to remove the south masonry wall and two chimneys from the Subject Building, the Owner was required to file four additional applications and six Post Approval Amendments due to the unique site conditions and interconnected nature of the historic buildings on the lot; and

WHEREAS, DOB notes that among the latent and unforeseeable conditions the Owner encountered at the site was the absence of a foundation, which necessitated the amendment of the plans for the reconstruction; and

WHEREAS, DOB notes that the prior appeal included the submission of engineering reports that further detail the structural complexity and instability of the site, including a broken steam pipe that caused significant soil erosion and interdependent building walls; one engineer opined that buildings were actually leaning upon one another; and

WHEREAS, DOB states that subsequently, in late 2008, the wall adjacent to 88 Bedford Street as well as the entire roof were determined to require replacement, thus requiring further modification and re-sequencing of the Work; and

WHEREAS, DOB states that in 2009, the planned reconstruction had to be further amended to account for a lack

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of foundation at the rear of the Subject Building; and

WHEREAS, further, also in 2009, DOB issued Emergency Declarations for the Subject Building and the as well as for 82-84 Bedford Street, which required the Owner to amend the plans once again while allowing for temporary shoring; and

WHEREAS, DOB states that in August 2009, the work at the Subject Building's second floor had to be halted following a finding of potential instability in the adjoining bearing wall at 58 Barrow Street; and

WHEREAS, DOB states that even with the remedial shoring measures in place, it had to issue a third Emergency Declaration in December 2009 to demolish the bearing wall at 58 Barrow Street, thereby delaying further performance of the Work at the Subject Building; and

WHEREAS, DOB adds that in addition to compliance with the legal mandate imposed by the filings and amendments, the Subject Building was subject to a full or partial Stop Work Order ("SWO") for significant periods of time between the April 2007 collapse and April 2014; and

WHEREAS, according to DOB records, a full SWO was placed on the Subject Building on April 5, 2007 and was not fully lifted until June 30, 2009; and

WHEREAS, subsequent partial SWOs were in effect from July 23 to July 30, 2009, November 16 to December 22, 2009, April 14 to May 10, 2011, and May 10, 2012 to April 24, 2014; and

WHEREAS, DOB concludes that its direction to the Owner to file and obtain approval for amendments to plans to make the Subject Building safe and compliant and the imposition of SWOs for significant periods of time as tantamount to "legal mandates" that justify tolling of the discontinuance provisions akin to the legally mandated façade inspections that were sufficient to toll the discontinuance in *149 Fifth Avenue Corp.*; and

WHEREAS, as to the second finding in *149 Fifth Avenue Corp.*, DOB states that it accepts that the Owner diligently completed repairs as per its directives; and

WHEREAS, DOB notes that the Owner's submissions in the prior BSA appeal as well as its staff engineer's affidavit, describe the extensive, complex and interconnected repairs required at the Subject Building and the adjacent and contiguous Buildings following the 2007 collapse; and

WHEREAS, DOB asserts that it is important to make a distinction between *149 Fifth Avenue Corp.* "diligently" completed and the general concept of "quickly" completed work; and

WHEREAS, DOB finds that the owner satisfies the common definition of diligent which is "characterized by steady, earnest, and energetic effort" in that the Owner repeatedly advised DOB of changing circumstances and conditions in a complex and multi-faceted project and always sought DOB's approval before proceeding with actions required to address the changing circumstances and conditions; and

WHEREAS, DOB also notes that in the prior appeal, the Owner provided substantial evidence that work at the site was

nearly constant; such evidence included copies of contracts between the Owner and various sub-contractors and monthly payment requisitions; and

WHEREAS, DOB states that further evidence of the Owner's diligence in its attempt to legalize the eating and drinking establishment use is that from April 5, 2007 to date DOB issued 19 Environmental Control Board Notices of Violation (ECB), which have all been resolved; and

WHEREAS, additionally, DOB states that it issued 32 ECBs for the other Buildings on the lot, all of which are now resolved; and

WHEREAS, DOB concludes that taking into account the complexity of working on five interconnected historic Buildings, the Owner's ongoing communication with DOB and its success in resolving all outstanding ECBs, the owner has diligently completed repairs as accepted by the Court in *149 Fifth Avenue Corp.*; and

WHEREAS, finally, DOB states that based on the Owner's diligence, the failure to reestablish the eating and drinking establishment within two years should not lead to a termination of the use or the Owner's inability to complete the application as approved; and

THE OWNER'S POSITION

WHEREAS, the Owner, through counsel, submitted testimony reiterating its position that Chumley's discontinuance was tolled under *149 Fifth Avenue Corp.*, because the eating and drinking establishment's active operation was interrupted by legally-mandated repairs that were diligently completed under a valid permit; and

CONCLUSION

WHEREAS, the Board notes that it is uncontested that Owner's use of the Premises was lawful as of December 15, 1961, was not discontinued for a period of two years until April 2007 and remains discontinued at this time; and

WHEREAS, the Board finds that the two-year period of discontinuance set forth in ZR § 52-61 is properly tolled pursuant to *149 Fifth Avenue Corp.*, because the non-conforming use at issue was interrupted by legally-mandated repairs that were diligently completed under a valid permit; and, in addition, the Board finds that nothing in the record demonstrates that the Owner was precluded from performing structural alterations at the site; and

WHEREAS, as to the evidence of the legal mandate, the Board credits the affidavit of Timothy Lynch, sworn to on December 1, 2014, in which Mr. Lynch, the Assistant Commissioner for Investigative Engineering Services with the New York City Department of Buildings, avers that he: (1) directed Owner's representatives to install emergency and secondary shoring at the Subject Building; (2) directed Owner's representatives to complete hand demolition of the masonry wall and chimneys at both the Subject Building and the adjacent 82-84 Bedford; and (3) worked with Owner's representatives to fashion a sequence of construction [of the Buildings]; and

WHEREAS, as to evidence of the diligent completion of the Work, the Board notes that, in response to latent conditions related to the age of the Buildings, DOB issued

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three separate Emergency Declarations which dictated the sequencing of the Work; and

WHEREAS, the Board also notes that the Subject Building was subject to a series of full and partial Stop Work Orders issued by DOB during the period commencing on April 5, 2007 and ending in April of 2014 when the Permit was reissued; and

WHEREAS, the Board finds that “diligent” completion of the work need not be expedient where, as here, the Owner has undertaken steady, earnest and energetic efforts to perform the Work; and

WHEREAS, the Board agrees with DOB that the Owner’s evidence of diligence, including the contracts and monthly payment requisitions, demonstrates that work at the site was nearly constant; and

WHEREAS, the Board credits DOB’s determination that, taking into account the complexity of the Buildings and Work, Owner’s ongoing communication with DOB and adherence to DOB and LPC directives and instructions and Owner’s resolution of all related outstanding ECB violations, that the Owner of the Subject Building has diligently completed repairs in an effort to re-establish its non-conforming use of the Premises as contemplated by the Appellate Division, First Department, in *149 Fifth Avenue Corp.*; and

WHEREAS, as to the final element of the *149 Fifth Avenue Corp.* tolling doctrine—that the work have been performed pursuant to a validly-issued permit—there is no dispute regarding the validity of the building permits issued by DOB throughout the course of the Work undertaken in order to resume the non-conforming use, except insofar as the Appellant asserts that the Permit violates ZR §§ 52-22 and 52-61; thus, the Board finds that legally-mandated, diligently performed repairs were performed pursuant to a valid permit; and

WHEREAS, the Board finds Appellant’s argument that the tolling doctrine of *149 Fifth Avenue Corp.* should not apply to ground floor commercial uses in R5, R6 and R7 districts which are also within historic districts unavailing, and notes that neither the language relief upon by Appellant nor the undisputed fact that the Subject Building is located within an historic district impact the analysis proscribed in *149 Fifth Avenue Corp.*; and

WHEREAS, as to the Appellant’s arguments that *149 Fifth Avenue Corp.* is distinguishable from the matter on appeal, the Board finds no merit in Appellant’s argument that *149 Fifth Avenue Corp.* is applicable only in instances where the non-conforming use at issue is not of “significant nuisance potential,” nor does the Board find merit in Appellant’s contention, which is made in contravention of the Zoning Resolution, that advertising signs do not constitute a significant nuisance; and

WHEREAS, as to the Appellant’s arguments that *149 Fifth Avenue Corp.* is distinguishable from the matter on appeal because the non-conforming use at issue in that case was discontinued for 27 months while the non-conforming use at issue herein was discontinued for many years, the Board

finds that, while an important factor in determining whether repair work was diligently completed, the period of discontinuance beyond that which is permitted in ZR § 52-61 is not dispositive; and

WHEREAS, the Board notes that the extensive and complicated repairs required to renovate the Subject Building, which are unique to two-hundred year old interrelated structures with extensive latent defective conditions, mitigate against strict adherence to the two-year period of permitted discontinuance where, as here, the Work was diligently completed; and

WHEREAS, as to the Appellant’s arguments that *149 Fifth Avenue Corp.* is distinguishable from the matter on appeal because the Appellate Division, First Department, noted that a result contrary to its holding may raise a question about whether the Zoning Resolution authorized an unconstitutional taking, the Board finds that the Court’s musing was mere *dicta* and was not relevant to the tolling doctrine announced therein; and

WHEREAS, in conclusion, the Board finds that DOB has sufficiently demonstrated that the Owner of the Subject Building would have re-established the non-conforming use of the Premises within the allowable time but for its performance of legally-mandated and diligently completed repairs which were performed in response to latent and undiscoverable conditions of the interrelated, 200-year old Buildings and which necessitated a re-sequencing of the Work so that the completion of the repairs necessary to reestablish the non-conforming use of the Premises were necessarily subordinate to the completion of repairs at the adjacent Buildings; and

WHEREAS, as to the Appellant’s argument that ZR § 52-22 precludes the performance of the Work at the Building, the Board finds (1) that Appellant appears to have abandoned this argument and (2) that, in any event, failed to establish that the Building was “substantially occupied” by the non-conforming use at issue; therefore, the Board declines to examine whether, for the purposes of ZR § 52-22, the Work was performed “to comply with the requirements of law”; and

Therefore it is Resolved, that this appeal challenging the April 29, 2014 Final Determination is hereby *denied*.

Adopted by the Board of Standards and Appeals, February 24, 2015.

192-14-A thru 198-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Thomas Mantione, owner.

SUBJECT – Application August 15, 2014 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-2(SRD) zoning district.

PREMISES AFFECTED –

10 Winslow Place, Block 6373, Lot 40
12 Winslow Place, Block 6373, Lot 42
18 Winslow Place, Block 6373, Lot 43
20 Winslow Place, Block 6373, Lot 45
26 Winslow Place, Block 6373, Lot 145

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30 Winslow Place, Block 6373, Lot 146

32 Winslow Place, Block 6373, Lot 147

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decisions of the Staten Island Borough Commissioner, dated July 15, 2014, acting on Department of Buildings Application Nos. 520200345, 520200354, 520200363, 520200372, 520200381, 520200390, and 520200407 read, in pertinent part:

The street giving access to the proposed building is not duly placed on the official map of the City of New York therefore:

- A) No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 of [the] General City Law
- B) Proposed construction does not have at least 8% of the total perimeter of building fronting directly upon a legally mapped street or frontage space contrary to Section 502.1 of the 2008 NYC Building Code; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, with continued hearings on January 5, 2015 and February 10, 2015, and then to decision on February 24, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Montanez; and

WHEREAS, Community Board 3, Staten Island, recommends approval of this application; and

WHEREAS, the subject consists of seven proposed zoning lots located west of Winslow Place, southwest of the intersection of Winslow Place and Amboy Road, within an R3-2 zoning district within the Special South Richmond Development District, in Staten Island; and

WHEREAS, the applicant states that the site does not front a mapped street, but that the seven proposed dwellings will front on Winslow Place, a two-way private road running from the south side of Amboy Road, a final mapped street, to the southern border of the proposed Lot 147; and

WHEREAS, Winslow Place is currently open, and will be paved to a width of 34'-6" with a sidewalk/landscaped area on the west side of street; and

WHEREAS, the applicant represents that each of the tentative lots will be subdivided from existing lots 38 and 145 of block 6373, and that each lot shall exceed the minimum required lot area (1700 sq. ft.) and minimum required width (18 ft.) for a zoning lot in an R3-2(SRD) zoning district for a single-family semi-detached house in that each of the tentative lots shall have a width of between 26.33 ft. and 30.93 ft., and

shall have a depth of 130.72 ft., for a total lot area ranging from 3,441.86 sq. ft. to 3,513.1 sq. ft.; and

WHEREAS, by letter dated December 15, 2014, the FDNY advised the Board that the following conditions must be met: (1) the minimum curb to curb width of Winslow Place must be 34 ft.; (2) all of the proposed buildings must be fully sprinklered; and (3) a fire hydrant must be installed at the head of the dead end of Winslow Place; and

WHEREAS, on December 30, 2014, the applicant submitted a revised site plan showing the inclusion of a proposed hydrant near the dead end of Winslow Place; and

WHEREAS, by letter dated December 31, 2014, the FDNY advised the Board that Winslow Place does not meet minimum curb to curb street width requirements of 34 ft.; and

WHEREAS, by letter dated January 27, 2015, the applicant advised the Board that because Winslow Place, which is a record street and, therefore, a "public street," of substandard width, the proposed buildings must, pursuant to the 2008 Fire Code, be protected throughout by sprinkler system; and

WHEREAS, by letter dated January 27, 2015, the applicant further advised the Board that the site plan was revised to include the sprinklering requirement; and

WHEREAS, by letter dated January 27, 2015, the applicant further advised the Board that the minimum curb to curb width applicable to Fire Apparatus Access Roads do not pertain to Winslow Place, because Winslow Place is a public street and, as such, the paved width of Winslow Place is compliant with Fire Code provisions; and

WHEREAS, by letter dated February 11, 2015, the FDNY advised the Board that, based on the Applicant's submissions and the Board's February 10, 2015 hearing, it had no further objections to the Application; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the decisions of the Staten Island Borough Commissioner, dated July 15, 2014, acting on Department of Buildings Application Nos. 520200345; 520200354; 520200363; 520200372; 520200381; 520200390; 520200407 are modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction will substantially conform to the drawings filed with the application marked "December 31, 2014" (1) sheet; and *on further condition*

THAT the proposal will comply with all applicable zoning district requirements and all other applicable laws, rules, and regulations;

THAT all required approvals from the Department of City Planning will be obtained prior to the issuance of building permits;

THAT the proposed buildings shall be fully sprinklered in accordance with BSA-approved plans;

THAT a fire hydrant shall be installed at the head of the dead end of Winslow Place;

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THAT any conditions requested by the Fire Department shall be implemented before the Temporary Certificate of Occupancy and Certificate of Occupancy are issued;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

THAT DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on February 24, 2015.

166-12-A

APPLICANT – NYC Department of Buildings.

OWNER – Sky East LLC c/o Magnum Real Estate Group, owner.

SUBJECT – Application June 4, 2012 – Application to revoke the Certificate of Occupancy. R8B zoning district.

PREMISES AFFECTED – 638 East 11th Street, south side of East 11th Street, between Avenue B and Avenue C, Block 393, Lot 26, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for adjourned hearing.

107-13-A

APPLICANT – Law Office of Marvin B. Mitzner LLC, for Sky East LLC, owner.

SUBJECT – Application April 18, 2013 – An appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior R7- 2 zoning district. R7B zoning district.

PREMISES AFFECTED – 638 East 11th Street, south side of East 11th Street, between Avenue B and Avenue C, Block 393, Lot 25, 26 & 27, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for adjourned hearing.

11-14-A thru 14-14-A

APPLICANT – Sheldon Lobel, P.C., for Trimountain LLC, owner.

SUBJECT – Application January 22, 2014 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development under the prior R3-2 zoning district.

PREMISES AFFECTED – 47-04, 47-06, 47-08 198th Street, south side of 47th Avenue between 197th Street and 198th Street, Block 5617, Lot 34, 35, 36, Borough of Queens.

COMMUNITY BOARD #11Q

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for continued hearing.

128-14-A

APPLICANT – Bryan Cave LLP, for Alicat Family LLC & AEEE Family LLC, owner.

SUBJECT – Application June 6, 2014 – Appeal challenging DOB determination that the proposed off-street loading berth is not accessory to a medical office. C2-5/R7A zoning district.

PREMISES AFFECTED – 47 East 3rd Street, East 3rd Street between First and Second Avenues, Block 445, Lot 62, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for continued hearing.

180-14-A

APPLICANT – Fried Frank Harris Shriver and Jacobson LLP, for EXG 332 W 44 LLC c/o Edison Properties, owner.

SUBJECT – Application August 1, 2014 – Appeal challenging the Department of Building's determination that the subject façade treatment located on the north wall is an impermissible accessory sign as defined under the ZR Section 12-10. C6-2SCD zoning district.

PREMISES AFFECTED – 332 West 44th Street, south side West 44th Street, 378 west of the corner formed by the intersection of West 44th Street and 8th Avenue and 250' east of the intersection of West 44th Street and 8th Avenue, Block 1034, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for adjourned hearing.

ZONING CALENDAR

327-13-BZ

CEQR #14-BSA-089K

APPLICANT – Goldman Harris LLC, for JCWH Coney Island LLC, owner.

SUBJECT – Application December 23, 2014 – Special Permit (§73-44) to reduce the required number of accessory parking spaces from 346 to 272 spaces for a mixed use building containing UG4 health care and UG 6 office uses. C8-2, C2-3/R5 zoning district.

PREMISES AFFECTED – 1504 Coney Island Avenue, aka 1498, 1526, 1528, 1532-1538 Coney Island Avenue, property occupies the northwest corner of Coney Island

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Avenue and Avenue L. Block 6536, Lot(s) 28, 30, 34, 40, 41, 42, 43, Borough of Brooklyn.

COMMUNITY BOARD # 12BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated November 26, 2013, acting on DOB Application No. 301820698, reads, in pertinent part:

The number of accessory parking spaces provided for ambulatory diagnostic or treatment facilities listed in Use Group 4 and uses in parking requirement category B1 do not comply with ZR 36-21; and

WHEREAS, this is an application under ZR §§ 73-03 and 73-44 to permit, on a site partially within a C8-2 zoning district and partially within an R5 (C2-3) zoning district, within the Special Ocean Parkway District, a reduction in the required number of accessory parking spaces for an eight-story mixed commercial and community facility building occupied by a department store (Use Group 10A), retail stores (Use Groups 6A and 6C), offices (Use Group 6B), an ambulatory diagnostic or treatment health care facility (Use Group 4A), and a philanthropic or non-profit institution without sleeping accommodations (Use Group 4A), contrary to ZR § 36-21; and

WHEREAS, a public hearing was held on this application on July 22, 2014, after due notice by publication in the *City Record*, with continued hearings on September 9, 2014, October 21, 2014, December 9, 2014 and January 30, 2015, and then to decision on February 24, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 12, Brooklyn, recommends disapproval of this application, citing concerns about traffic along Coney Island Avenue and parking; and

WHEREAS, Councilperson David Greenfield submitted testimony in opposition to the application, citing concerns about traffic and parking; and

WHEREAS, certain members of the surrounding community provided testimony in opposition to the application, citing concerns about traffic, parking, and the height of the proposed building; and

WHEREAS, certain members of the surrounding community provided testimony in support of the application; and

WHEREAS, the subject site is rectangular lot located on the northwest corner of the intersection of Coney Island Avenue and Avenue L, partially within a C8-2 zoning district and partially within an R5 (C2-3) zoning district, within the Special Ocean Parkway District; and

WHEREAS, the site has 340 feet of frontage along Coney Island Avenue, 100 feet of frontage along Avenue L, and 34,000 sq. ft. of lot area; and

WHEREAS, Tax Lots 28, 30, 34, 40, 41, 42, 43, and 45 comprise the site; Lot 28 is located within the R5 (C2-3) portion of the site; all other lots are within the C8-2 portion of the site; and

WHEREAS, the applicant states that there are no buildings on the site; however, foundation work for an as-of-right building has been commenced; and

WHEREAS, the applicant proposes to construct an eight-story mixed commercial and community facility building with 145,983 sq. ft. of floor area (4.78 FAR in the C8-2 district; 0.68 in the R5 (C2-3) district) to be occupied by a Use Group 10A department store (37,173 sq. ft. of floor area), Use Group 6A retail stores (20,514 sq. ft. of floor area), Use Group 6B offices (3,413 sq. ft. of floor area), a Use Group 4A ambulatory diagnostic or treatment health care facility (56,569 sq. ft. of floor area), and a Use Group 4A philanthropic or non-profit institution without sleeping accommodations (28,314 sq. ft. of floor area); and

WHEREAS, the applicant proposes to provide the required number of accessory parking spaces for the department store, the retail store(s), and the philanthropic or non-profit institution without sleeping accommodations; however, pursuant to ZR § 73-44, the applicant seeks a reduction in the required number of parking spaces for the offices and the ambulatory diagnostic or treatment health care facility, as set forth below; and

WHEREAS, the applicant states that, pursuant to ZR § 36-21, 346 parking spaces are required for all uses at the site (142 for ambulatory diagnostic or treatment health care facility, nine for the offices, 124 for the department store, 60 for the retail store(s), and 11 for the philanthropic or non-profit institution without sleeping accommodations); and

WHEREAS, the applicant calculates the ambulatory diagnostic or treatment health care facility office parking requirement as follows: pursuant to ZR § 36-21, within both the C8-2 district and the R5 (C2-3) district, the subject Use Group 4 ambulatory diagnostic or treatment health care requires one accessory parking space for every 400 sq. ft. of floor area; thus, the proposed Use Group 6 office floor area at the site generates 142 required accessory parking spaces; however, the applicant seeks to provide 72 parking spaces, resulting in a deficit of 70 parking spaces; and

WHEREAS, the applicant calculates the office parking requirement as follows: pursuant to ZR § 32-15, within both the C8-2 district and the R5 (C2-3) district, the subject Use Group 6 office is in parking requirement category B1, and, per ZR § 36-21, uses within parking requirement category B1 require one accessory parking space for every 400 sq. ft. of floor area; thus, the proposed Use Group 6B office floor area at the site generates nine required accessory parking spaces; however, the applicant seeks to provide five parking spaces, resulting in a deficit of four parking spaces; and

WHEREAS, pursuant to ZR § 73-44, the Board may grant a special permit allowing a reduction in the required

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number of accessory off-street parking spaces for the Use Group 6 office use in parking category B1 and for the Use Group 4A ambulatory diagnostic or treatment health care facility; in the subject zoning districts (C8-2 and R5 (C2-3)), the Board may reduce the required parking for such uses from one space per 400 sq. ft. of floor area to one space per 800 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 73-44, the Board must, prior to granting the waiver, determine that the use proposed in the B1 parking category and the Use Group 4 use are contemplated in good faith; and

WHEREAS, to satisfy the good-faith requirement, the applicant submitted letters from real estate brokers acting as leasing agents, which indicate that substantial interest has been expressed by prospective tenants; and

WHEREAS, the Board finds that the applicant has submitted sufficient evidence of good faith in maintaining the noted uses at the site; and

WHEREAS, in addition, the special permit under ZR § 73-44 requires and the applicant represents that any certificate of occupancy for the building will state that no subsequent certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius; and

WHEREAS, at hearing, the Board directed the applicant to demonstrate that the application satisfies 73-03(a); specifically, the Board requested additional information on how the proposed reduction in parking will impact the surrounding community in terms of parking and traffic; the Board also directed the applicant to provide additional information regarding the operations and peak parking demand of the Pomegranate grocery store, which is located across the street from the site and which, based on the record, has inadequate onsite parking and is a major source of traffic in the area; finally, the Board inquired as to what measures the application will take to ensure that the garage will be available for all patrons of the uses within the building; and

WHEREAS, in response, the applicant submitted a parking demand and utilization study, which reflects that the proposed reduction will not have significant negative impacts on the surrounding community; the study concludes that proposed parking garage capacity will be sufficient to accommodate the parking demand created by the uses at all times, and that, as such, traffic will not be increased as a result of patrons circulating the neighborhood in search of parking; and

WHEREAS, in addition, the applicant clarified the number of reservoir spaces within the garage, eliminated on-street queuing, and provided additional information regarding the proposed automated parking system, including how it will manage parking demand and ensure that enough spaces will be available to accessory parkers; and

WHEREAS, the applicant also provided the requested information regarding Pomegranate; and

WHEREAS, lastly, the applicant agreed to: (1) install signage at the garage exit prohibiting left turns; and (2) request that DOT explore additional traffic mitigation measures, including but not limited to changes in signal timing and additional signage; and

WHEREAS, accordingly, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit uses is outweighed by the advantages to be derived by the community; the Board notes that it reviewed numerous iterations of the parking and traffic study and that even under the most conservative set of criteria, there will be adequate parking for all uses at the site; and

WHEREAS, based upon its review of the record, the Board concludes that the findings required under ZR §§ 73-03 and 73-44 have been met; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 14-BSA-089K, dated December 23, 2013; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Unlisted action prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR §§ 73-03 and 73-44 to permit, on a site partially within a C8-2 zoning district and partially within an R5 (C2-3) zoning district, within the Special Ocean Parkway District, a reduction in the required number of accessory parking spaces for an eight-story mixed commercial and community facility building occupied by a department store (Use Group 10A), retail stores (Use Groups 6A and 6C), offices (Use Group 6B), an ambulatory diagnostic or treatment health care facility (Use Group 4A), and a philanthropic or non-profit institution without sleeping accommodations (Use Group 4A), contrary to ZR § 36-21; on condition that all work shall substantially conform to drawings as they apply to the objections above

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noted filed with this application marked “Received March 19, 2014”– (19) sheets and “April 11, 2014”-(1) sheet, and on further condition:

THAT a minimum of 272 parking spaces shall be provided at the site;

THAT a “No Left Turn” sign shall be installed at the exit of the garage prior to the issuance of the temporary certificate of occupancy and shall be maintained at all times;

THAT there shall be no change in the uses at the site without prior review and approval by the Board;

THAT a certificate of occupancy shall not be issued if either of the uses for which parking has been reduced has been changed to a use listed in parking category B, unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius;

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

THAT the applicant shall request that DOT consider additional traffic mitigation measures;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by February 24, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 24, 2015.

117-14-BZ CEQR #14-BSA-161M

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Trinity Episcopal School Corporation, owner; Trinity Housing Comp. Inc., lessee.

SUBJECT – Application June 3, 2014 – Variance (§72-21) to permit the enlargement of a school (*Trinity School*), including construction of a 2-story building addition with rooftop turf field, contrary to required rear yard equivalents, lot coverage, height and setback, and minimum distances between buildings. Split zoning lot within R7-2 and C1-9 zoning districts.

PREMISES AFFECTED – 101 W 91st Street, 121 & 139 W 91st St and 114-124 W 92nd St, bounded by West 91st and 92nd street and Amsterdam and Columbus Avenues, Block 1222, Lot(s) 17, 29, 40, 9029, Borough of Manhattan.

COMMUNITY BOARD # 7M

ACTION OF THE BOARD – Application granted on

condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 12, 2014, acting on Department of Buildings Application No. 121185225, reads in pertinent part:

1. ZR 24-11 – Proposed enlargement exceeds the maximum lot coverage; contrary to ZR 24-11;
2. ZR 24-382(a) – Proposed enlargement over an existing one-story building within the R7-2 portion of the zoning lot is contrary to the 23 foot one-story permitted in the required rear yard equivalent; contrary to ZR 24-382(a);
3. ZR 24-522 – Proposed height for the enlargement exceeds the maximum permitted height within the initial setback distance; contrary to ZR 24-522;
4. ZR 23-711 – Proposed enlargement is contrary to the required distance of 50 feet between wall of the proposed enlargement and existing legally required windows; contrary to ZR 23-711; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within an R7-2 zoning district and partially within a C1-9 zoning district, the enlargement of existing school buildings (Use Group 3), which do not comply with zoning regulations for lot coverage, rear yard equivalent, encroachment into the required initial setback distance, and minimum distance between wall and a legally-required window, contrary to ZR §§ 24-11, 24-382, 24-522, and 23-711; and

WHEREAS, a public hearing was held on this application on October 7, 2014, after due notice by publication in the *City Record*, with continued hearings on December 9, 2014 and January 13, 2015, and then to decision on February 24, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 7, Manhattan, recommended disapproval of the original version of the application based on the following concerns: (1) that the proposed building would block off the entire west side of the loggia of the Trinity House (adjacent residential tower on the same zoning lot as the Trinity School); (2) that the proposal would result in the construction of air ventilation structures within the loggia; and (3) that the sunshade above the athletic field is unnecessary and inappropriate and will have a negative visual impact on the residents of the Trinity House and other nearby buildings; and

WHEREAS, Community Board 7 noted that it would recommend approval of the application if it were amended to:

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(1) eliminate approximately 30 feet at the third floor level so as to avoid blocking the loggia; (2) relocate or substantially reduce the size of the air ventilation structures within the loggia; and (3) eliminate the sunshade; and

WHEREAS, Manhattan Borough President Gale Brewer, Congressman Jerrold Nadler, Councilperson Helen Rosenthal, and Assemblyman Daniel O'Donnell submitted testimony noting their interest in the application; and

WHEREAS, certain members of the community, including some members represented by counsel and several tenants of the Trinity House, testified at the hearing and provided testimony in opposition to the application (collectively, the "Opposition"), citing the following primary concerns: (1) the impact of the proposal on the fourth story "loggia" of the Trinity House (an open area at the fourth story that provides recreational space for the Trinity House tenants); (2) the negative visual impacts of the sunshade, its potential to create a hazardous buildup of snow and ice, and its potential to diminish the light and ventilation of the Trinity House tenants and other nearby properties; (3) the impact of noise due to the elevation of the School's athletic field; (4) the decrease in parking spaces in the Trinity House garage, which the Opposition states is a critical revenue source that keeps the Trinity House rental units affordable; (4) the inconsistency of the proposal with the City Planning special permit that authorized the construction of the Trinity House and the Trinity Housing Company's obligations under the Mitchell-Lama program; (5) the non-compliance of the proposed garage with the Article I, Chapter 3 of the Zoning Resolution; (6) the noise and traffic caused by the operation of the garage and the movement (or idling) of large delivery vehicles and school buses around the site; and (7) the persistence of refuse and its attendant nuisances (odor, rodents, etc.) on the public sidewalks along West 92nd Street; and

WHEREAS, during the hearing process, the Opposition requested a number of modifications to the proposal, including: (1) a 30-foot open area between the Trinity House loggia and the enlarged portion of the school; (2) the removal of the sunshade; (3) the reduction of the height of the athletic field netting and structural supports to 24 feet; (4) an increase in the size of the netting openings from two-inch to four-inch; (5) a 20-foot setback of the netting/supports from the West 92nd Street façade; (6) a 50-foot open area between the netting/supports and the Trinity House; (7) the establishment of limited hours of operation for the use of the field; (8) a prohibition on non-emergency lighting of the field; (9) an analysis that demonstrates that 106 parking spaces will fit into the proposed garage; (10) a plan for traffic mitigation and management; and (11) a refuse disposal plan; and

WHEREAS, this application is brought on behalf of Trinity Episcopal School Corporation (the "School"), a non-profit educational institution founded in 1709; it is the oldest continuously-operating independent school in New York City and it serves students from grades kindergarten through 12; and

WHEREAS, the subject site comprises four tax lots (Lots 17, 29, 40, and 9029), which occupy the eastern half of

the block bounded by Amsterdam Avenue, West 91st Street, Columbus Avenue, and West 92nd Street; and

WHEREAS, the site is located partially within a C1-9 zoning district and partially within an R7-2 zoning district, with the C1-9 portion mapped along Columbus Avenue to a depth of 100 feet; the easternmost portion of the site—from Columbus Avenue to a depth of 150 feet—is also subject to a Large Scale Residential Development Plan and City Planning Commission (CPC") special permit, which was adopted in 1964 (CP-18505); and

WHEREAS, the site has 400 feet of frontage along West 91st Street, approximately 201 feet of frontage along Columbus Avenue, 400 feet of frontage along West 92nd Street, and 80,567 sq. ft. of lot area; and

WHEREAS, the site is currently occupied by: (1) the four-story building located at 121 West 91st Street (the "Annex Building"), which the New York City Landmarks Preservation Commission ("LPC") has designated as a New York City landmark; (2) the three-story building located at 115 West 91st Street (the "Moses Building"); (3) the three-story-portion (the "Hawley Wing") of the 29-story apartment building located at 101 West 91st Street ("Trinity House"), which was developed pursuant to the above-referenced CPC special permit; and (4) the one-story building located at 132 West 92nd Street, which contains the School Cafeteria (the "Cafeteria"), the Trinity House Parking Garage (the "Garage"), and (atop the building) the School Athletic Field (the "Turf"); and

WHEREAS, the applicant notes that Trinity House was constructed in 1969 in connection with the West Side Urban Renewal Plan and is owned by the Trinity Housing Company ("THC"), a corporation organized under the New York State Mitchell-Lama program; as such, THC is subject to the oversight of the New York City Department of Housing Preservation and Development ("HPD"); and

WHEREAS, the applicant also notes that, in addition to the site, the School's campus includes Lots 11, 12, and 110, which are located directly west of the site along West 91st Street and are occupied by the Lower School building (an individual New York City landmark located on Lot 12) and administrative buildings (located on Lots 11 and 110); the applicant states that these buildings are on a separate zoning lot and are not part of the subject application, except insofar as there will be connections between the Lower School building and the buildings on the site, as set forth below; and

WHEREAS, the School proposes additions and major renovations to the campus to accommodate its programmatic needs (the "Proposed Development"); the three major components of the Proposed Redevelopment are: (1) the construction of two stories atop the existing Garage and Cafeteria (the "92nd Street Addition"); (2) the elevation and reduction in size of the Turf above the 92nd Street Addition and the construction of an arcing fence enclosure with an apex height of 81'-1" and a street wall height of 60'-0"; and (3) the construction of a three-story connector building between the Annex Building, the Lower School, and the 92nd Street Addition (the "Annex Link"); in addition, the Proposed

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Development includes the construction and relocation of vents and bulkheads for mechanical equipment and stairs along the eastern edge of the 92nd Street Addition, west of the Trinity House loggia; and

WHEREAS, as to the 92nd Street Addition, the applicant states that it will result in a three-story building; the first story of the 92nd Street Addition will continue to be used as the Cafeteria and the Garage; structural modifications to the existing spaces will be required to accommodate the loads of the new structure above, and a portion of the garage will be developed into new utility and mechanical rooms; and

WHEREAS, the applicant represents that although the area of the Garage will be reduced as a result of the project, there will be no change in the number of spaces permitted in the Garage since the Garage will be operated with attendants; the applicant states that the Garage has a licensed capacity of 106 spaces, that 106 spaces are shown on its certificate of occupancy, and that while the CPC special permit indicated that the zoning required only 92 accessory parking spaces for the Trinity House building, 106 spaces were provided; and

WHEREAS, the applicant states that the second story of the 92nd Street Addition will be provide performing arts spaces, including a new band room, an orchestra room, two Lower School music rooms, a chorus room, large and small practice rooms, a production studio, instrument storage, and the office of the performing arts faculty; and

WHEREAS, the applicant contends that the large floorplates of the 92nd Street Addition will allow these various performing arts spaces to be located on the same floor, side-by-side; in addition, a large multipurpose room, to be used for dance, wrestling, and other student activities best-suited to a large, unprogrammed space, will be located in the center of the floor, and the remainder of the second story will be occupied by the Upper School student lounge and study center, which will be located adjacent to the Upper School Dean's Office and other Upper School faculty offices; and

WHEREAS, the applicant states that the third story of the 92nd Street Addition will include biology, chemistry, and physics labs; in addition, there will be space for 13 new Upper School classrooms, which will be used for math, history, and English instruction for the Upper School; the applicant notes that locating these academic spaces on one floor level will allow for more time in classrooms by minimizing travel distances, will foster collaboration and exchanges among students and faculty, and will allow the efficient sharing of classroom materials; the applicant also notes that the new third story will align horizontally with the existing third story of the Hawley Wing, which holds the existing Upper School library, art rooms, and seminar rooms; and

WHEREAS, the applicant states that the new classrooms, on average, will be approximately 524 sq. ft. in size to accommodate 20 students (26 sq. ft. per student), which aligns with the New York City School Construction Authority's guidelines of approximately 730 sq. ft. for 30 students (24 sq. ft. per student); these classrooms will be designed to be flexible, to support various teaching and learning configurations; chemistry and physics labs will

average approximately 940 sq. ft. (including prep labs) to accommodate up to 16-20 students each, which allows approximately 55 sq. ft. per student; and

WHEREAS, as to the Turf Enclosure, the applicant states that it will be reduced in size from 31,500 sq. ft. (250 feet by 126 feet) to approximately 21,000 sq. ft. (196 feet by 107 feet); the Turf will continue to serve the physical education requirements of the School and its athletic teams; and

WHEREAS, the applicant states that the Turf will be enclosed with a fence on the sides and netting above it, as required by Building Code Section 1509.8.1, for ballplay areas located on the roof of a building; (the applicant notes that this Building Code requirement was instituted in 2008, so this type of enclosure is not required for the current Turf, which is enclosed with a standard 10-foot-high chain link fence); the netting over the Turf will require a steel lattice frame for support, with structural members of approximately six inches in diameter; the fence and netting will consist of one-mm diameter wire, which, the applicant represents is 88.4 percent transparent; and

WHEREAS, the applicant represents that the size of the structural supports is determined by the snow and ice load requirements for the netting and that the proposed supports are sufficient to carry the anticipated loads; the applicant states that the fence enclosure has been designed to preserve light and air to the residential apartments of Trinity House, in that the fence and netting will be located 30 feet away from the apartments and the structural supporting elements of the fence enclosure will be located 50 feet away from the apartments; and

WHEREAS, as to the Annex Link, the applicant states that it will provide new stair connections, aligned to serve all floor levels in both buildings, and horizontal connections between buildings; the Annex Link will also, by its connections to the 92nd Street Addition, allow elevators in the new building to serve the Lower School building, which currently has no elevator access to its upper floors at all levels; thus, the applicant asserts that the Annex Link thereby facilitates connections to all buildings on the campus; and

WHEREAS, the applicant notes that the south façade of the Annex Link will be set back from the adjacent building facades by 3'-9", and will be enclosed by highly transparent glass to maximize visibility of the side facades of the existing landmark buildings; and

WHEREAS, as to the vents, bulkheads, and mechanical equipment adjacent to the Trinity House loggia, the applicant states that the bulkheads have been minimized in size and arrangement, with stair bulkheads placed north and south of Trinity House, so as not to block the residential windows; in addition, design refinements have allowed those stair bulkheads to be lowered to provide the minimum required interior clearance, and, to the extent permitted by the Building Code, fenestration has been provided in the bulkheads to lighten their apparent mass; and

WHEREAS, the applicant notes that the Proposed Development was also modified to relocate the air intake

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vents from the Trinity House fourth floor loggia; these intake ducts already exist within the Hawley Wing, extending from the basement mechanical plant, up through the Upper School library, with air intake openings pointed westward, over the Turf and the School's original design solution was to elevate the ducts by one floor, into the Trinity House loggia (which is located directly above the Upper School library), with new, west-facing intake openings one story higher; however, in response to concerns raised by the Board and by Opposition, the vents were relocated and a mechanical well was created within the 92nd Street Addition just below the height of the existing parapet of the Trinity House loggia, which will create a 20-foot open area opposite the Trinity House loggia; this modification allows the western opening of the loggia to remain open from the height of the loggia parapet to the ceiling; and

WHEREAS, further, the applicant states that the wall of the mechanical well that is opposite the loggia will be clad in brick, and planters will be installed in the 20-foot space adjacent to the loggia, creating an attractive garden amenity for the Trinity House residents, which, upon the approval of the Department of Buildings, will be made available to Trinity House tenants for outdoor, passive recreation; and

WHEREAS, the applicant states that the Proposed Development is confined to the R7-2 portion of the site and will result in an increase in floor area from 172,561 sq. ft. (2.86 FAR) to 229,689 sq. ft. (3.80 FAR), which is well below the maximum permitted (392,763 sq. ft. (6.5 FAR)); in addition, the Proposed Development will increase the height of the Annex Link from 16'-8" to 52'-6" and increase the height of the 92nd Street Addition from 17'-0" to 47'-2"; and

WHEREAS, the applicant also represents that the Proposed Development will not be located within the portion of the site subject to the CPC special permit, and therefore does not require the approval of CPC; and

WHEREAS, the applicant states that the Proposed Development does not comply with the bulk regulations in the R7-2 portion of the site for: (1) rear yard equivalent (no rear yard equivalent is proposed; a rear yard equivalent with a minimum depth of 60 feet is required for a through lot with a depth of at least 110 feet, per ZR § 24-382); (2) lot coverage (88 percent lot coverage is proposed; lot coverage is limited to 65 percent on a through lot, per ZR § 24-11); (3) initial setback distance (no initial setback distance is proposed for the netting structure, however, the netting will be set back 3'-0" from the street line; for portions of a building fronting on a narrow street, there is a maximum front wall height of 60 feet or six stories, whichever is less, a required initial setback distance of 20 feet, and a sky exposure plane of 2.7 to 1, per ZR § 24-5220); and (4) minimum distance between a wall and a legally-required window (a distance of 30 feet is proposed between the netting and a legally-required window; where there is more than one building on a zoning lot, the minimum distance between a residential window providing legal light and air and a wall of any other building is 50 feet, for buildings with an average height of greater than 50 feet, per ZR § 23-711); the applicant also notes that the proposed

distance from the netting structure and the legally required window is 50'-0"; and

WHEREAS, because the Proposed Development does not comply with the applicable bulk regulations in the R7-2 portion of the site, the applicant seeks the requested variance pursuant to ZR § 72-21; and

WHEREAS, the applicant contends that, per ZR § 72-21(a), the history of development of the site is a unique physical condition, which, when coupled with the School's programmatic needs, creates practical difficulties and unnecessary hardships in developing the site in compliance with the zoning regulations; and

WHEREAS, the applicant identifies the existence of two landmarked buildings (the Lower School and the Annex Building) and unique physical relationship of the Hawley Wing and the Trinity House as practical impediments to as-of-right development of the School's campus; and

WHEREAS, the applicant states that the Lower School, which is not on the site but will connect to the buildings on the site, and the Annex Building were constructed in the 1890s and cannot structurally support new construction; further, even if structural modifications were feasible, the applicant contends that it is unlikely that LPC would find enlargements that would satisfy the School's programmatic—full-floorplates with shear walls—to be appropriate additions to the historic buildings; and

WHEREAS, the applicant asserts that, similarly, the Hawley Wing is uniquely constrained in its ability to expand due to its having been constructed physically beneath the 29-story Trinity House in 1969; and

WHEREAS, the applicant states that an enlarged Hawley Wing would have to setback a minimum of 50 feet from the Trinity House, which would result in a slender, eight-story building that would have inefficient floorplates (a high vertical circulation-to-program space ratio) and lack the adjacencies of the Proposed Development; the applicant also notes that expansion of the Hawley Wing would not be as-of-right but would, due to the Large Scale Residential Development plan and special permit, be subject to the approval of CPC; and

WHEREAS, the applicant also asserts that the School requires the requested waivers to construct a facility that meets the School's programmatic needs; and

WHEREAS, the applicant states that the primary programmatic needs of the Proposed Development are: (1) to improve existing facilities and programs (the School represents that no growth in student enrollment is planned in connection with the renovations); (2) to create functional adjacencies and relocate certain program space; (3) to preserve the Turf; and (4) to improve internal circulation; and

WHEREAS, the applicant states that the Proposed Development seeks to address the following current space deficiencies of the School: (1) the School cannot add any curricular offerings to the Upper School program of study because it does not have available classrooms in which to schedule additional classes; Upper School general classrooms are scheduled 96 percent of the day in the academic year

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2013-2014; the standard rule of thumb for school scheduling is that an 85 percent utilization rate provides the necessary flexibility for an effectively functioning high school schedule; (2) in response to the growing importance of science and technology in education, the School needs to expand the number and size of its laboratories and laboratory prep rooms; the five existing Upper School science labs, which are scheduled 100 percent of the day, are insufficient to fulfill the School's curricular goals, since the School is unable to provide juniors and seniors with the opportunity to enroll in more than one science class each year; the School has determined that it needs at least seven labs to allow students to take introductory as well as advanced courses in biology, chemistry, and physics during their four years of high school; (3) Class sizes in Fifth and Sixth grades are 33 percent larger than in any other grade level, and the student-teacher ratio in those grades far exceeds that in all other grades because the School does not have space to create additional classrooms; thus, the School needs to add three classrooms to accommodate the Fifth and Sixth graders once they reach Middle School; (4) the Lower School currently does not have a classroom devoted to modern language instruction, significantly limiting the materials that teachers can bring into class to enrich students' study of global cultures and languages; (5) Lower School teachers routinely teach reading groups in the hallways because there is no available classroom space to hold these groups; this practice creates a distracting environment for the students; (6) many classrooms, teacher offices, and breakout spaces have no windows, are located in basement spaces, are not co-located with related academic teaching areas, and/or have inadequate light, air, and circulation; (7) the School's performing arts practice rooms (choral, orchestra, and jazz rehearsal rooms) are not large enough to accommodate the number of Upper School students enrolled in these performing arts; as a result, all of the students in the Upper School chorus cannot rehearse at the same time in the choral room and they routinely come together as a full chorus for the first time only during actual performances; in addition, the School needs space where students can practice or rehearse individually or in small ensembles; (8) the School's current theater lacks a backstage, a dressing/make-up room, a scene shop, and a lobby; and (9) the School needs to increase the allocation of space used for life-fitness instruction in physical education; and

WHEREAS, the applicant represents that no increase in enrollment is anticipated or planned and that the Proposed Development seeks to address the School's current space deficiencies and is not intended to allow the School to increase its enrollment; and

WHEREAS, in addition, the applicant states that many of the areas of the School lack appropriate access for people with disabilities; thus, the Proposed Development seeks to improve access for all members of the Trinity community (students, faculty, staff, and visitors) and to ensure that prospective students do not reject the School due to accessibility challenges; and

WHEREAS, the applicant asserts that because the

School has expanded incrementally over many years, its different program areas are spread over its four main academic buildings in an unplanned and haphazard fashion, and in some cases students must travel significant distances from one class to the next; accordingly, students often devote time traveling to classes – time that would be better spent on instruction and study; for example, currently, Upper School Science labs are scattered throughout the Hawley Wing and prep spaces, and offices are not contiguous to the labs; similarly, the School's performing arts classrooms and faculty offices are scattered across three buildings, and the Library is isolated from the Upper and Middle Schools; and

WHEREAS, thus, the applicant states that the Proposed Development will create functional adjacencies and relocate program space, including the creation of a central core for science and math classrooms and labs, the clustering of nearly all performing arts classrooms, and the creation of a direct link between the Hawley Wing and the Library; additionally, the Upper School student lounge and study center will be moved from the entrance of the School to a more central and expanded location near faculty offices and with direct access to the Library, facilitating more opportunities for small group collaboration among students, and access to faculty members and research materials between periods; and

WHEREAS, in addition to addressing the School's current deficiencies with respect to classroom sizes and program adjacencies, the Proposed Development will preserve the Turf at a minimum functional size for use in physical education, athletic, and recreational programs; the applicant states that the School's athletic program teaches the value of hard work to achieve meaningful goals while encouraging the development of self-discipline and self-sacrifice, character and sportsmanship, teamwork and cooperation, as well as loyalty and pride in one's self and in the school community; and

WHEREAS, the applicant notes that the Turf is used actively from 8:30 am to 6:00 pm each school day; Lower and Middle School students use the Turf four times per week for physical education and fitness classes, as well as additional periods for recess, and Upper School students use the Turf for physical education and fitness class twice every six days; typical Middle School students who participate in athletics use the Turf three times per week for after-school practice, and typical Upper School students use it four times per week for athletic practice; and

WHEREAS, the applicant asserts that the ability to use the Turf for these activities allows athletics to be integrated into the school day rather than interrupting the day for travel to distant fields; and

WHEREAS, the Board notes that, initially, the School proposed to enclose the Turf with a permanent fabric sunshade to allow full utilization of the Turf during inclement weather; however, through the hearing process and in response to concerns raised by the Board and by the Opposition, the proposal was revised to reflect the removal of the sunshade; and

WHEREAS, finally, the Proposed Development will improve the internal circulation of the School by replacing the

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disjointed and sometimes confusing circulation patterns with a network of natural-light-filled passages and stairways that will be more intuitive and direct, and foster communication between and among students and personnel in the three divisions of the School; and

WHEREAS, the applicant examined the feasibility of an as-of-right redevelopment of the School; in particular, the applicant assessed whether a five-story, 59,545 sq.-ft. enlargement with a total building height of 112'-0" and complying lot coverage, yards, and setbacks would satisfy the School's programmatic needs to improve existing facilities, create functional adjacencies, preserve the Turf and improve internal circulation; and

WHEREAS, the applicant determined that the as-of-right scenario was deficient, in that it would: (1) result in a tower-like, elevator-dependent structure that would be largely isolated from the other program areas of the School; (2) be highly inefficient in terms of student movement, with the only means of common access being a first-story corridor; (3) not allow the intended improvements in ADA accessibility; (4) not provide the desired adjacencies among the academic spaces, and so would not create the same opportunities for communication and collaboration; (5) result in constrained floorplates, which reduce the sizes of the classrooms and labs; and (6) reduce the size of the Turf, which would significantly limit its utility for physical education classes, and athletic team practices and games; and

WHEREAS, accordingly, the applicant states that the Proposed Development most effectively meets the School's programmatic needs; and

WHEREAS, the Board acknowledges that the School, as an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, as noted by the applicant, under well-established precedents of the courts and this Board, an application for a variance that is needed in order to meet the programmatic needs of a non-profit educational institution is entitled to significant deference and shall be permitted unless the application can be shown to have an adverse effect upon the health, safety, or welfare of the community (*see, e.g., Cornell University v. Bagnardi*, 68 N.Y.2d 583 (1986)); and

WHEREAS, the Board acknowledges that, as set forth in *Cornell*, general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, the Board observes that *Cornell* deference has been afforded to comparable institutions in numerous other Board decisions, certain of which were cited by the applicant in its submissions; and

WHEREAS, the applicant states that based on an extensive review of its facility and operations, the proposal is the most efficient and effective use of its educational programmatic space, and the applicant concludes that the bulk relief requested is necessary to meet the School's programmatic needs; and

WHEREAS, the Board finds that the proposal has been designed to be consistent and compatible with adjacent uses and with the scale and character of the surrounding neighborhood and is, therefore, consistent with the standard established by the decision in *Cornell*; and

WHEREAS, the Board concurs that the waivers will facilitate construction that will meet the School's articulated needs; and

WHEREAS, in sum, the Board concludes that the applicant has fully explained and documented the need for the waivers to accommodate the School's programmatic needs; and

WHEREAS, the Opposition argues that the applicant has failed to make the finding set forth at ZR § 72-21(a) because, unlike in *Cornell*, there are negative impacts to the public welfare, namely the nearby residences, which are not outweighed by the proposal's benefits; and

WHEREAS, specifically, the Opposition cites to the impacts of the Turf enclosure, the 92nd Street Addition, and the Garage renovation upon the residents of the Trinity House; and

WHEREAS, the Board finds that the applicant's submissions, which include statements, plans, and other evidence, provide the required specificity concerning its programmatic space requirements, establish that the requested variances are necessary to satisfy its programmatic needs consistent with *Cornell*, and that the Opposition has failed to establish that any potential negative impacts either meet the threshold set forth by the courts or outweigh the benefits; the Board also notes that the School modified its proposal significantly in response to the Opposition's concerns and, as set forth below, has agreed to a number of conditions to mitigate the impact of the Proposed Development and the general operation of the School on nearby residents; and

WHEREAS, in *Cornell*, the New York Court of Appeals adopted the presumptive benefit standard that had formerly been applied to proposals for religious institutions, finding that municipalities have an affirmative duty to accommodate the expansion needs of educational institutions; and

WHEREAS, based upon the above, the Board finds that, consistent with ZR § 72-21(a), the programmatic needs of the School along with the existing constraints of the site create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the School is a non-profit educational institution and the variance is needed to further its educational mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant represents that the variance, if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

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WHEREAS, the applicant states that the surrounding area is characterized by low- to high-density mixed residential, commercial and community facility buildings, including townhouses in the mid-block, apartment houses on the avenues, large schools and religious institutions, playgrounds, and ground floor commercial uses along Columbus Avenue and Amsterdam Avenue; and

WHEREAS, the applicant states, as noted above, that both the Lower School and the Annex Building are designated New York City landmarks; as such, LPC approval for portions of the Proposed Development was required, and it issued by Certificate of No Effect, dated April 17, 2014; and

WHEREAS, the applicant asserts that the requested waivers will have little discernible impact on the surrounding neighborhood, as the 92nd Street Addition will be built to the same height as the townhouses located to the west and across the street; and

WHEREAS, the applicant notes that the primary impact of the waivers is to allow a deeper building, which is not visible from the street; further, while the rooftop fence and netting enclosure would rise to a height of approximately 80 feet, the fence enclosure is, as noted above, more than 88 percent transparent; thus, its visual impact upon the streetscape will be minimal; and

WHEREAS, the applicant also notes that the Proposed Development is well below the maximum permitted floor area and that an as-of-right building could rise to a height of more than 110 feet; and

WHEREAS, as to adjacent uses, the applicant states that in response to the concerns of the Board and the Opposition, it has: (1) as noted above, removed the sunshade; (2) modified the configuration of the Turf and the 92nd Street Addition to provide a buffer of 20'-0" between the Turf level and the level of the Trinity House loggia; (3) modified the structural supports for the Turf netting and the netting itself to provide a horizontal distance of 30'-0" between the netting and the Trinity House and a horizontal distance of 50'-0" between the structural supports and the Trinity House; (4) relocated mechanical ventilation ducts to an area in the 92nd Street Addition that is 10'-0" to the west of the Trinity House; (5) created a new terrace abutting the Trinity House loggia, which, upon DOB approval, will be available to Trinity House residents for passive recreation; (6) reduced the height of the wall opposite the loggia to 3'-2" above the loggia parapet; (7) reduced the height of the eastern bulkheads for the 92nd Street Addition; and (8) reduced the height of the western bulkheads adjacent to the townhouses; and

WHEREAS, the applicant asserts and the Board agrees that the modifications will mitigate the impact of the Proposed Development on the light and ventilation of neighboring properties; and

WHEREAS, as to the Opposition's concerns regarding the Turf netting and support *vis à vis* snow and ice, the Board observes that the design must comply with the applicable provisions of the Building Code and such design is subject to the review and approval of DOB; and

WHEREAS, as the Opposition's concerns regarding the

elevated Turf's potential noise impacts, the applicant agreed to limitations on the hours of use, degree of lighting, and use of sound amplification equipment; and

WHEREAS, as to the Opposition's concern about the size of the openings in the netting, the applicant provided support for its assertion that a four-inch opening would be too large and would create a risk of balls breaching the netting during certain games; and

WHEREAS, turning to traffic and parking, the applicant contends that the Proposed Development will have no significant impact; the applicant states, as noted above, that the number of parking spaces within the Trinity House garage will remain at 106, in accordance with the CPC special permit; and

WHEREAS, at hearing, in part in response to the concerns of the Opposition, the Board directed the applicant to provide additional information regarding the operation of the Garage and the general management of traffic around the site; and

WHEREAS, in response, the applicant submitted multiple analyses and plans from its traffic and parking consultant, which reflect that the garage can accommodate a minimum of 106 vehicles in accordance with ZR § 25-62, which requires a minimum of 200 feet per parking space in an attended garage; and

WHEREAS, the applicant also agreed to revise its lease with the Garage operator to prohibit the use of the Garage for more than 106 vehicles, the obstruction of the sidewalks and the flow of traffic along West 92nd Street; and

WHEREAS, as to the Opposition's concerns regarding late-night and early-morning truck traffic, the applicant agreed to restrict the hours of pickup and deliveries of goods; and

WHEREAS, as to Opposition's assertion that the Garage does not comply with various provisions of the Zoning Resolution regarding certain parking garages, the applicant contends that the garage was constructed as an accessory parking garage for a multiple dwelling prior to the 1982 amendments to the Zoning Resolution; as such, it complies with the pre-1982 version of Article II, Chapter 5 and need not be altered to comply with requirements of Article I, Chapter 3, which applies to new or enlarged parking facilities; and

WHEREAS, as to the Opposition's concerns regarding the negative impacts of the current refuse management of the School—which the Board shares—the applicant agreed to provide a refrigerated food refuse storage area in the interior of the 92nd Street Addition; and

WHEREAS, as to the Opposition's assertion that CPC and HPD, must approve the Proposed Development prior to any action by the Board, the Board disagrees and finds that nothing in the record indicates that CPC or HPD approval is a pre-condition to the subject application; and

WHEREAS, as to the Opposition's assertion that the Proposed Development will result in a diminution of Garage revenue for the Trinity House contrary to certain private agreements, the Board takes no position on its merit and finds that the issue is beyond the scope of the Board's jurisdiction in this matter; and

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WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant states that, per ZR § 72-21(d), the hardship was not self-created, and that no development that would meet the programmatic needs of the School could occur given the history of development of the site; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the School; and

WHEREAS, the applicant represents that the requested waivers are the minimum necessary to accommodate the School's current and projected programmatic needs, in accordance with ZR § 72-21(e); and

WHEREAS, the Board notes that it reviewed dozens of written submissions, held numerous hearings, and accepted hours of testimony from the applicant, representatives from the School, the Opposition, counsel for the Opposition, Trinity House tenants, and surrounding neighbors regarding the Proposed Development, the necessary waivers, the potential impacts on surrounding uses; the record reflects that the School responded to every concern raised by the Opposition and either modified its proposal or provided detailed, programmatic needs-based reasons why it could not; and

WHEREAS, based on this exhaustive review, the Board finds that the requested relief is the minimum necessary to allow the School to fulfill its programmatic needs; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 14-BSA-161M, dated November 19, 2014; and

WHEREAS, the EAS documents that the operation of the School would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in

accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site partially within an R7-2 zoning district and partially within a C1-9 zoning district, the enlargement of existing school buildings (Use Group 3), which do not comply with zoning regulations for lot coverage, rear yard equivalent, encroachment into the required initial setback distance, and minimum distance between wall and a legally-required window, contrary to ZR §§ 24-11, 24-382, 24-522, and 23-711, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 24, 2015"—eighteen (18) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the Proposed Development: a maximum floor area of 229,689 sq. ft. (3.80 FAR) in the R7-2 portion of the site; a maximum height to the roof of the 92nd Street Addition (excluding bulkheads, netting, and structural members) of 47'-2"; a maximum height to the roof of the Annex Link of 52'-6"; a maximum apex height for the supports for the Turf netting of 81'-1"; a maximum height at the street line for the supports for the Turf netting of 60'-0"; a minimum distance between the street line and the Turf netting of 3'-0"; a minimum distance of 50'-0" between the Trinity House and the major structural members for the Turf netting; a minimum distance of 30'-0" between the Trinity House and the Turf netting (except where the Turf netting connects to the stair bulkheads, where the distance shall range from 30' to 21'-6"); a minimum distance of 20'-0" between the Trinity House loggia and the Turf level; a maximum height for the eastern bulkheads not to exceed a height of 170'-0"; a maximum height of the western bulkheads not to exceed a height of 175'-9"; a maximum height to the top of the Turf level wall located opposite the Trinity House loggia of 162'-0¼"; a maximum height of the finished floor at the terrace level located within 20'-0" of the Trinity House Loggia not to exceed 158'-10 3/4"; as illustrated on the BSA-approved plans;

THAT the maximum height of the finished floor at the terrace level located within 20'-0" of the Trinity House loggia shall be no higher than the Trinity House loggia parapet;

THAT any new or amended certificates of occupancy issued in connection with the Proposed Development shall include the following note: "Use of the site shall be in accordance with the conditions set forth in BSA Cal. No. 117-14-BZ.";

THAT the use of the Turf shall be limited to the hours between sunrise and sunset;

THAT the Turf shall not have any lighting, other than lighting required by the Building Code for emergency egress;

THAT the Turf shall not include any permanent sound amplification equipment;

THAT to the extent that temporary sound amplification equipment, including but not limited to electronic equipment,

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is used in connection with activities occurring on the Turf, such amplification equipment shall commence no earlier than 9:30 a.m. and shall cease no later than 7:30 p.m.;

THAT air horns and similar voice amplification equipment shall not be used in connection with activities occurring on the Turf; however, whistles shall be permitted;

THAT the School shall take reasonable steps to ensure the safety of pedestrians within and around the site, including but not limited to ensuring that snow and ice accumulations from the Turf and its enclosure do not create a safety hazard;

THAT the Garage shall provide a minimum of 106 parking spaces;

THAT the School shall establish a traffic management plan to improve traffic flow at the site, including operation of the Garage, student loading and offloading, refuse pickup, and Cafeteria and other deliveries;

THAT pickup and delivery of goods, refuse, materials, supplies, etc.—everything other than the students themselves—shall be limited to Monday through Friday, from 6:00 a.m. and 8:00 p.m., and on Saturday and Sunday, from 9:00 a.m. to 8:00 p.m.;

THAT the School shall apply to the Department of Transportation for an extension of the no-parking time in the no-parking zone outside the Cafeteria, from 7:00 a.m. to 4:00 p.m. to 6:00 a.m. to 4:00 p.m.;

THAT the School shall insure that the Garage operations do not obstruct the flow of traffic;

THAT that there shall be no vehicle parking or standing on the sidewalks at any time;

THAT the new lease entered into between the Garage operator and Trinity Housing Company subsequent to the construction of the Proposed Development, and any subsequent lease, shall contain (a) an affirmative representation by the garage operator that the operator acknowledges the number of spaces permitted by law for the garage, (b) covenants that the operator will abide by all governmental laws, rules, and regulations applicable to the operation of the garage, and will employ responsible operational practices consistent with industry standards; and (c) that no parking or standing on the sidewalk will be permitted and that garage operations will not obstruct the movement of traffic along West 92nd Street;

THAT vehicles with more than two axles making deliveries or pickups at the site shall not park or stand along West 91st Street or West 92nd Street; however, this condition shall not apply to passenger buses; and

THAT subject to DOB approval, the School shall allow Trinity House tenants access to the terrace on the roof of the 92nd Street Addition for passive recreation;

THAT the School shall consult in good faith with Trinity House tenants in the selection of materials to be used in constructing the wall opposite the loggia and the plantings and any furniture to be provided on the terrace;

THAT the School shall be responsible for maintaining all fencing, railings, materials, plantings, and furnishing within the terrace area;

THAT the School shall replace the chain-link fence over

the Brass Pavilion with the same mesh material that will be used on the School's rooftop enclosure, and shall scrape and repaint the metal vents on the Brass Pavilion; and the School shall maintain these elements in good condition;

THAT a refrigerated trash storage area shall be provided within the interior of the School Building; the refrigerated trash storage area shall be of sufficient capacity to accommodate the School's kitchen and cafeteria related trash and a separate trash storage area sufficient to contain all of the School's non-perishable trash shall also be provided within the interior of the School Building;

THAT all school trash shall be stored within the interior of the building until immediately before pickup;

THAT all construction shall be in conformance with the LPC Certificate of No Effect, dated April 17, 2014;

THAT any necessary CPC approvals for the Proposed Development shall be obtained prior to the issuance of DOB permits;

THAT all necessary HPD approvals for the Proposed Development shall be obtained prior to the issuance of DOB permits;

THAT any change in the use, occupancy, or operator of the School shall require review and approval by the Board;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by February 24, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 24, 2015.

177-14-BZ CEQR #15-BSA-035K

APPLICANT – Eric Palatnik, PC, for MADDD Properties LLC 34 Arden Lane, owner; CF Flatbush LLC, lessee.

SUBJECT – Application July 24, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Crunch Fitness*) within a portion of an altered building. C4-4A/R6A zoning district.

PREMISES AFFECTED – 1038 Flatbush Avenue, 180' south of intersection of Flatbush Avenue and Regent Place, Block 5123, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,

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Commissioner Ottley-Brown and Commissioner Montanez .4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated February 20, 2014, acting on DOB Application No. 121662664, reads, in pertinent part:

ZR 32-10 Physical Cultural [SIC] establishment is not permitted as of right on C4-4A/R6A zoning district; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-4A/R6A zoning district, the operation of a physical culture establishment (“PCE”) on the cellar, first, second, and third floors of a three-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in the *City Record*, with a continued hearing on February 3, 2015, and then to decision on February 24, 2015; and

WHEREAS, Vice Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed site and neighborhood examinations of the premises and surrounding area; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site has approximately 80 feet of frontage on the west side of Flatbush Avenue, between Regent Place and Beverly Road, and consists of 7,290 sq. ft. of lot area; and

WHEREAS, the site is located within a C4-4A/R6A zoning district; and

WHEREAS, pursuant to ZR §77-11, the C4-4A zoning district regulations are applicable to the entire site; and

WHEREAS, the site is occupied by a three-story commercial building; and

WHEREAS, the proposed PCE shall occupy 2,299 sq. ft. of floor space at the cellar level, 4,518 sq. ft. of floor area at the first floor, 5,849 sq. ft. of floor area at the second floor, and 5,068 sq. ft. of floor area at the third floor; and

WHEREAS, the PCE’s hours of operation are Monday through Saturday, from 5:00 a.m. to 11:00 p.m., and on Sunday, from 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither: (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions

and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15-BSA-035K, dated July 25, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-4A/R6A zoning district the entirety of which is subject to the C4-4A zoning district regulations, the operation of a PCE on the cellar, first, second, and third stories of a three-story commercial building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to drawings filed with this application marked “July 25, 2014”- (4) sheets; *on further condition*:

THAT the term of the PCE grant will expire on February 24, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 24, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 24, 2015.

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78-11-BZ & 33-12-A thru 37-12-A

APPLICANT – Sheldon Lobel, P.C., for Indian Cultural and Community Center, Incorporated, owner.

SUBJECT – Applications May 27, 2011 and February 9, 2012 – Variance (§72-21) to allow for the construction of two assisted living residential buildings, contrary to use regulations (§32-10).

Proposed construction of two mixed use buildings that do not have frontage on a legally mapped street, contrary to General City Law Section 36. C8-1 Zoning District.

PREMISES AFFECTED – 78-70 Winchester Boulevard, Premises is a landlocked parcel located just south of Union Turnpike and west of 242nd Street, Block 7880, Lots 550, 500 Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for deferred decision.

30-12-BZ

APPLICANT – Eric Palatnik, P.C., for Don Ricks Associates, owner; New York Mart Group, Inc., lessee.

SUBJECT – Application February 8, 2012 – Remand Back to Board of Standards and Appeals; seeks a judgment vacating the resolution issued on January 15, 2013 and filed on January 17, 2013. R6-/C2-2 zoning district.

PREMISES AFFECTED – 142-41 Roosevelt Avenue, northwest corner of Roosevelt Avenue and Avenue B, Block 5020, Lot 34, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

343-12-BZ

APPLICANT – Akerman Senterfitt, LLP., for Ocean Ave Education Support, Inc., owner.

SUBJECT – Application December 19, 2012 – Variance (§72-21) to permit the construction of a Use Group 3 school (*Brooklyn School for Medically Frail Children*) with dormitory facilities in a split zoning lot, contrary to lot coverage (§24-11), yard requirements (§24-382, §24-393, §24-33) and use regulations (§22-13). R1-2/R7A zoning district.

PREMISES AFFECTED – 570 East 21st Street, between Dorchester Road and Ditmas Avenue, Block 5184, Lot(s) 39, 62, 66, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

8-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Oleg Saitskiy, owner.

SUBJECT – Application January 16, 2014 – Special Permit (§73-622) for the enlargement of an existing single family

home, contrary to floor area, open space and lot coverage (23-141); side yards requirements (§23-461) and less than the rear yard requirement (23-47). R3-2 zoning district.

PREMISES AFFECTED – 1824 East 22nd Street, west side of East 22nd Street between Quentin Road and Avenue R, Block 6804, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for adjourned hearing.

41-14-BZ

APPLICANT – The Law Office of Jay Goldstein, for United Talmudical Academy, owner.

SUBJECT – Application March 7, 2014 – Special Permit (§73-19) to legalize an existing school/yeshiva (UG 3). M1-2 zoning district.

PREMISES AFFECTED – 21-37 Waverly Avenue aka 56-58 Washington Avenue, between Flushing Avenue and Park Avenue front both Washington and Waverly Avenues, Block 1874, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for adjourned hearing.

64-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Moshe Dov Stern & Goldie Stern, owners.

SUBJECT – Application April 29, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1320 East 23rd Street, west side of East 23rd Street between Avenue M and Avenue N, Block 7658, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for adjourned hearing.

94-14-BZ

APPLICANT – Dennis D. Dell'Angelo, for Rivka Shapiro, owner.

SUBJECT – Application May 5, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-141) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1150 East 22nd Street, west side of East 22nd Street, 140' north of Avenue "K", Block 7603, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for adjourned hearing.

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146-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Fair Only Real Estate Corps., owner; LES Fitness LLC., lessee.

SUBJECT – Application June 23, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Bowery CrossFit*) in the cellar of an existing building. C6-1G zoning district.

PREMISES AFFECTED – 285 Grand Street, south side of Grand Street approximately 25’ west of the intersection formed by Grand Street and Eldridge Street, Block 306, Borough of Manhattan.

COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for decision, hearing closed.

169-14-BZ

APPLICANT – Simons & Wright LLC, for Midyan Gate Realty No. 3 LLC., owner.

SUBJECT – Application July 21, 2014 – Special Permit (§73-19) to allow a pre-school and child care services (Use Group 3) (*Inner Force Y*) within the existing building. M1-1 Ocean Parkway Special Zoning District.

PREMISES AFFECTED – 325 Avenue Y, southwest corner of Avenue Y between Shell Road and West 3rd Street, Block 7192, Lot 46, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

REGULAR MEETING

TUESDAY AFTERNOON, FEBRUARY 24, 2015

1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

98-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 404-414 Richmond Terrace Inc., owner.

SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the reestablishment of a banquet facility (catering hall -UG 9) with accessory parking. Located in an R5 and R3A zoning districts within the St. George Historic District.

PREMISES AFFECTED – 404 Richmond Terrace, southeast corner of Richmond Terrace and Westervelt Avenue, Block 3, Lot(s) 40, 31, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

157-14-BZ

APPLICANT – Lewis Garfinkel, for Cham Tessler, owner.

SUBJECT – Application July 3, 2014 – Special Permit (§73-622) for the enlargement of an existing single family, two story semi-detached residence to be combined into a single family, two story detached residence contrary to floor area and open space ZR 23-141; side yard ZR 23-461 and less than the required rear yard ZR 23-47. R-2 zoning district.

PREMISES AFFECTED – 1151 East 29th Street, east side of East 29th St. 360 feet north from the corner of Avenue L, Block 7629, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for decision, hearing closed.

170-14-BZ

APPLICANT – Mango & Lacoviello, LLP, for Mansion Realty LLC, owner; David Barton Gym, lessee.

SUBJECT – Application July 21, 2014 – Special Permit (§73-36) to allow the operation of the proposed physical culture establishment (*David Barton Gym*) on the first floor second & third floors, located within an C6-2-A, C6-4A zoning districts.

PREMISES AFFECTED – 652-662 Avenue of the Americas, northeast corner of West 20th Street and Avenue of the Americas, Block 822, Lot(s) 1 & 2, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director

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CORRECTION

This resolution adopted on January 30, 2015, under Calendar No. 38-14-BZ and printed in Volume 100, Bulletin Nos. 5-6, is hereby corrected to read as follows:

38-14-BZ

APPLICANT – Eric Palatinik, P.C., for Yury Dreysler, owner.

SUBJECT – Application February 28, 2014 – Special Permit (§73-622) for the enlargement of single family home, contrary to floor area, lot coverage and open space (§23-141), side yard (§23-461) and less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 116 Oxford Street, between Shore boulevard and Oriental Boulevard, Block 8757, Lot 89, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated February 4, 2014, acting on DOB Application No. 320870063, reads in pertinent part:

1. Proposed floor area ratio is contrary to ZR 23-141(a).
2. Proposed open space contrary to ZR 23-141(a).
3. Proposed lot coverage is contrary to ZR 23-141(a).
4. Proposed side yards (exist. Non-compliance) contrary to ZR 23-461(a).
5. Proposed rear yard is contrary to ZR 23-47.
Minimum required: 30’
Proposed: 20’

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on October 7, 2014, after due notice by publication in *The City Record*, with continued hearings on November 18, 2014, November 25, 2014, and January 6, 2015, and then to decision on January 30, 2015; and

WHEREAS, Chair Perlmutter, Vice Chair Hinkson and Commissioners Montanez and Ottley-Brown performed inspections of the subject premises and site, together with its surrounding area and neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the west side of Oxford Street, between Shore Boulevard and Oriental Boulevard, within an R3-1 zoning district; and

WHEREAS, the site has 25 feet of frontage along Oxford Street and approximately 2,500 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story, single-family home with 834 sq. ft. of floor area (0.33 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the single-family home by enlarging the first floor of the existing building and adding an additional two floors, thereby increasing the floor area of the building from 834 sq. ft. (0.33 FAR) to 2,489 sq. ft. (0.99 FAR) (the maximum permitted floor area is 1,500 sq. ft. (0.6 FAR) which includes the 300 square feet (0.1 FAR) that must be provided directly under a sloping roof) and increasing the height of the building from 16’-9” to 35’-0”;

WHEREAS, in order to comply with applicable flood regulations the applicant shall raise the building by removing the existing floor beams from the north and south walls thereof, increasing the height of the shelf upon which the existing floor currently rests using solid brick masonry and replacing the existing floor beams so that the first floor elevation will be increased from 6’-7” to 13’-00”;

WHEREAS, the applicant seeks to decrease the open space ratio from 67 percent to 53.5 percent; the minimum required open space ratio is 65 percent; and

WHEREAS, the applicant seeks to maintain existing side yard widths of 0’-1” and 2’-11”;

the general requirement is two side yards with a minimum total width of 13’-0” and a minimum width of 5’-0” each, however, as per ZR § 23-48, the minimum total width of 13’-0” is not required at the subject site; and

WHEREAS, the applicant also seeks to decrease its rear yard depth from 34’-2” to 20’-0”;

a rear yard with a minimum depth of 30’-0” is required; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, the applicant asserts that the proposed 0.99 FAR and 2,489 sq. ft. of floor area is consistent with the bulk and lot area of one and two-family homes in the surrounding area; and

WHEREAS, in support of this assertion, the applicant provided evidence of 19 one- or two-family homes within 400’ of the subject site with an FAR equal to or in excess of 0.99 and floor area equal to or in excess of 2,450 sq. ft.; and

WHEREAS, at hearing, the Board directed the applicant to narrow its analysis of neighborhood character to focus on the block on which the site is located, as such character is, in the subject area, block specific; and

WHEREAS, in response, the applicant identified one and two-family homes on the subject block which consist of

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two or more stories and provided a streetscape which included the proposed building; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “December 18, 2014”– (10) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of to 2,489 sq. ft. (0.99 FAR), a minimum open space of 53.5 percent, side yards with minimum widths of 0’-1” and 2’-11”, and a minimum rear yard depth of 20’-0”, as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

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

THAT substantial construction be completed in accordance with ZR § 73-70; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 30, 2015.

The resolution has been amended. Corrected in Bulletin Nos. 9-10, Vol. 100, dated March 4, 2015.

BULLETIN

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March 8, 2015

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155-13-BZ	1782-1784 East 28 th Street, Brooklyn
266-13-BZ	515 East 5 th Street, Manhattan
309-13-BZ	965 East 24 th Street, Brooklyn
321-13-BZ	37-19 104 th Street, Queens
5-14-BZ	1807 East 22 nd Street, Brooklyn
28-14-BZ	3540 Nostrand Avenue, Brooklyn
31-14-BZ	165 Spencer Street, Brooklyn
44-14-BZ	92 Laight Street, aka 256 West Street, Manhattan
63-14-BZ	5500 Broadway, Manhattan
91-14-BZ	3420 Bedford Avenue, Brooklyn
124-14-BZ	1112 Gillmore Court, Brooklyn
175-14-BZ	1162 Broadway, Manhattan
232-14-BZ	946 Pennsylvania Avenue, aka 1000 Pennsylvania Avenue, Brooklyn

Afternoon Calendar176

Affecting Calendar Numbers:

303-13-BZ	506-510 Brook Avenue, Bronx
37-14-BZ	86-10 Roosevelt Avenue, Queens
127-14-BZ	32-41 101 st Street, Queens
289-14-BZ	22-32/36 31 st Street, Queens
324-14-BZ	198-30 Jamaica Avenue, Queens

DOCKETS

New Case Filed Up to March 3, 2015

35-15-A

2001 Bartow Avenue, Block 05141, Lot(s) 0101, Borough of **Bronx, Community Board: 10**. An administrative appeal challenging the Department of Buildings' final determination dated January 26, 2015, to permit the installation of 54 individual signs at the subject property. C7 zoning district C7 district.

36-15-BZ

66 Boerum Place, northwest corner of the intersection formed by Atlantic Avenue and Boerum Place, Block 00277, Lot(s) 1 & 10, Borough of **Brooklyn, Community Board: 2**. Special Permit (§73-36) to allow the operation of a physical culture establishment (Fitness Center) on portions of the cellar, first and second floors of a new building. C6-2A (SDBD) zoning district C6-2A (SDBD) district.

37-15-A

2020 Demerest Road, Van Brunt Road and Demerest Road, Block 15485, Lot(s) 0007, Borough of **Queens, Community Board: 14**. Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-2 zoning district. R3-2 district.

38-15-A

210 Park Place, between Carlton Avenue and Vanderbilt Avenue, Block 01164, Lot(s) 35 (34), Borough of **Brooklyn, Community Board: 5**. Application from the Fire Commissioner to approve the modification of Certificate of Occupancy #87304 to require the installation of Automatic Fire Sprinklers and the installation of an Exterior Fire Stair R-6B district.

39-15-BZ

74-76 Eighth Avenue, southeast corner of 8th Avenue and West 14th Street, Block 00618, Lot(s) 0005, Borough of **Manhattan, Community Board: 2**. Variance (§72-21) to permit the construction of a new 12 story, 37,166 sq. ft office building (UG 6) with ground floor retail (UG 6) contrary to floor area (§33-122) and setback requirements (§32-24). C8-2A zoning district. C6-2A district.

40-15-BZ

465 Lexington Avenue, east side between East 46 and 47th Streets, Block 01300, Lot(s) 0020, Borough of **Manhattan, Community Board: 6**. Special Permit (§73-36) to allow the operation of a physical culture establishment within portions of an existing building. C5-3 zoning district - Companion case 41-15-BZ C5-3 district.

41-15-BZ

140 East 46th Street, south east corner of East 47th Street and Lexington Avenue, Block 01300, Lot(s) 0050, Borough of **Manhattan, Community Board: 6**. Special Permit (§73-36) to allow the operation of a physical culture establishment within portions of an existing building. C5-3 & C5-2.5 zoning district. Companion case 40-15-BZ C5-3 and C5-2.5 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

MARCH 24, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 24, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

26-02-BZ

APPLICANT – Eric Palatnik, P.C., for Bolla EM Realty LLC, owner.

SUBJECT – Application March 14, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses, which expired on December 10, 2012; Amendment to covert the existing bays into accessory convenience store and to enlarge the building; Waiver of the Rules. C1-2/R3-2 zoning district.

PREMISES AFFECTED – 1680 Richmond Avenue aka 3101 Victory Boulevard, northwest corner of Richmond Avenue and Victory Boulevard, Block 2160, Lot 1, Borough Staten Island.

COMMUNITY BOARD #2SI

150-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Shun K. and Oi-Yee Fung, owners.

SUBJECT – Application May 2, 2014 – Amendment of a previously approved variance to permit the construction of a four-story building with retail space and one-car garage. C6-2G zoning district.

PREMISES AFFECTED – 129 Elizabeth Street, west side of Elizabeth Street between Broome and Grand Street, Block 470, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

51-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Rivoli Realty Corp., owner; American Dance & Drama, lessee.

SUBJECT – Application July 10, 2014 – Amendment of a variance (§72-21) which permitted a Physical Culture Establishment and a dance studio (Use Group 9), contrary to use regulations. The amendment seeks to enlarge the floor area utilized by the dance studio on the first floor of the existing one-story and cellar building. C1-2/R2A zoning district.

PREMISES AFFECTED – 188-02 Union Turnpike aka 22 Union Turnpike, south side of Union Turnpike between 188th Street and 189th Street, Block 7266, Lot 1, Borough of Queens.

COMMUNITY BOARD #8Q

APPEALS CALENDAR

167-14-A

APPLICANT – Eric Palatnik, P.C., for 250 Manhattan LLC, owner.

SUBJECT – Application July 11, 2014 – Appeal seeking a determination that the owner has obtained a vested right to complete construction commenced under the prior C4-3(R6) zoning district. R6B zoning district.

PREMISES AFFECTED – 250 Manhattan Avenue, between Powers Avenue and Grand Street, Block 2782, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #1M

MARCH 24, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, March 24, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

322-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Gloria B. Silver, owner.

SUBJECT – Application December 18, 2013 – Reinstatement (§11-411) of a previously approved variance which permitted accessory parking on the zoning lot for the use Group 6 commercial building, which expired on September 23, 1990; Waiver of the Rules. R6/C1-2 and R6 zoning district.

PREMISES AFFECTED – 42-01 Main Street, southeast corner of the intersection of Main Street and Maple Avenue, Block 5135, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

51-14-BZ

APPLICANT – Lewis E. Garfinkel, for David Freier, owner.

SUBJECT – Application April 2, 2014 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area and open space ZR §23-141; side yards ZR §23-461 and rear yard ZR §23-47. R2 zoning district.

PREMISES AFFECTED – 1369 East 28th Street, East side of East 28th Street, 220' north from Avenue N, Block 7664, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

CALENDAR

242-14-BZ

APPLICANT – Jay Goldstein, Esq., for Sutton Realty LLC., owner; Halevy Life, Inc., lessee.

SUBJECT – Application October 8, 2014 – Special Permit (§73-36) to allow for operation of a physical culture establishment (*Halevy Life*) on portions of the cellar and first floor. C1-9 zoning district.

PREMISES AFFECTED – 212 East 57th Street, between 3rd Avenue and 2nd Avenue on the south side of 57th Street, Block 1330, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #6M

Ryan Singer, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, MARCH 3, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

195-02-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for McDonald's Real Estate Company, owner; Lauren Enterprises, lessee.

SUBJECT – Application December 2, 2013 – Extension of Term of a previously approved Variance (§72-21) permitting an eating and drinking establishment with an accessory drive through facility with a legalization of a small addition to the establishment, which expired on February 11, 2013; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 2797 Linden Boulevard, between Drew and Ruby Streets, Block 4471, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #5BK

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for adjourned hearing.

APPEALS CALENDAR

245-12-A

APPLICANT – Law Offices of Marvin B. Mitzner LLC, for 515 East 5th Street, LLC, owner.

SUBJECT – Application August 9, 2012 – Appeal pursuant to Section 310(2) of the Multiple Dwelling Law, requesting that the Board vary several requirements of the MDL. R7B Zoning District

PREMISES AFFECTED – 515 East 5th Street, north side of East 5th Street, between Avenue A and Avenue B, Block 401, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to May 12, 2015, at 10 A.M., for decision, hearing closed.

126-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for McAllister Maritime Holdings, LLC, owner.

SUBJECT – Application June 5, 2014 – Proposed construction of a warehouse building located partially within the bed of mapped unbuild street, pursuant Article 3 Section

35 of the General City Law. M3-1 zoning district.
PREMISES AFFECTED – 3153 Richmond Terrace, north side of Richmond Terrace at intersection of Richmond Terrace and Grandview Avenue, Block 1208, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #1SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for decision, hearing closed.

153-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Rabbi Jacob Joseph School, owner.

SUBJECT – Application July 1, 2014 – Proposed construction of a community facility building school located partially within the bed of a unbuild mapped street pursuant to Article 3 Section 35 of the General City Law and waive of bulk regulations under ZR Section 72-01-(g). R3-2 Zoning district.

PREMISES AFFECTED – 200 Cambridge Avenue, 114.71' north of intersection on of Auburn Avenue and Cambridge Avenue, Block 1511, Lot 210, Borough of Staten Island.

COMMUNITY BOARD #

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for decision, hearing closed.

180-14-A

APPLICANT – Fried Frank Harris Shriver and Jacobson LLP, for EXG 332 W 44 LLC c/o Edison Properties, owner.

SUBJECT – Application August 1, 2014 – Appeal challenging the Department of Building's determination that the subject façade treatment located on the north wall is an impermissible accessory sign as defined under the ZR Section 12-10. C6-2SCD zoning district.

PREMISES AFFECTED – 332 West 44th Street, south side West 44th Street, 378 west of the corner formed by the intersection of West 44th Street and 8th Avenue and 250' east of the intersection of West 44th Street and 8th Avenue, Block 1034, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to April 21, 2015, at 10 A.M., for decision, hearing closed.

MINUTES

ZONING CALENDAR

329-13-BZ

APPLICANT – Alexander Levkovich, for Sam Ravit, owner.

SUBJECT – Application December 31, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (23-141). R3-1 zoning district.

PREMISES AFFECTED – 145 Girard Street, east side of Girard Street, approximately 600’ south of intersection with Hampton Avenue, Block 8750, Lot 386, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated January 28, 2015, acting on DOB Application No. 320808658, reads in pertinent part:

1. Proposed construction floor area exceeds maximum allowable permitted as per zoning regulation section ZR 23-141...
2. Proposed lot coverage exceeds maximum allowable permitted as per zoning regulation section ZR 23-141(b)...
3. Proposed rear yard exceeds maximum allowable permitted as per zoning regulation section ZR 23-47...

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the proposed enlargement of a non-complying two-story, two-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), lot coverage and rear yards, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on November 18, 2014, after due notice by publication in *The City Record*, with continued hearings on December 9, 2014 and February 10, 2015, and then to decision on March 3, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of Girard Street, between Hampton Avenue and Oriental Boulevard, within an R3-1 zoning district; and

WHEREAS, the site has 60 feet of frontage along Girard Street, and a depth of approximately 100 feet, and 6,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story, two-family home with 4,444 sq. ft. of floor area (0.74 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the building, resulting in an increase in the floor area from 4,444 sq. ft. (0.74 FAR) to 5,052 sq. ft. (.84 FAR); the maximum permitted floor area is 3,744 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to increase the lot coverage of the subject building from 28 percent to 36.3 percent; the maximum lot coverage is 35 percent; and

WHEREAS, the applicant seeks to vertically extend its non-complying rear yard, which has a depth of 27’-1””; the requirement is a minimum depth of 30’-0””; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the proposed enlargement of a two-story, two-family home, which does not comply with the zoning requirements for FAR, lot coverage and rear yards, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received February 23, 2015”– thirteen (13) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 5,052 sq. ft. (.84 FAR), a maximum lot coverage of 36.3 percent, and a rear yard with a minimum depth of 27’-1””, as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by March 3, 2019; and

MINUTES

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 3, 2015.

114-14-BZ

APPLICANT – Eric Palatnik, P.C., for Boris Vaysburz, owner.

SUBJECT – Application May 30, 2014 – Special Permit (§73-622) for enlargement of an existing two story single family dwelling contrary to floor area ratio, open space and lot coverage (ZR 23-141); side yard (ZR 23-461) and less than the rear yard requirements (ZR 23-47). R4 zoning district.

PREMISES AFFECTED – 2442 East 14th Street, between Avenue X and Avenue Y, Block 7415, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez..4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated May 21, 2014, acting on DOB Application No. 320915408, reads in pertinent part:

1. Proposed floor area is more than the 0.75 permitted and contrary to ZR 23-141(b)
2. Proposed open space ratio is less than the 55% required and contrary to ZR 23-141(b)
3. Proposed lot coverage is more than the 45% permitted and contrary to ZR 23-141(b)
4. 2 side yards are required for a total of 13’-0” with any side yard a minimum width of 5’-0”.
Proposed side yards are less than required and contrary to ZR 23-461(a)
5. Proposed rear yard is less than the 30 feet required and contrary to ZR 23-47; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R4 zoning district, the proposed enlargement of a two-story, single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, lot coverage, side yards, and rear yards, contrary to ZR §§ 23-141, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on October 28, 2014, after due notice by publication in *The City Record*, with continued hearings on December 9, 2014, January 6, 2015, and February 3, 2015, and then to decision on March 3, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the west side of East 14th Street, between Avenue X and Avenue Y, within an R4 zoning district; and

WHEREAS, the site has 25 feet of frontage along East 14th Street, a depth of 100 feet, and 2,500 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story, single-family home with 1,458 sq. ft. of floor area (0.58 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the building, resulting in an increase in the floor area from 1,458 sq. ft. (0.58 FAR) to 3,388 sq. ft. (1.35 FAR); the maximum permitted floor area is 2,250 sq. ft. (0.9 FAR); and

WHEREAS, the applicant seeks to decrease the open space ratio from 75 percent to 42 percent; the minimum required open space ratio is 55 percent; and

WHEREAS, the applicant seeks to increase the lot coverage of the subject building from 25 percent to 58 percent; the maximum lot coverage is 45 percent; and

WHEREAS, the applicant seeks to vertically extend its non-complying side yards, which have widths of 2’-2” (to the south) and 1’-7” (to the north); the requirement is a minimum width of 5’-0” at each side yard and a total side yard width of 13’-0”; and

WHEREAS, the applicant seeks to decrease its rear yard from 67’-0” to 27’-0”; the requirement is a minimum depth of 30’-0”; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, the Board directed the applicant to provide a photographic streetscape diagram of the subject block in order to illustrate the impact of the requested bulk waivers on the character of the subject neighborhood; and

WHEREAS, at hearing, the Board expressed concern that the proposal complied with 1968 Building Code with respect to light and air; and

WHEREAS, in response, the applicant submitted a letter from the project architect confirming that the proposed project meets the requirements of the 1968 Building Code for natural ventilation and natural light; and

WHEREAS, at hearing, the Board expressed concern about the impact of the initially proposed 25’-0” rear yard; and

WHEREAS, the applicant submitted a land use study to support its assertion that the initially proposed 25’-0” rear yard was characteristic of buildings on the block and consistent with neighborhood character; and

MINUTES

WHEREAS, the Board rejected the findings of the applicant's land use study and directed the applicant to increase the size of the proposed rear yard from 25'-0" to 27'-0"; and

WHEREAS, in response, the applicant submitted amended plans, diagrams and zoning analyses, incorporating the Board's directions and increasing the size of the rear yard; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R4 zoning district, the proposed enlargement of a two-story, single-family home, which does not comply with the zoning requirements for FAR, open space ratio, lot coverage, side yards, and rear yards, contrary to ZR §§ 23-141, 23-461 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "February 29, 2015"– (9) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,388 sq. ft. (1.35 FAR), a minimum open space ratio of 42 percent, and a maximum lot coverage of 58 percent, minimum side yard widths of 2'-2" (south) and 1'-7" (north) and a rear yard with a minimum depth of 27'-0", as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by March 3, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 3, 2015.

118-14-BZ

CEQR #14-BSA-162R

APPLICANT – Rampulla Associates Architects, for Mangone Developers Corporation, owner.

SUBJECT – Application June 3, 2014 – Variance (§72-21) to allow a three-story sixteen unit condominium contrary to use regulations, with accessory parking for thirty six cars. Located within R3X, R1-2 split zoning district and in an NA-1 designated area.

PREMISES AFFECTED – 1891 Richmond Road, northwest side of Richmond 2667.09' southwest of the corner of Four Corners Road and Richmond Road, Block 895, Lot (s) 61, 63, 65, 67 (61 tentative), Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez..4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated May 5, 2014, acting on DOB Application No. 520184390, reads, in pertinent part:

ZR 22-12(A)(1) – The proposed detached three-story multiple dwelling building (16 dwelling units) with 36 accessory parking spaces is not permitted as-of-right in R3X zoning district; contrary to Zoning Resolution Section 22-00; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within an R1-2 zoning district and partially within an R3X zoning district, within a Special Natural Area District (NA-1), the construction of three-story multiple dwelling for persons 55 years of age or older (Use Group 2) with 16 dwelling units and 36 accessory parking spaces, contrary to ZR § 22-12; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, with a continued hearing on February 3, 2015, and then to decision on March 3, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Montanez and Commissioner Ottley-Brown; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, the subject site is located on the west side of Richmond Road between Hunter Avenue and Hull Avenue, partially within an R1-2 zoning district and partially within an R3X zoning district, within a Special Natural Area District (NA-1); and

WHEREAS, the site comprises Tax Lots 61, 63, 65, 67, and 70; it has approximately 538 feet of frontage along Richmond Road and 57,862 sq. ft. of lot area (13,500 sq. ft. of lot area in the R1-2 portion of the site and 44,362 sq. ft. of lot area in the R3X portion of the site); and

WHEREAS, the site is vacant, aside from partial retaining walls constructed in connection with a 2004 City

MINUTES

Planning Commission (“CPC”) approval to construct four detached, two-family dwellings; and

WHEREAS, the applicant notes that the 2004 CPC approval created a 22,987 sq.-ft. Area of No Disturbance in the southwest corner of the site; and

WHEREAS, the applicant acknowledges that because the site is within a Special Natural Area District, CPC approval must be obtained prior to the issuance of a DOB permit; and

WHEREAS, the applicant now seeks to construct, within the R3X portion of the site, a three-story multiple dwelling for persons 55 years of age or older (Use Group 2) with 28,392 sq. ft. of floor area (0.49 FAR), 16 dwelling units, and 36 accessory parking spaces; the proposal reflects that the building will have a front yard depth of 10’-0”, one side yard with a width of 25’-0”, one side yard with a width of 260’-0”, a rear yard depth of 30’-0”, and a building height of 40’-0”; and

WHEREAS, pursuant to ZR § 22-12(A)(1), only single- or two-family detached residences are permitted within an R3X zoning district; and

WHEREAS, accordingly, the proposed multiple dwelling requires a use variance; and

WHEREAS, the applicant asserts that the site qualifies for the requested variance under ZR § 72-21; and

WHEREAS, the applicant states that, per ZR § 72-21(a), the following are unique physical conditions, which create practical difficulties and unnecessary hardships in developing the site in conformance with underlying district regulations: (1) the site’s changes in elevation; and (2) the site’s soil condition; and

WHEREAS, the applicant states that elevation of the site varies from 57’-5” (southeast corner) to 104’-0” (northwest portion), resulting in slopes that vary from 11 percent to 25 percent, and that this condition is unlike any site within the surrounding area; and

WHEREAS, the applicant states that the varied elevation and slope of the site creates practical difficulties in developing the site because an excessive amount of excavation must be performed and a retaining wall must be constructed, at significant cost; and

WHEREAS, the applicant also notes that due to the site’s changes in elevation, it is classified as a Special Natural Area District; as such, the applicant estimates that CPC will require approximately 40 percent of lot area of the site to remain undeveloped and undisturbed, which further constrains development of the site; and

WHEREAS, the applicant asserts that the site is also burdened by unusual soil conditions that create premium construction costs; specifically, the applicant identifies the presence of hard serpentine rock, which cannot be excavated using conventional means; instead, the applicant states that the rock must be pulverized and removed from the site in stages, at significant cost; and

WHEREAS, the applicant estimates that the total premium construction costs for the excavation, retaining wall, and serpentine rock removal will be \$873,525; and

WHEREAS, the Board agrees that the elevation changes and serpentine rock at the site are unique physical conditions that create practical difficulties and unnecessary hardships in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that, per ZR § 72-21(b), there is no reasonable possibility that the development of the site in conformance and compliance with the Zoning Resolution will realize a reasonable return; and

WHEREAS, the applicant provided a financial analysis for: (1) eight, three-story detached two-family residences (16 total dwelling units); and (2) the proposal; and

WHEREAS, the study concluded that only the proposal would provide a reasonable return; and

WHEREAS, based upon its review of the applicant’s submissions, the Board has determined that because of the site’s unique physical conditions, there is no reasonable possibility that development in strict conformance and compliance with applicable zoning requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that while detached, single-family homes characterize the areas south and west of the site, the areas north and east of the site (which are at higher elevations) are characterized by their diversity of uses, including semi-attached two-family dwellings, multiple dwellings, and several community facility uses; thus, the proposed residential use is in keeping with the predominantly residential character of the area; and

WHEREAS, as to bulk, the applicant notes that the proposed number of dwelling units (16) is the same number of dwelling units that would be permitted at the site, if such units were provided within eight buildings (two units per building) rather than in a single building; thus, the applicant states that no more families will be residing at the site than would be permitted by the underlying district regulations; further, the applicant notes that the proposed 0.49 FAR is 0.11 FAR less than the 0.60 FAR than is permitted as-of-right; and

WHEREAS, as to height, the applicant states that while the proposed building height of 40’-0” is 5’-0” higher than the maximum height permitted for a conforming use within the subject R3X district (35’-0”), the dramatic slope of the site mitigates the impact of such height upon the neighborhood; further, the applicant contends and the Board agrees that the additional height is essential to providing a building form that is consistent with the prevailing architecture of homes in the vicinity (pitched roofs and gables); and

WHEREAS, turning to traffic, the applicant states that the site’s only frontage is along Richmond Road, which is a heavily-trafficked, four-lane thoroughfare; the applicant notes that the proposal reflects two curb cuts, which is significantly fewer curb cuts than would be constructed in connection with

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an as-of-right development of single- or two-family homes; as such, the applicant contends that the proposal is more consistent with existing traffic conditions than an as-of-right development would be; and

WHEREAS, finally, the applicant notes that 36 parking spaces will be provided, which is eight more spaces than would be required for 16 dwelling units in an R3X zoning district; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the applicant states that the proposal represents the minimum variance needed to allow for a reasonable and productive use of the site; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as a Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 14-BSA-162R dated February 12, 2014; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site partially within an R1-2 zoning district and partially within an R3X zoning district, within a Special Natural Area District (NA-1), the construction of three-story

multiple dwelling for persons 55 years of age or older (Use Group 2) with 16 dwelling units and 36 accessory parking spaces, contrary to ZR § 22-12, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 12, 2015"- seven (7) sheets; and *on further condition*:

THAT the parameters of the building and site shall be as follows: 28,392 sq. ft. of floor area (0.49 FAR), 16 dwelling units, a minimum front yard depth of 10'-0", one side yard with a width of 25'-0", one side yard with a width of 260'-0", a minimum rear yard depth of 30'-0", a maximum building height of 40'-0", and 36 parking spaces, as illustrated on the BSA-approved plans;

THAT all required CPC approvals shall be obtained prior to the issuance of the DOB permit;

THAT the applicant shall forward BSA a copy of the CPC-approved plans prior to applying for the DOB permit;

THAT the occupancy of the building shall be limited to persons 55 years of age or older;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by March 3, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 3, 2015.

154-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Peter Agrapides, owner.

SUBJECT – Application July 1, 2014 – Special Permit (§73-621) to allow an addition to the existing mixed commercial and residential building. C1-3/R6B zoning district.

PREMISES AFFECTED – 6934 5th Avenue, northwest corner of the intersection of Ovington Avenue and 5th Avenue, Block 5873, Lot 57, Borough of Brooklyn.

COMMUNITY BOARD #10BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez..4
Negative:.....0

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THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated June 2, 2014, acting on DOB Application No. 320825595, reads in pertinent part:

1. ZR 54-30, ZR 35-31, ZR 33-121, and ZR 23-145

The existing building floor area is more than allowable, and by proposing enlargement at first floor as shown, the degree of non-compliance is increasing.

Total floor area provided exceeds as permitted for mixed building and based on zoning sections mentioned... ; and

WHEREAS, this is an application under ZR §§ 73-621 and 73-03, to permit, within an R6B/C1-3 zoning district, within the Special Bay Ridge District, the proposed enlargement of a four-story mixed commercial and residential building, which does not comply with the zoning requirements for floor area, contrary to ZR §§ 23-145 and 54-30; and

WHEREAS, a public hearing was held on this application on February 3, 2015 after due notice by publication in *The City Record*, and then to decision on March 3, 2015; and

WHEREAS, Commissioners Montanez, and Ottley-Brown performed inspections of the subject site and surrounding neighborhood; and

WHEREAS, Community Board 10, Brooklyn, recommends approval of the application on condition that ... the mechanical equipment and other appurtenances on the roof of the building comply with applicable law with respect to distance from windows in adjacent residential buildings, shall not impede egress and shall not be visible from the streets and sidewalks at intersection and from approaching blocks; and

WHEREAS, the subject site is a corner lot located on the northwest corner of the intersection of 5th Avenue and Ovington Avenue, in Brooklyn, within an R6B/C1-3 zoning district, within the Special Bay Ridge District; and

WHEREAS, the irregularly shaped site has approximately 112.85 ft. of frontage along Ovington Avenue and approximately 37.21 feet of frontage along 5th Avenue, and contains approximately 3,923sq. ft. of lot area; and

WHEREAS, the site is occupied by a non-complying four-story mixed commercial and residential building containing approximately 7,922 sq. ft. of floor area (2.02 FAR); and

WHEREAS, the applicant proposes to add a one-story commercial building adjacent to the existing four-story building, resulting in an increase in floor area of approximately 600 sq. ft., for a total floor area of 8,515.5 sq. ft. (2.17 FAR); the maximum permitted floor area is 7,846 sq. ft. (2.0 FAR) pursuant to ZR §23-145; and

WHEREAS, the special permit authorized by ZR § 73-621 is available to enlarge buildings containing residential uses that existed on December 15, 1961, or, in certain

districts, on June 20, 1989; therefore, as a threshold matter, the applicant must establish that the subject building existed as of that date; and

WHEREAS, the applicant submitted Sanborn maps dated 1926 and 1950 showing the subject premises as a store and residential building with four dwelling units; and

WHEREAS, accordingly, the Board acknowledges that the special permit under ZR § 73-621 is available to enlarge the building; and

WHEREAS, ZR § 73-621 permits the enlargement of a building containing a residential use, including the subject four-story mixed residential and commercial use building, provided that the proposed floor area ratio does not exceed 110 percent of the maximum permitted; and

WHEREAS, as to the floor area ratio, the Board finds that the proposed floor area does not exceed 110 percent of the maximum permitted; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 73-621; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-621 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-621 and 73-03, to permit, within an R6B/C1-3 zoning district, within the Special Bay Ridge District, the proposed enlargement of a non-complying four-story mixed use commercial and residential building, which does not comply with the zoning requirements for floor area, contrary to ZR §§ 23-145 and 54-30; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “February 17, 2015”– (3) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 8,515.5 sq. ft. (2.17 FAR), as illustrated on the BSA-approved plans;

THAT the subject addition shall be constructed with materiality and design equivalent to and consistent with the existing building and shall include a masonry detail band;

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THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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

THAT substantial construction be completed in accordance with ZR § 73-70; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 3, 2015.

170-14-BZ

CEQR #15-BSA-029M

APPLICANT – Mango & Lacoviello, LLP, for Mansion Realty LLC, owner; David Barton Gym, lessee.

SUBJECT – Application July 21, 2014 – Special Permit (§73-36) to allow the operation of the proposed physical culture establishment (*David Barton Gym*) on the first floor second & third floors, located within an C6-2-A, C6-4A zoning districts.

PREMISES AFFECTED – 652-662 Avenue of the Americas, northeast corner of West 20th Street and Avenue of the Americas, Block 822, Lot(s) 1 & 2, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez..4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated July 15, 2014, acting on DOB Application No. 120155624, reads, in pertinent part:

Proposed use as a physical culture establishment, as defined by ZR 12-10, is contrary to ZR32-10 and must be referred to the Board of Standards and Appeals for approval pursuant to ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C6-2A zoning district, and also within a C6-4A zoning district, within the Ladies’ Mile Historic District a physical culture establishment (“PCE”) on the first, second and third floors of a three story commercial use landmarked building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 24, 2015, after due notice by publication in the *City Record*, and then to decision on March

3, 2015; and

WHEREAS, the premises and surrounding area had a site and neighborhood examinations by Vice Chair Hinkson and Commissioners Montanez and Ottley-Brown; and

WHEREAS, Community Board 5, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is comprised of two tax lots located on the northeast corner of the intersection of the Avenue of the Americas and West 20th Street; it is located within a C6-2A zoning district, and also within a C6-4A zoning district, within the Ladies’ Mile Historic District; and

WHEREAS, the site has approximately 84 feet of frontage along the Avenue of the Americas (Lot 1) and a frontage of approximately 193 feet along West 20th Street (Lots 1 and 8), it consists of approximately 17,618 sq. ft. of lot area; and

WHEREAS, the site is occupied by a three-story commercial building which was constructed c. 1846 as the Church of the Holy Communion; and

WHEREAS, the PCE occupies approximately 23,661 sq. ft. of floor area at the first, second, and third floors of the building and operates as David Barton Gym; and

WHEREAS, the PCE’s hours of operation are Monday through Friday, from 5:30 a.m. to 12:00 a.m., and on Saturday and Sunday, from 8:00 a.m. to 9:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither: (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Landmarks Preservation Commission has approved the proposed alterations of the building by Certificate of No Effect No. 15-6427, dated April 14, 2014; and

WHEREAS, at hearing, the Board noted that the application, initially brought as an application to operate a PCE, was for the legalization of an existing PCE; and

WHEREAS, in response, the applicant recast the application as a legalization; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that

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the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 15-BSA-029M, dated December 17, 2014; and

WHEREAS, the EAS documents that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type I Negative Declaration determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-2A zoning district, and also within a C6-4A zoning district, within the Ladies' Mile Historic District, the operation of a PCE on the first, second, and third stories of a three story landmarked commercial building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to drawings filed with this application marked "Received December 17, 2014"-(8) sheets; *on further condition*:

THAT the term of the PCE grant shall expire on November 8, 2024;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT accessibility compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by March 3, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 3, 2015.

286-12-BZ

APPLICANT – Eric Palatnik, P.C., for People of Destiny Ministries International, Inc., owners.

SUBJECT – Application October 15, 2012 – Variance (§72-21) to permit a vertical enlargement and conversion of an existing two-story automotive repair facility to a four-story UG 4A House of Worship (*People of Destiny Church*), contrary to coverage ratio (§24-11), R6 zoning district.

PREMISES AFFECTED – 1925 Union Street, north side of Union Street between Portal Street and Ralph Avenue, Block 1399, Lot 82, Borough of Brooklyn.

COMMUNITY BOARD #8BK

ACTION OF THE BOARD – Laid over without date, off-calendar.

155-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Cong Kozover Zichron Chaim Shloime, owners.

SUBJECT – Application May 15, 2013 – Variance (§72-21) to permit the enlargement of an existing synagogue (*Congregation Kozover Sichron Chaim Shloime*) and rabbi's residence (UG 4) and the legalization of a Mikvah, contrary to floor area (§24-11), lot coverage (§24-11), wall height and setbacks (§24-521), front yard (§24-34), side yard (§24-35), rear yard (§24-36), and parking (§25-18, 25-31) requirements. R3-2 zoning district.

PREMISES AFFECTED – 1782-1784 East 28th Street, west side of East 28th Street between Quentin road and Avenue R, Block 06810, Lots 40 & 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

266-13-BZ

APPLICANT – Law Offices of Marvin B. Mitzner, LLC, for 515 East 5th Street LLC, owner.

SUBJECT – Application September 6, 2013 – Variance (§72-21) to legalize the enlargement of a six-story, multi-unit residential building, contrary to maximum floor area (§23-145). R7B zoning district.

PREMISES AFFECTED – 515 East 5th Street, north side of

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East 5th Street between Avenue A and B, Block 401, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to May 12, 2015, at 10 A.M., for deferred decision.

309-13-BZ

APPLICANT – Law office of Lyra J. Altman, for Miriam Josefovic and Mark Josefovia, owners.

SUBJECT – Application November 22, 2013 – Special Permit (73-622) for the enlargement of an existing single family home, contrary to floor area and open space (23-141); side yards (23-461) and less than the required rear yard (23-47). R2 zoning district.

PREMISES AFFECTED – 965 East 24th Street, east side of East 24th Street between Avenue I and Avenue J, Block 7588, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for continued hearing.

321-13-BZ

APPLICANT – Eric Palatnik, P.C., for Alejandro Finardo, owner.

SUBJECT – Application December 18, 2013 – Variance (§72-21) for the construction of a three family home on a vacant lot, contrary to side yard requirements (§23-462(a)) and the parking space requirements of (§25-32). R5 zoning district.

PREMISES AFFECTED – 37-19 104th Street, between 37th Avenue and 37th Road, Block 1771, Lot 42, Borough of Queens.

COMMUNITY BOARD #3Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for decision, hearing closed.

5-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Israel Ashkenazi & Racquel Ashkenazi, owner.

SUBJECT – Application January 9, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141); side yards (§23-461) and rear yard (§23-47) regulations. R3-2 zoning district.

PREMISES AFFECTED – 1807 East 22nd Street, east side of East 22nd Street between Quentin Road and Avenue R, Block 6805, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over without date, off-calendar.

28-14-BZ

APPLICANT – Eric Palatnik, P.C. for McDonald Corporation, owner; Brooklyn Avenue U Enterprises Corporation, lessee.

SUBJECT – Application February 10, 2014 – Special Permit (§73-243) to permit the continued use and (Use Group 6) eating and drinking establishment with an accessory drive-through. C1-2/R4 zoning district.

PREMISES AFFECTED – 3540 Nostrand Avenue, westside of Nostrand Avenue, between Avenue V and Avenue W. Block 7386, Lot(s) 114 and 117. Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for decision, hearing closed.

31-14-BZ

APPLICANT – Moshe M. Friedman, PE, for Bnos Square of Williamsburg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-19) to allow a conversion of an existing Synagogue (*Bnos Square of Williamsburg*) building (Use Group 4 to (Use Group 3). M1-2 zoning district.

PREMISES AFFECTED – 165 Spencer Street, 32'6" Northerly from the corner of the northerly side of Willoughby Avenue and easterly side of Spencer Street, Block 1751, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for adjourned hearing.

44-14-BZ

APPLICANT – Sheldon Lobel, P.C., for AA Olympic LLC., owner;

The Live Well Company LLC., lessee.

SUBJECT – Application March 17, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Live Well*) on the first floor of the existing building, located within C6-3A & C6-2A zoning districts in a historic district.

PREMISES AFFECTED – 92 Laight Street aka 256 West Street, 416 Washington Street, block bounded by Washington Street, West Street, and Vestry Street, Block 218, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to April 21, 2015, at 10 A.M., for continued hearing.

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63-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 188 W. 230th Street Corporation, owner; Atlas Athletics, Inc., lessee.

SUBJECT – Application April 23, 2014 – Special Permit (§73-36) to allow the legalization of an existing physical culture establishment (*Astral Fitness*). M1-1 zoning district. PREMISES AFFECTED – 5500 Broadway, southeast corner of intersection of Broadway and W 230th Street, Block 3264, Lot 109, Borough of Bronx.

COMMUNITY BOARD #8BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for decision, hearing closed.

91-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for 3428 Bedford LLC by Jeffrey Mehl, owner.

SUBJECT – Application May 2, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR §23-141) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 3420 Bedford Avenue, southwest corner of Bedford Avenue and Avenue M, Block 7660, Lot (tentative) 45, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over without date, off-calendar.

124-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Yuriy Teyf, owner.

SUBJECT – Application June 2, 2014 – Special Permit (§73-622) for the enlargement of a single-family detached residence to be converted into a two-family home contrary to floor area, lot coverage and open space (ZR §23-141); side yards (ZR §23-461) and less than the required rear yard (ZR §23-47). R4 zoning district.

PREMISES AFFECTED – 1112 Gilmore Court, southern side of Gilmore Court between East 11th Street and East 12th Street, Block 7455, Lot 74, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for decision, hearing closed.

175-14-BZ

APPLICANT – Greenberg Traurig, LLP, for 1162 Broadway LLC, owner.

SUBJECT – Application July 24, 2014 – Variance (§72-21) proposed the construction a new 14-story hotel building seeking waivers for setback and side yard requirements, located within a M1-6 zoning district in a historic district. PREMISES AFFECTED – 1162 Broadway, east side of Broadway between W 27th Street and W 28th Street, Block 829, Lot 28, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for decision, hearing closed.

232-14-BZ

APPLICANT – Warshaw Burstein, LLP, for Pennsylvania Associates, LLC., owner; Pennsylvania Avenue Fitness Group, LLC, lessee.

SUBJECT – Application September 26, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Planet Fitness*) within a portion of an existing commercial building. M1-1 zoning district.

PREMISES AFFECTED – 946 Pennsylvania Avenue aka 1000 Pennsylvania Avenue, west side of Pennsylvania Avenue between Wortman Avenue and Cozine Avenue, Block 04389, Lot 0001, Borough of Brooklyn.

COMMUNITY BOARD #5BK

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

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**REGULAR MEETING
TUESDAY AFTERNOON, MARCH 3, 2015
1:00 P.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

303-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for SoBro Development Corporation, owner.
SUBJECT – Application November 15, 2013 – Variance (§72-21) to allow a new mixed use building with 36 residential units and community facility space. R6 & C1-4 zoning districts.

PREMISES AFFECTED – 506-510 Brook Avenue, east side of Brook Avenue between 147th and 148th Street, Block 2274, Lot(s) 6, 7 and 8, Borough of Bronx.

COMMUNITY BOARD #1BX

ACTION OF THE BOARD – Laid over to March 31, 2015, at 1:00 P.M., for postponed hearing.

37-14-BZ

APPLICANT – Eric Palatnik, P.C., for FHM Roosevelt FLP, owner;
Executive Fitness Gym Inc., lessee.

SUBJECT – Application February 28, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Enterprise Fitness Gym*), which will occupy a portion of the second floor of a two story building. C2-3/R6 zoning district.

PREMISES AFFECTED – 86-10 Roosevelt Avenue, west corner of Elbertson Street and Roosevelt Avenue, Block 1502, Lot 6, Borough of Queens.

COMMUNITY BOARD #4Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for decision, hearing closed.

127-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Sean Banayan, owner.

SUBJECT – Application June 5, 2014 – Variance (§72-21) to permit construction of a cellar and two-story, two-family dwelling on a vacant lot that does not provide two required side yards, and does not provide two off street parking spaces. R4 zoning district.

PREMISES AFFECTED – 32-41 101st Street, east side of 101st, 180' north of intersection with Northern Boulevard,

Block 1696, Lot 48, Borough of Queens.

COMMUNITY BOARD #3Q

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

289-14-BZ

APPLICANT – Sheldon Lobel, P.C., 22-32 31st Street LLC, owner.

SUBJECT – Application November 6, 2015 – Special Permit (§73-42) to extend the conforming Use Group 6 restaurant use located partially within a C4-2A zoning district into the adjacent R5B zoning district.

PREMISES AFFECTED – 22-32/36 31st Street, located on the west side of 31st Street. Block 844, Lot 49, 119, 149. Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

324-14-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for Kulwanty Pittam, owner.

SUBJECT – Application December 15, 2014 – Reinstatement (§11-411) for an automotive repair facility (UG 16B) granted under Cal. No. 909-52-BZ, expiring January 29, 2000; Amendment to permit the sale of used cars; Waiver of the Rules. C2-2/R5 zoning district.

PREMISES AFFECTED – 198-30 Jamaica Avenue, Southwest corner of Jamaica Avenue. Block 10829, Lot 56. Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

BULLETIN

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March 18, 2015

DIRECTORY

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Tuesday, March 10, 2015**

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DOCKETS

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42-15-A

70 Lipsett Avenue, northeast corner of intersection of Lipsett Avenue and Edwin Street, Block 06425, Lot(s) 0046, Borough of **Staten Island, Community Board: 3**. GCL 36 construction of a new building located partially within the bed of mapped street, contrary Article 3 Section e of the General City Law. R3X (SRD) district.

43-15-BZ

2617 Avenue R, Avenue R between East 26th & 27th Streets, Block 06809, Lot(s) 0049, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to permit an enlargement of one family home, seek to waive the floor area, lot coverage, rear yard, perimeter wall height and open space requirements. R3-2 zoning district. R3-2 district.

44-15-BZ

145 Central Park North, Central Park North between Adam Clayton Powell and Lenox Avenue, Block 01820, Lot(s) 0006, Borough of **Manhattan, Community Board: 10**. Variance (§72-21) to permit the construction of of a conforming fourteen-story, (UG 2) residential building containing 24 dwelling units contrary to the maximum building height and front setback requirements (§23-633 and rear setback requirements (§23-633(b)). R8 zoning district R8 district.

45-15-BZ

23-10 41st Avenue, between 23rd and 24th Streets, Block 00413, Lot(s) 0022, Borough of **Queens, Community Board: 1**. Special Permit (§73-36) to allow the operation of a physical culture establishment (Rock Climbing Facility) C5-3 zoning district. M1-5/R7-3 (LIC) zoning district. M1-5/R7-3 (LIC) district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

MARCH 31, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 31, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

1203-65-BZ

APPLICANT – Warshaw Burstein, LLP, for NY Dealers Stations, LLC, owner.

SUBJECT – Application August 20, 2014 – Amendment of a previously approved Special Permit (§73-211) which permitted the operation of an Automotive Service Station (UG 16B) with accessory used. The amendment seeks to permit the conversion of existing services bays to an accessory convenient store. C2-2/R5 zoning district.

PREMISES AFFECTED –1929 Bruckner Boulevard, northwest corner of the intersection formed by Virginia Avenue and Bruckner Boulevard, Block 3787, Lot 1, Borough of Bronx.

COMMUNITY BOARD #9BX

35-10-BZ

APPLICANT –Sheldon Lobel, P.C., for Torath Haim Ohel Sara, owner.

SUBJECT – Application September 24, 2014 – Extension of Time to Obtain a Certificate of Occupancy of a previously approved Variance (§72-21) which permitted the legalization of an existing synagogue (Congregation Torath Haim Ohel Sara), contrary to front yard (§24-34), side yard (§24-35) and rear yard (§24-36), which expired on March 8, 2012; Amendment to permit minor changes to the construction; Waiver of the rules. R4 zoning district.

PREMISES AFFECTED –144-11 77th Avenue, between Main Street and 147th Street, Block 6667, Lot 45, Borough of Queens.

COMMUNITY BOARD #8Q

APPEALS CALENDAR

16-15-A

APPLICANT – Sheldon Lobel, P.C., for Alan Bigel, owner; Blue School, lessee.

SUBJECT – Application January 23, 2015 – BCG304 to permit the redevelopment of the existing building, The Blue School, a new middle school, located within a flood hazard area. C6-2 zoning district.

PREMISES AFFECTED – 233-235 Water Street, east of the intersection of Water Street and Beekman Street, Block 97, Lot 49, Borough of Manhattan.

COMMUNITY BOARD #1M

MAARCH 31, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, March 31, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

147-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Iris E. Shalam, owner.

SUBJECT – Application June 24, 2015 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area ZR 23-141; and less than the required rear yard ZR 23-47. R3-1 zoning district.

PREMISES AFFECTED – 4167 Ocean Avenue, east side of Ocean Avenue between Hampton Avenue and Oriental Boulevard, Block 8748, Lot 227, Borough of Brooklyn.

COMMUNITY BOARD #15BK

171-14-A & 172-14-BZ

APPLICANT – Law Office of Steven Simicich, for Dxngnt2, LLC, owner.

SUBJECT – Application July 22, 2014 – Proposed construction of a single family detached home on the site which a portion is located within the bed of a mapped street, pursuant to the General City Law 35 and requires a waiver under ZR Section 72-01(g). Variance (§72-21) to allow for the reduction in the required front yard fronting from 10' to 4'. R3A zoning district.

PREMISES AFFECTED – 235 Dixon Avenue, corner of Dixon and Granite Avenue, Block 1172, Lot 244, Borough of Staten Island.

COMMUNITY BOARD #1SI

CALENDAR

204-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Wythe Berry LLC, owner.

SUBJECT – Application August 25, 2014 – Special Permit (§73-44) for reduction of required off-street parking spaces for proposed ambulatory diagnostic or treatment health care facilities (UG 4A) and commercial office use (UG 6B listed in Use Group 4 and PRC-B1. M1-2 Zoning District.

PREMISES AFFECTED –55 Wythe Avenue, between North 12th Street and North 13th Street, Block 2283, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

Ryan Singer, Executive Director

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REGULAR MEETING TUESDAY MORNING, MARCH 10, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

25-57-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for
221-016 Merrick Blvd. Associates, LLC, owner.

SUBJECT – Application July 31, 2014 – Amendment (§11-
413) to permit a change in use (UG 6 retail use) of an
existing commercial building in conjunction with alteration
of an existing commercial building, demolition of three
existing commercial buildings and construction of a new
commercial building located within a C2-3 and R3A zoning
district.

PREMISES AFFECTED – 221-18 Merrick Blvd, southwest
corner of intersection of Merrick Blvd. and 221st Street,
Block 13100, Lot(s) 22 & 26, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to March
31, 2015, at 10 A.M., for continued hearing.

174-04-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for
124 West 24th Street Condominium, owner.

SUBJECT – Application October 31, 2014 – Amendment:
to amend and the approval of the conveyance of unused
development rights appurtenant to the subject site. The
variance previously granted by the Board located within and
M1-5 zoning district.

PREMISES AFFECTED – 124 West 24th Street, location on
the south side of West 24th Street, between Sixth and
Seventh Avenues. Block 799, Lots 1001, 1026. Borough of
Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to May 19,
2015, at 10 A.M., for postponed hearing.

76-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Alexander and
Inessa Ostrovsky, owners.

SUBJECT – Application April 25, 2014 – Amendment to
modify the previously granted special permit (§73-622) for
the enlargement of an existing single-family detached
residence. R3-1 zoning district.

PREMISES AFFECTED – 148 Norfolk Street, west side of
Norfolk Street between Oriental Boulevard and Shore
Boulevard, Block 8756, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 31,
2015, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

131-11-A thru 133-11-A

159-14-A thru 161-14-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for
Dalip Karpuzzi, Luizime Karpuzzi, owners.

SUBJECT – Application September 6, 2011 & July 7, 2014 –
Proposed construction of three two story dwellings with
parking garages located within the bed of a mapped street,
contrary to General City Law Section 35. R3-1 zoning
district.

PREMISES AFFECTED – 464, 468 Arthur Kill Road, 120
Pemberton Avenue, intersection of Arthur Kill Road and
Giffords Lane, Block 5450, Lot 35, 36, 37, Borough of
Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Laid over to April 21,
2015, at 10 A.M., for continued hearing.

95-14-A

APPLICANT – Bernard Marson, for BBD & D Ink., owner.

SUBJECT – Application May 5, 2014 – MDL 171 & 4.35 to
allow for a partial one-story vertical enlargement
(*Penthouse*) of the existing 3 story and basement building
located on the site. Pursuant to the 310 MDL. R8 zoning
district.

PREMISES AFFECTED – 237 East 72nd Street, north Side
of East 72nd Street 192.6' West of 2nd Avenue, Block 1427,
Lot 116, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to April 21,
2015, at 10 A.M., for continued hearing.

140-14-A

APPLICANT – Eric Palatnik, P.C., for 1016 East 13th
Realty, LLC, owner.

SUBJECT – Application June 16, 2014 – Appeal seeking a
determination that the owner has acquires a common law
vested rights to complete construction under the prior C4-
3A/R6 zoning district. R5 zoning district

PREMISES AFFECTED – 1016 East 16th 13th Street,
Block 6714, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

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ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for decision, hearing closed.

163-14-A thru 165-14-A

APPLICANT – Ponte Equities, for Ponte Equities, Ink, owner.

SUBJECT – Application July 10, 2014 – Appeal seeking waiver of Section G304.1.2 of the NYC Building Code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A zoning district.

PREMISES AFFECTED – 502, 504, 506 Canal Street, Greenwich Street and Canal Street, Block 595, Lot 40, 39, 38, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

ZONING CALENDAR

78-11-BZ

CEQR #11-BSA-104Q

APPLICANT – Sheldon Lobel, P.C., for Indian Cultural and Community Center, Incorporated, owner.

SUBJECT – Application May 27, 2011 – Variance (§72-21) to allow for the construction of two assisted living residential buildings, contrary to use regulations (§32-10).

PREMISES AFFECTED – 78-70 Winchester Boulevard, Premises is a landlocked parcel located just south of Union Turnpike and west of 242nd Street, Block 7880, Lots 550, 500 Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated April 27, 2011, acting on DOB Application No. 420340349, reads, in pertinent part:

Proposed residential use is contrary to ZR § 32-11;
and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within a C8-1 zoning district, the construction of a four-story mixed residential (Use Group 2) and community facility (Use Group 4) building with 57 dwelling units for persons 55 years of age or older, contrary to ZR § 32-11; and

WHEREAS, the applicant filed companion cases under BSA Calendar Nos. 33-12-A, 34-12-A, 35-12-A, 36-12-A, and 37-12-A, pursuant to General City Law § 36, to allow the proposed construction not fronting on a mapped street; those applications were granted on March 10, 2015; and

WHEREAS, a public hearing was held on this application on September 10, 2013, after due notice by publication in the *City Record*, with continued hearings on February 25, 2014, September 23, 2014 and November 25, 2014, and then to decision on March 10, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, this application is brought on behalf of the Indian Cultural and Community Center, Inc. (“ICCC”), a secular, non-profit corporation; the applicant represents that ICCC was formed in 2002 to enable the creation of a common facility in which to (1) conduct the community’s social and cultural activities and (2) provide services, including housing, for seniors; and

WHEREAS, the applicant notes that ICCC acquired the site from the Dormitory Authority of the State of New York (“DASNY”) in July 2008; the deed from DASNY to ICCC states that the site “shall only be used for community activities and social gatherings” and that “so long as the property is owned by [ICCC] the property may be used by [ICCC] to provide a residential facility for the aged at which a spouse and dependent children may reside and at which assistive services may be provided”; and

WHEREAS, the Board notes that the application has been significantly altered through the hearing process; originally, the applicant sought approval for two, nine-story buildings (the “Original Application”); one building was proposed to have both residential and community facility uses, a maximum building height of nearly 98 feet, 89,946 sq. ft. of floor area (1.08 FAR) and 72 dwelling units; the other building would be entirely residential, have a building height of 97 feet, 87,964 sq. ft. of floor area (1.06 FAR) and 71 dwelling units; in total, the original proposal reflected the construction of 143 dwelling units and 177,910 sq. ft. of floor area (2.14 FAR) at the site; and

WHEREAS, through the hearing process, the application was amended to reflect one four-story building, with a maximum building height of 43’-6” (excluding bulkheads), 66,563 sq. ft. of floor area (0.80 FAR) (10,380 sq. ft. of community facility floor area and 56,183 sq. ft. of residential floor area), and 57 dwelling units (the “Amended Application” or the “proposal”); and

WHEREAS, Community Board 13, Queens, recommended disapproval of the Original Application and recommends disapproval of the Amended Application; the community board’s primary concern is that the proposed use and bulk are inconsistent with the character of the surrounding neighborhood; and

WHEREAS, State Senator Tony Avella testified in opposition to both the Original Application and the Amended Application, citing the following primary concerns: (1) ICCC’s alleged improprieties in obtaining the site from the State of New York; (2) the proposed use, which he considers inconsistent with the deed restrictions; (3) the bulk of the proposed building, which he considers incompatible with the

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surrounding neighborhood; and (4) concerns about the traffic and parking impacts of the community center; and

WHEREAS, Assemblyperson Barbara Clark submitted testimony in opposition to the Original Application, citing concerns regarding neighborhood character; and

WHEREAS, Councilmember Mark Weprin submitted testimony in opposition to both the Original Application and the Amended Application, expressing concerns regarding ICC's request to provide a residential facility, which he characterizes as inconsistent with the state legislation that authorized DASNY to sell the site to ICC; and

WHEREAS, certain members of the surrounding community, including members of the Bellerose Hillside Civic Association, the Rocky Hill Civic Association, the Creedmoor Civic Association, the Bellerose Commonwealth Civic Association, the North Bellerose Civic Association, the Queens Colony Civic Association, the Glen Oaks Village Owners Association, Eastern Queens United, and the Queens Civic Congress, and some members represented by counsel, submitted testimony in opposition to the Original Application and the Amended Application (the "Opposition"); and

WHEREAS, the Opposition identified the following reasons for its objection to the Original Application: (1) ICC's alleged improprieties in obtaining the site from the State of New York; (2) the bulk and density of the proposed building, which the Opposition asserts is incompatible with the surrounding neighborhood; (3) concerns about the traffic and parking impacts of the community center; (4) the loss of trees and open space; and (5) ICC's financial and technical ability to construct and manage the proposed facility; and

WHEREAS, certain members of the surrounding community submitted testimony in support of both Original and Amended Applications; and

WHEREAS, the subject site is an irregularly-shaped lot located south of Union Turnpike and west of 242nd Street, within a C8-1 zoning district; and

WHEREAS, the site, which does not front on a mapped street, is located within the boundaries of the Creedmoor Psychiatric Center Campus ("Creedmoor"), an approximately 300-acre parcel bounded by Union Turnpike, Winchester Boulevard, Hillside Avenue, and the Cross-Island Parkway; and

WHEREAS, the site has approximately 83,252 sq. ft. of lot area and has been used for vehicle storage and other industrial uses; and

WHEREAS, as noted above, the applicant seeks to construct a four-story building with a maximum building height of 43'-6" (excluding bulkheads), 66,563 sq. ft. of floor area (0.80 FAR) (10,380 sq. ft. of community facility floor area and 56,183 sq. ft. of residential floor area), 57 dwelling units, and 75 parking spaces; and

WHEREAS, pursuant to ZR § 32-11, Use Group 2 is not permitted within the subject C8-1 zoning district; and

WHEREAS, accordingly, the proposed residential use requires a variance; and

WHEREAS, the applicant asserts that the site qualifies for the requested variance under ZR § 72-21; and

WHEREAS, the applicant states that, per ZR § 72-21(a), the following are unique physical conditions that create practical difficulties and unnecessary hardship in developing the site in conformance with applicable regulations: (1) the site's lack of street frontage; (2) the site's irregular shape; (3) the site's elevation below Union Turnpike; (4) the site's lack of critical infrastructure; (5) the site's excessive preparation costs; and (6) a deed restriction that limits the uses permitted at the site; and

WHEREAS, the applicant states that despite its substantial lot area, the site does not front on any mapped street and is accessed only by historic Creedmoor campus roads by right of easement; as such, the site is less desirable for conforming uses that require immediate access to the public street system for operational or practical purposes and therefore will command comparatively lower rents than sites of similar size; and

WHEREAS, the applicant asserts that while the lack of frontage is not unusual within Creedmoor, it is not the prevailing condition in the surrounding area; and

WHEREAS, the applicant states that the site has an unusual shape, in that it resembles the lateral half of an arrowhead with the tip removed; such shape in combination with the yards and distance between buildings requirements of the Zoning Resolution result in an inefficient use of the site; and

WHEREAS, the applicant states that the site is located approximately nine feet below the street grade of Union Turnpike; such elevation change results in additional site preparation costs; and

WHEREAS, the applicant states that the site lacks critical infrastructure, including water mains, site grading, paving (roads and sidewalks), curbs, hydrants, storm water drywells, sewer lines, and gas lines, which results in premium construction costs; and

WHEREAS, the applicant identifies a number of other unusual site preparation costs, which it states are related to the historic Creedmoor use and which, it asserts, contribute to the uniqueness of the site; these include costs related to: (1) substantial overgrowth of vegetation and debris that must be removed from the site prior to commencement of any work; (2) an obsolete underground system of pumps and pipes that must be closed and/or capped; (3) existing wells that must be filled and capped; (4) a concrete water storage tank that must be removed; (5) demolition of potentially-contaminated structures; and (5) removal of topsoil to a depth of 1'-6" due to concerns regarding contamination owing to the site's industrial use; and

WHEREAS, finally, the applicant states that the site is uniquely burdened by use restrictions contained in the deed; in particular, as noted above, by its terms the deed prohibits commercial uses at the site; further, the deed allows only (a) community facility uses and (b) ICC-owned residences for the "aged"; therefore, unlike typical C8-1 sites, this site may only be used for two uses: a community facility (as-of-right) and/or senior housing (but not without a use variance or a rezoning); and

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WHEREAS, thus, the applicant asserts that the site's unique combination of physical conditions—and their attendant premium construction costs—make a conforming development at the site impractical; and

WHEREAS, in addition, the applicant asserts that ICCC's programmatic need to provide a community cultural center and affordable housing for seniors creates practical difficulties in developing the site in conformance with the use regulations; and

WHEREAS, specifically, the applicant states that although the Original Application, which proposed 143 dwelling units, was designed to allow the site to provide permanent affordable housing for seniors, ICCC will endeavor to make the 57 dwelling units proposed in the Amended Application as affordable as possible; and

WHEREAS, the applicant also states that as-of-right development of the site—a six-story ambulatory diagnostic or treatment health care facility (Use Group 4) with 135,426 sq. ft. of floor area (1.63 FAR)—does not produce sufficient returns to offset the above-noted premium construction costs or result in a building that will satisfy ICCC's programmatic needs; and

WHEREAS, the Board is not persuaded that any of the following site characteristics has been shown to be both unique and a hardship: the site's lack of street frontage, irregular shape, elevation below Union Turnpike, or the deed restriction; and

WHEREAS, as to the lack of street frontage, the Board acknowledges that not fronting on a mapped street is unusual in certain neighborhoods, including the subject neighborhood (excluding the Creedmoor site); however, the applicant did not demonstrate that its lack of frontage created a practical difficulty in developing the site as-of-right; and

WHEREAS, as to the irregular shape, the Board finds that the site is irregular, to be sure, but the Board also finds that the impact of such irregularity is mitigated significantly by the large size of the site; and

WHEREAS, as to the elevation below Union Turnpike, the Board finds that the applicant did not substantiate the uniqueness of this condition and it did not explain how practical difficulties or unnecessary hardships arise from the condition; and

WHEREAS, as to the deed restriction, the Board observes that deed restrictions mandating a use contrary to the Zoning Resolution are rare; however, the record reflects that ICCC specifically negotiated the terms of the conveyance and agreed to the restrictions of the deed¹; as such, this particular

¹ The Board also acknowledges, as discussed at length by the Opposition and by elected officials, that the New York State Inspector General published a report that identified a number of irregularities and misstatements in the negotiations between ICCC and DASNY over the site. The Board takes no position on the propriety of the transaction, except insofar as it does not credit the deed restriction as a unique physical condition. The Board also notes that neither the Inspector General, nor the New York State Attorney

unique condition was self-created and therefore cannot be used to satisfy the (a) finding of ZR § 72-21; and

WHEREAS, nevertheless, the Board agrees with the applicant that the site's considerable lack of critical infrastructure is a unique physical condition that creates practical difficulties and unnecessary hardship in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the Board also recognizes that while some site preparation is required for virtually all sites, the subject site requires significantly more site preparation than the typical site; thus, site conditions that individually would not be considered unique can become unique when considered in the aggregate; and

WHEREAS, finally, the Board acknowledges ICCC's stated programmatic need to provide affordable housing for seniors and finds that such needs cannot be satisfied with an as-of-right development at the site; however, the Board rejects that such need, in and of itself, may be substituted for a finding of uniqueness, notwithstanding that ICCC is a non-profit corporation; and

WHEREAS, initially, the applicant contended that as a non-profit corporation, it did not have to demonstrate, per ZR § 72-21(b), that there is no reasonable possibility that the development of the site in conformance with the Zoning Resolution will bring a reasonable return; the applicant reasoned that because it was a non-profit satisfying its programmatic needs, it did not have to demonstrate a financial hardship; and

WHEREAS, the Board disagrees and notes that nothing in the Board's precedents or relevant case law allow non-profit organizations without educational and/or religious missions to rely exclusively on their programmatic needs to satisfy ZR § 72-21(a); and

WHEREAS, because the Board rejects ICCC's stated programmatic needs as the primary basis for satisfying 72-21(a), correspondingly, the Board finds it necessary for the applicant to satisfy ZR § 72-21(b); and

WHEREAS, thus, in addition to the proposal, the applicant examined the economic feasibility of constructing a six-story ambulatory diagnostic or treatment health care facility (Use Group 4) with 135,426 sq. ft. of floor area (1.63 FAR); and

WHEREAS, the applicant concluded that only the proposal results in an acceptable rate of return, making it economically viable; the applicant also states that only the proposal will allow ICCC to fulfill the portion of its non-profit mission to provide affordable housing for seniors; and

WHEREAS, the Board acknowledges the Opposition's concerns about ICCC's financial and technical ability to construct the building as proposed; however, such concerns do not provide a basis for the Board to deny a variance application; and

WHEREAS, based upon its review of the applicant's

General has taken further action with respect to ICCC and/or the site.

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economic analysis, the Board has determined that because of the site's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return or allow ICCC to provide affordable housing for seniors; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant contends that the proposed residential use is more in keeping with nearby uses than uses that are permitted as-of-right in the subject C8-1 district; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by its diversity, both in terms of use and bulk; west and south of the site are various mid-rise Creedmoor facility buildings, including two approximately 15-story smoke stacks, and an adjacent salt dome that is approximately five stories; east of the site is a low-density residential neighborhood with mostly one- and two-story, single- and two-family homes; north of the site are additional Creedmoor buildings, including the approximately 20-story main hospital building, and the intersection of the Cross-Island Parkway and Union Turnpike, two major arterial roadways; and

WHEREAS, at hearing, some members of the Opposition expressed concerns regarding the development of the site with anything other than community facility uses, while others opposed the community facility itself, citing concerns regarding traffic, parking, the loss of trees and open space, and the altering of the street system to accommodate development at the site; and

WHEREAS, in addition, the Opposition stated that the proposed height and multi-family use was not in keeping with the low-rise neighborhoods east and south of the site and would negatively affect property values; and

WHEREAS, the Board finds that while the Original Application was not compatible with the surrounding neighborhood, the Amended Application reflects an appropriate intermediate height between the mid- to high-rise buildings of the Creedmoor campus and the low-rise buildings to the south and east of the site; as to the multifamily use, the Board finds that it is: (1) necessary to defray the costs associated with the unique hardships of the site; (2) in furtherance of ICCC's stated programmatic needs to provide affordable housing for seniors; and (3) significantly more compatible with the homes in the nearby R2A district than the majority of uses that are permitted as-of-right in the subject C8-1 district; and

WHEREAS, as to general concerns regarding the proposed community facility use, the Board notes that community facility uses are permitted as-of-right in the subject C8-1 district and have maximum permitted FAR of 2.4; thus, this particular community facility will be, at 0.12 FAR, nearly one-twentieth of its permitted size; and

WHEREAS, turning to bulk, as noted above, through the hearing process and in response to concerns articulated by the Opposition and by the Board, the applicant significantly scaled down the size and changed the nature of the project, from two nine-story mixed residential and community facility buildings with heights in excess of 95 feet and a total of 143 dwelling units and 177,910 sq. ft. of floor area (2.14 FAR) to one four-story mixed residential and community facility building with a maximum building height of less than 45 feet, 57 dwelling units, and 66,563 sq. ft. of floor area (0.80 FAR); and

WHEREAS, the applicant states that while the proposed 0.8 FAR is higher than the 0.5 FAR permitted in the nearby R2A district, it is fully one-third the maximum permitted community facility FAR at the site (2.4 FAR); and

WHEREAS, the applicant also notes that the proposed building height of 43'-6" reflects a building height that is only 8'-6" taller than the maximum permitted building height in the adjacent R2A district (35'-0"); the applicant asserts that the proposed height is mitigated by the location of the building on the northwest portion of the site, approximately 30 feet away from the rear lot lines of the adjacent R2A sites, and by the provision of substantial buffering (trees) along the shared boundary with the R2A sites; and

WHEREAS, as to traffic and parking, the Board notes that it directed the applicant to provide traffic and parking analyses and such analyses revealed that the Amended Application—which includes 75 parking spaces—will not have a significant impact on either traffic or parking; and

WHEREAS, therefore, the Board finds that, this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board also finds that, consistent with ZR § 72-21(d), the unique hardships acknowledged by the Board herein were not created by the owner or a predecessor in title, but are a function of the site's historic use as part of the Creedmoor campus; and

WHEREAS, finally, the Board finds that the Amended Application is the minimum variance necessary to afford relief, as set forth in ZR § 72-21(e); the Board notes that the minimum variance necessary was achieved following numerous hearings, hours of public testimony, months of scrutiny by Board members, and three major design revisions by the applicant; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 11-BSA-104Q, dated February 21, 2015; and

WHEREAS, the EAS documents that the project as

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proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the Department of Environmental Protection recommends that an "E" designation for hazardous materials be placed on the site as part of the approval; and

WHEREAS, the "E" designation requires an environmental review by the New York City Office of Environmental Remediation ("OER"), which must be satisfied before DOB will issue building permits for the property; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within a C8-1 zoning district, the construction of a four-story mixed residential (Use Group 2) and community facility (Use Group 4) building with 57 dwelling units for persons 55 years of age or older, contrary to ZR § 32-11, *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 5, 2015"- nine (9) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the site and building: four stories, a maximum of 66,563 sq. ft. of floor area (0.80 FAR) (10,380 sq. ft. of community facility floor area and 56,183 sq. ft. of residential floor area), a maximum of 57 dwelling units, 75 parking spaces, and yards, open space, and site-circulation and configuration as set forth in the BSA-approved plans;

THAT an E designation (E-360) is placed on the site to ensure proper hazardous materials remediation;

THAT the occupancy of the dwelling units shall be limited to persons 55 years of age or older;

THAT no commercial catering shall be permitted at the site;

THAT landscaping shall be in accordance with the BSA-approved plans;

THAT any change in the owner or operator of the site shall be subject to the Board's approval;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by March 10, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 10, 2015.

33-12-A thru 37-12-A

APPLICANT – Sheldon Lobel, P.C., for Indian Cultural and Community Center, Incorporated, owner.

SUBJECT – Application February 9, 2012 – Proposed construction of two mixed use buildings that do not have frontage on a legally mapped street, contrary to General City Law Section 36. C8-1 Zoning District.

PREMISES AFFECTED – 78-70 Winchester Boulevard, Premises is a landlocked parcel located just south of Union Turnpike and west of 242nd Street, Block 7880, Lots 550, 500 Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated February 1, 2012, acting on DOB Application No. 420340848, reads, in pertinent part:

The proposed development is contrary to General City Law Section 36, and does not have at least 8% of the total perimeter of the building fronting directly upon a street or frontage space per building Code Section 27-291; and

WHEREAS, this is an application, filed pursuant to General City Law §36, to allow the proposed construction not fronting on a mapped street; and

WHEREAS, the applicant filed a companion case under BSA Calendar No. 78-11-BZ, to permit, pursuant to ZR § 72-21, on a site within a C8-1 zoning district, the construction of a four-story mixed residential (Use Group 2) and community facility (Use Group 4) building with 57 dwelling units for persons 55 years of age or older, contrary to ZR § 32-11.

WHEREAS, a public hearing was held on this application on September 10, 2013, after due notice by

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publication in *The City Record*, with continued hearings on February 25, 2014, July 22, 2014, September 23, 2014, and November 25, 2014, and then to decision on March 10, 2015; and

WHEREAS, the site, which does not front on a mapped street, is located within the boundaries of the Creedmoor Psychiatric Center Campus (“Creedmoor”), an approximately 300-acre parcel bounded by Union Turnpike, Winchester Boulevard, Hillside Avenue, and the Cross-Island Parkway; and

WHEREAS, the site has approximately 83,252 sq. ft. of lot area and has been used for vehicle storage and other industrial uses; and

WHEREAS, the applicant seeks to construct a four-story building with a maximum building height of 43’-6” (excluding bulkheads), 66,563 sq. ft. of floor area (0.80 FAR) (10,380 sq. ft. of community facility floor area and 56,183 sq. ft. of residential floor area), 57 dwelling units, and 75 parking spaces; and

WHEREAS, the applicant states that the site (both lots 500 and 550) does not have any frontage on a mapped street, but is benefitted by easements over the Creedmoor street grid and to access 82nd Avenue; and

WHEREAS, by letter dated May 31, 2013, the applicant, in response to a request made by the FDNY, provided the FDNY with revised drawings showing: (1) easement access from the subject site; (2) the location of proposed fire hydrants; (3) information about water pressure at the site; (4) parking restrictions at the site; (5) information regarding proposed automatic sprinklers and fire alarm systems; and (6) the location of the vehicular easement through Creedmoor; and

WHEREAS, by letter dated June 19, 2013, the FDNY advised the Board that the following conditions must be met: (1) the applicant must obtain approval for a private water supply capable of supporting the NYC Fire Code required fire hydrants and sprinkler systems; (2) the minimum road width from the intersection of all public streets leading to the main entrance of all buildings contained within the boundaries of the site shall be at least 30 feet from curb to curb (and, in instances in which the roadway is less than 38 feet, there shall be no parking permitted, at any time); (3) all buildings must be fully sprinklered as per the 2008 New York City Construction Codes; (4) fire hydrants must be installed so that at least 1 hydrant is within 250 feet for the main front entrance of each building and that siamese connections to those buildings are not more than 100 feet from at least one hydrant; and (5) that the locked gate at 82nd Avenue, west of 242nd Street, shall be removed in its entirety to as to provide access from 82nd Avenue; and

WHEREAS, on December 16, 2014, the applicant submitted a revised site plan showing: (1) that all siamese connections at the subject site are within 100 feet of a fire hydrant; (2) that no standing is permitted along the proposed roadways within the site; and (3) a code compliant gate facing 82nd Avenue; and

WHEREAS, by letter dated January 16, 2015, the

FDNY stated that it has no objection to the application provided the following conditions are complied with: (1) all buildings submitted in this application must be fully sprinklered; (2) the applicant is required to install fire hydrant(s) as indicated in their plans, within 250 feet of the main entrances of the new buildings and within 100 feet of any siamese connections; (3) the applicant is required to ensure that all hydrants associated with this application are supplied by a minimum 8-inch diameter water main; (4) road dimensions and layout shall be in accordance with GCL – 100.00 and GCL 101.00; and (5) there shall be no gate or obstruction installed on 82nd Avenue unless such gate or obstruction has been submitted to and approved by the FDNY; and

WHEREAS, by letter dated January 22, 2015, the applicant advised the Board that the revised site plan incorporate the foregoing requirements; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the decision of the Department of Buildings (“DOB”), dated February 1, 2012, acting on DOB Application No. 420340848, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction will substantially conform to the drawings filed with the application marked “January 23, 2015”- (2) sheets; and *on further condition*

THAT the proposal will comply with all applicable zoning district requirements and all other applicable laws, rules, and regulations;

THAT all required approvals from the Department of City Planning will be obtained prior to the issuance of building permits;

THAT the proposed buildings shall be fully sprinklered in accordance with BSA-approved plans;

THAT fire hydrants shall be installed as per the BSA-approved, within 250 feet of the main entrances of the new buildings and within 100 feet of any siamese connections;

THAT all fire hydrants associated with this application shall be supplied by a minimum 8-inch diameter water main;

THAT all road dimensions and layouts within the site shall be in accordance with GCL – 100.00 and GCL 101.00;

THAT any gate or obstruction installed on 82nd Avenue shall be as approved by the FDNY;

THAT any and all conditions requested by the Fire Department shall be implemented before the Temporary Certificate of Occupancy and Certificate of Occupancy are issued;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

THAT DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

THAT the approved plans will be considered approved

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only for the portions related to the specific relief granted; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on March 10, 2015.

45-14-BZ

APPLICANT – Eric Palatnik, P.C., for Athina Orthodoxou, owner.

SUBJECT – Application March 18, 2014 – Special Permit (§73-622) to enlarge an existing semi-detached two story dwelling and to vary the floor area ratio requirements, and to convert the one family home into a two family home. R4-1 zoning district.

PREMISES AFFECTED – 337 99th Street, between 3rd and 4th Avenues, Block 6130, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #10BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated June 28, 2014, acting on DOB Application No. 320921909, denied the application on the basis of the bulk of the proposed building; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R4-1 zoning district, within the Special Bay Ridge District, the proposed enlargement of a non-complying two-story, two-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”) and rear yards contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on October 21, 2014, after due notice by publication in *The City Record*, with continued hearings on November 25, 2014, January 6, 2015 and February 10, 2015, and then to decision on March 10, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 10, Brooklyn, recommends approval of the application; and

WHEREAS, the subject non-complying site is located on the north side of 99th Street, between 3rd Avenue and 4th Avenue, within an R4-1 zoning district within the Special Bay Ridge District; and

WHEREAS, the site has 22 feet of frontage along 99th Street, a depth of 100 feet, and 2,200 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story, two-family home with 2,137.81 sq. ft. of floor area (0.97 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the building, resulting in an increase in the floor area from 2,137.81 sq. ft. (0.97 FAR) to 2,563.85 sq. ft. (1.16 FAR); the maximum permitted floor area is 1,650 sq. ft. (0.75 FAR); and

WHEREAS, the applicant seeks to decrease its rear yard from 35’-8” to 20’-0”; the requirement is a minimum depth of 30’-0”; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, at a hearing, the Board expressed concern about the impact of the proposed FAR and 20’-0” rear yard; and

WHEREAS, the applicant stated that the proposed enlargement of the building is at the basement level only, which has a height of approximately 9’-0” above curb level, and that only the basement level will encroach into the 30’-0” required rear yard; and

WHEREAS, the applicant submitted a rear yard study to support its assertion that the proposed 20’-0” rear yard at the basement level was characteristic of buildings on the block and consistent with neighborhood character; and

WHEREAS, the applicant submitted a land use study showing sites within 400’ of the subject site which are 40 feet or less in width containing residential buildings with an FAR of .9 or greater, including 22 buildings with an FAR equal to or in excess of the proposed building; and

WHEREAS, the Board notes that the total height of the subject building (27’-0”) and the wall height of the subject building (15’-0”) will not be increased; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R4-1 zoning district, within the Special Bay Ridge District, the proposed enlargement of a two-story, two-family home, which does not comply with the zoning requirements for FAR, and rear yards, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they

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apply to the objections above-noted, filed with this application and marked "Received November 12, 2014"–(9) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 2,563.85 sq. ft. (1.16 FAR) and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by March 10, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 10, 2015.

157-14-BZ

APPLICANT – Lewis Garfinkel, for Cham Tessler, owner.
SUBJECT – Application July 3, 2014 – Special Permit (§73-622) for the enlargement of an existing single family, two story semi-detached residence to be combined into a single family, two story detached residence contrary to floor area and open space ZR 23-141; side yard ZR 23-461 and less than the required rear yard ZR 23-47. R-2 zoning district.

PREMISES AFFECTED – 1151 East 29th Street, east side of East 29th St. 360 feet north from the corner of Avenue L, Block 7629, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings ("DOB"), dated July 1, 2014, acting on DOB Application No. 320917273, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141(A) in that the proposed floor area ration (FAR) exceeds the permitted 50%;
2. Proposed plans are contrary to ZR 23-141 (A) in that the proposed open space ratio (OSR) is less than required 150%;

3. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than 30'-0" and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family home consisting of two formerly independent two-story semi-detached homes, which does not comply with the zoning requirements for floor area ratio ("FAR"), open space ratio and rear yards, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on February 24, 2014, after due notice by publication in *The City Record*, and then to decision on March 10, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of East 29th Street, between Avenue K and Avenue L, within an R2 zoning district; and

WHEREAS, the site has 40 feet of frontage along East 29th Street, a depth of 105 feet, and 4,200 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story, single-family home consisting of two formerly independent two-story semi-detached homes with 2,705 sq. ft. of floor area (0.64 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the building, resulting in an increase in the floor area from 2,705 sq. ft. (0.64 FAR) to 3,178.40 sq. ft. (.76 FAR); the maximum permitted floor area is 2,100 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to decrease the open space ratio from 101 percent to 79 percent; the minimum required open space ratio is 150 percent; and

WHEREAS, the applicant seeks to decrease its rear yard from 39'-4" to 25'-0"; the requirement is a minimum depth of 30'-0"; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, at hearing, the Board expressed concern about the impact of the proposed FAR and 20'-0" rear yard; and

WHEREAS, the applicant submitted a land use study showing sites within 400' of the subject site 29 sites consisting of single- and two-family homes have FAR's ranging from .70 to 1.55; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor

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impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a two-story, single-family home consisting of two formerly independent two-story semi-detached homes, which does not comply with the zoning requirements for FAR, open space ratio, and rear yards, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received November 12, 2015”– (9) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,178.40 sq. ft. (.76 FAR), a minimum open space ratio of 79 percent and a rear yard with a minimum depth of 25’-0”, as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by March 10, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 10, 2015.

203-14-BZ

CEQR #15-BSA-048M

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 16 West 8th LLC, owner; 305 Fitness, lessee.

SUBJECT – Application August 25, 2014 – Special Permit §73-36 to permit a physical culture establishment (305 Fitness) within portions of an existing commercial building, C4-5 zoning district.

PREMISES AFFECTED – 18 West 8th Street, South side of West 8th Street, 97.2 feet east of intersection of West 8th Street and MacDougal Street. Block 551, Lot 23. Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated March 20, 2014, acting on DOB Application No. 121809445, reads, in pertinent part:

The proposed Physical Culture Establishment in zoning district c4-5 is not a permitted use as of right...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C4-5(LC) zoning district, and also within an R6 zoning district, within the Greenwich Village Historic District, within a Special Limited Commercial District, an existing physical culture establishment (the “PCE”) on the cellar and first story of a one-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 10, 2015 after due notice by publication in the *City Record*, and then to decision on March 10, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez and Commissioner Brown; and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the subject site fronts on the south side of West 8th Street, between MacDougal Street and 5th Avenue, within a C4-5(LC) zoning district and also within an R6 zoning district, within the Greenwich Village Historic District, within a Special Limited Commercial District; and

WHEREAS, the site has approximately 100 feet of frontage along West 8th Street with a lot area of approximately 6,483 sq. ft.; and

WHEREAS, the northern portion of the site, to a depth of 50.33 feet from West 8th Street, is located in the C4-5(LC) zoning district, and the southern portion of the site (14.5 feet of depth at the rear of the site), is located within an R6 zoning district; and

WHEREAS, the Board notes that pursuant to ZR §77-11, because the subject zoning lot was in existence on December 15, 1961, and because more than 50 percent of the lot area of the subject site is located within the C4-5(LC) zoning district, and because the greatest distance from the district boundary to any lot line within the R6 zoning district is less than 25 feet, the C4-5(LC) zoning district regulation may apply to the entire lot; and

WHEREAS, the site is occupied by a one-story commercial building; and

WHEREAS, the PCE occupies 3,058 sq. feet of floor space in the cellar of the building and 1,236 sq. ft. of floor area on the first floor of the Building, for a total floor area of 1,236 sq. ft.; and

WHEREAS, the PCE is operating as 305 Fitness; and

MINUTES

WHEREAS, the hours of operation for the PCE shall be Monday through Friday, from 5:30 a.m. to 10:30 p.m., and on Saturdays and Sundays from 7:00 a.m. to 7:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Landmarks Preservation Commission has approved the proposed alterations of the building by Certificate of No Effect No. 15-9815, dated July 8, 2014; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the Board notes that the term of the grant has been reduced to reflect the operation of the PCE without the special permit, which commenced on November 1, 2014; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-048M, dated August 25, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site within a C4-5(LC) zoning district, and also within an R6 zoning district, within the Greenwich Village Historic District, within a Special Limited Commercial District, the operation of a PCE on the first story and cellar of a one-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "January 29, 2015"- Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on November 1, 2024;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by March 10, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 10, 2015.

153-11-BZ

APPLICANT – Eric Palatnik, P.C., for Theodoros Parais, owner.

SUBJECT – Application September 21, 2011 – Reinstatement (§§11-411 & 11-412) to permit the continued operation of an automotive repair use (UG 16B); amendment to enlarge the existing one story building; Waiver of the Board's Rules. C1-3 zoning district.

PREMISES AFFECTED – 27-11 30th Avenue, between 27th Street and 39th Street. Block 575, Lot 23. Borough of Brooklyn.

COMMUNITY BOARD #4BK

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for continued hearing.

174-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for 58-66 East Fordham Road, owner; LRHC Fordham Road LLC., lessee.

SUBJECT – Application June 13, 2014 – Special Permit (§73-36) to allow the reestablishment of an expired physical culture establishment (*Lucille Roberts*) on the second floor, contrary to (§32-31). C4-4 zoning district.

PREMISES AFFECTED – 2449 Morris Avenue a/k/a 58-66 East Fordham Road, Block 3184, Lot 45, Borough of Bronx.

COMMUNITY BOARD #7BX

ACTION OF THE BOARD – Off-Calendar.

MINUTES

176-13-BZ

APPLICANT – Sheldon Lobel, P.C., for 31 BSP LLC, owner.

SUBJECT – Application June 17, 2013 – Variance (§72-21) to permit Use Group 2 residential in an existing 6-story building with a new penthouse addition, contrary to Section 42-10 of the zoning resolution. M1-5B zoning district.

PREMISES AFFECTED – 31 Bond Street, southern side of Bond Street approximately 1170' from Lafayette Street, Block 529, Lot 25, Borough of Manhattan.

COMMUNITY BOARD # 2M

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for deferred decision.

188-13-BZ & 189-13-A

APPLICANT – Rothkrug Rothkrug & Spector, for Linwood Avenue Building Corp., owner.

SUBJECT – Application June 25, 2013 – Special Permit (§73-125) to permit an ambulatory diagnostic or treatment health care facility.

Proposed building does not front on legally mapped street, contrary to Section 36 of the General City Law. R3-1 zoning district.

PREMISES AFFECTED – 20 Dea Court, south side of Dea Court, 101' West of intersection of Dea Court and Madison Avenue, Block 3377, Lot 100, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Off-Calendar.

222-13-BZ

APPLICANT – Eric Palatnik, P.C., for 2464 Coney Island Avenue, LLC, owner.

SUBJECT – Application July 23, 2013 – Special Permit (§73-44) to allow the reduction of required parking for the use group 4 ambulatory diagnostic treatment healthcare facility. C8-1/R5 zoning district.

PREMISES AFFECTED – 2472 Coney Island Avenue, southeast corner of Coney Island Avenue and Avenue V, Block 7136, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to April 21, 2015, at 10 A.M., for continued hearing.

248-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Moshe Benefeld, owner.

SUBJECT – Application August 23, 2014 – Special Permit (§73-622) for the enlargement of an existing single-family home, contrary to floor area and open space (23-141a); side yards (23-461). R2 zoning district.

PREMISES AFFECTED – 1179 East 28th Street, east side of East 28th Street, approximately 127' north of Avenue L, Block 7628, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

41-14-BZ

APPLICANT – The Law Office of Jay Goldstein, for United Talmudical Academy, owner.

SUBJECT – Application March 7, 2014 – Special Permit (§73-19) to legalize an existing school/yeshiva (UG 3). M1-2 zoning district.

PREMISES AFFECTED – 21-37 Waverly Avenue aka 56-58 Washington Avenue, between Flushing Avenue and Park Avenue front both Washington and Waverly Avenues, Block 1874, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for continued hearing.

56-14-BZ

APPLICANT – Walter Gorman, P.E.P.C., for Leemilts Petroleum Ink., owner; Capitol Petroleum Group, lessee.

SUBJECT – Application April 10, 2014 – Re-Instatement (§11-411) of a variance which permitted an auto service station (UG16B), with accessory uses; Waiver of the Rules. C1-3/R3-A zoning district.

PREMISES AFFECTED – 161-51/6 Bailey Boulevard, northwest corner of Guy Brewer Boulevard, Block 12256, Lot 36, Borough of Queens.

COMMUNITY BOARD #12Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for decision, hearing closed.

122-14-BZ

APPLICANT – Lewis E Garfinkel, for Ariel Boiangiu, owner.

SUBJECT – Application October 21, 2014 – Special Permit (§73-622) for the enlargement of an existing single family semi-detached home contrary to floor area and open space ZR 23-141; side yards ZR 23-461 and less than the required rear yard ZR 23-47. R2 zoning district.

PREMISES AFFECTED – 1318 East 28th Street, west side of 28th Street 140 feet of Avenue M, Block 7663, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for continued hearing.

MINUTES

**REGULAR MEETING
TUESDAY AFTERNOON, MARCH 10, 2015
1:00 P.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

46-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Boerum Place LLC, owner; for Blink Atlantic Avenue, Inc., lessee.

SUBJECT – Application March 20, 2014 – Special Permit (§73-36) to allow the physical culture establishment (*Blink Fitness*) within portions of a new commercial building. C2-4 (R6A) (DB) zoning districts.

PREMISES AFFECTED – 252/60 Atlantic Avenue, southeast corner of intersection of Atlantic Avenue and Boerum Place, Block 181, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for decision, hearing closed.

143-14-BZ

APPLICANT – Eric Palatnik, P.C., for Wanda Y. Ng, owner; 99 Health Club Inc., lessee.

SUBJECT – Application June 20, 2014 – Special Permit (§73-36) to allow for the proposed physical culture establishment (*99 Health Club Inc.*) in the cellar, first and second floor of two story building in an M1-1 zoning district.

PREMISES AFFECTED – 746 61st Street, between 7th and 8th Avenue, Block 5794, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #7BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for decision, hearing closed.

241-14-BZ

APPLICANT – Warsaw Burstein, LLP, for Tiago Holdings, LLC, owner; East River Plaza Fitness Group, LLC, lessee.

SUBJECT – Application October 3, 2014 – Special Permit (§73-36) to allow the operation of physical culture establishment (*Planet Fitness*) on a portion of the third floor of the existing large scale development. C4-4 zoning district.

PREMISES AFFECTED – 517 East 117th Street, located within a large scale development located along FDR Drive between East 116th Street and 119th Streets, Block 1715, Lot(s) 22, 8, Borough of Manhattan.

COMMUNITY BOARD #11M

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

BULLETIN

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April 1, 2015

DIRECTORY

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Tuesday, March 24, 2015**

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164-94-BZ	84 Hugh Grant Circle, Bronx
26-02-BZ	1680 Richard Avenue, aka 3101 Victory Boulevard, Staten Island
150-04-BZ	129 Elizabeth Street, Manhattan
51-06-BZ	188-02 Union Turnpike, aka 22 Union Turnpike, Queens
153-14-A	200 Cambridge Avenue, Staten Island
300-08-A	39-35 27 th Street, Queens
167-14-A	250 Manhattan Avenue, Manhattan
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Affecting Calendar Numbers:

322-13-BZ	42-01 Main Street, Queens
51-14-BZ	1369 East 28 th Street, Brooklyn
242-14-BZ	212 East 57 th Street, Manhattan

DOCKETS

New Case Filed Up to March 24, 2015

46-15-A

170-178 Beach 26th Street, eas side of Beach 26th Street, 200 feet south of the intersection with Seagirt Avenue, Block 15817, Lot(s) 41 (41 Tent), Borough of **Queens, Community Board: 14**. Application is made to obtain authorization to continue and complete construction of five three-family homes under the elements of common law vested rights. R3A district.

47-15-A

170-178 Beach 26th Street, eas side of Beach 26th Street, 200 feet south of the intersection with Seagirt Avenue, Block 15817, Lot(s) 41 (42 Tent), Borough of **Queens, Community Board: 14**. Application is made to obtain authorization to continue and complete construction of five three-family homes under the elements of common law vested rights. R3A district.

48-15-A

170-178 Beach 26th Street, eas side of Beach 26th Street, 200 feet south of the intersection with Seagirt Avenue, Block 15817, Lot(s) 41 (43 Tent), Borough of **Queens, Community Board: 14**. Application is made to obtain authorization to continue and complete construction of five three-family homes under the elements of common law vested rights. R3A district.

49-15-A

170-178 Beach 26th Street, eas side of Beach 26th Street, 200 feet south of the intersection with Seagirt Avenue, Block 15817, Lot(s) 41 (44 Tent), Borough of **Queens, Community Board: 14**. Application is made to obtain authorization to continue and complete construction of five three-family homes under the elements of common law vested rights. R3A district.

50-15-A

170-178 Beach 26th Street, eas side of Beach 26th Street, 200 feet south of the intersection with Seagirt Avenue, Block 15817, Lot(s) 41 (45 Tent), Borough of **Queens, Community Board: 14**. Application is made to obtain authorization to continue and complete construction of five three-family homes under the elements of common law vested rights. R3A district.

51-15-BZ

1348 East 26th Street, between Avenues M & N, Block 07661, Lot(s) 0081, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) for the enlargement of single family home. R2 zoning district. R2 district.

52-15-BZ

102-16 Liberty Avenue, Southwest corner of intersection of Liberty Avenue and 103rd Street, Block 09523, Lot(s) 5, Borough of **Queens, Community Board: 10**. Special Permit (§73-36) to permit a physical culture establishment (PCE) Blink Fitness within a cellar and one-story commercial building, located within an C2-3/R6B zoning district. C2-3(R6B) district.

53-15-BZ

10 East 53rd Street, South side of east 53rd St., 125 feet west of intersection of East 53rd Street and 5th Avenue., Block 01288, Lot(s) 7, Borough of **Manhattan, Community Board: 5**. Special Permit (§73-36) to permit a physical culture establishment within an existing building, located within an C5-2.5(MID)+C.3MID)(F) zoning district. C5-2.5+C5-3MID district.

54-15-A

172 5th avenue, Site is situated on the Northwest corner of the intersection of Fifth Avenue and West 22nd Street, Block 0824, Lot(s) 36, Borough of **Manhattan, Community Board: 5**. Interpretative Appeals: file pursuant to MDL310 to vary MDL 211(1), to allow for a one-story vertical enlargement of the existing six-story and cellar mixed-use tenement building located within an C6-4M zoning district. C6-4M district.

55-15-BZ

405 West 55th Street, Located on the northwest corner of Ninth Avenue and West 55th Street, Block 01065, Lot(s) 29, Borough of **Manhattan, Community Board: 4**. Variance (§72-21) to allow for the enlargement of a Alvin Alley Dance foundation's existing building to provide additional dance studios, classrooms, and offices, located within an R8/C!-5, C6-2 Clinton Preservation Area zoning district. R8/Cl-5,C6-2CPA district.

DOCKETS

56-15-BZ

2124 Avenue J, Southwest corner of Avenue J and East 22nd Street, Block 07603, Lot(s) 49, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to permit the enlargement of a three story one family home and waive the floor are requirement located within an R2 zoning district. R2 district.

57-15-BZ

482 Logan Street, Logan Street, between Pitkin Avenue and Belmont Avenue, Block 04227, Lot(s) 30, Borough of **Queens, Community Board: 5**. Variance (§72-21) to permit the development of a three-story, three family residential and to waive the side yard open space of the existing premises, located within an R5/C1-3 zoning district. R5/C1-3 district.

58-15-A

139-141 Orchard, Through-block lot with frontage on Orchard Street, Rivington Street and Allen Street, Block 0415, Lot(s) 61,626366,67, Borough of **Manhattan, Community Board: 3**. Vested Rights-under common-law doctrine to complete construction pursuant to lawfully issued DOB permit based on prior zoning designation, located within an C4-4A zoning district. C4-4A district.

59-15-BZ

80 Fifth Avenue, Southwest corner of West 14th Street, Block 0577, Lot(s) 39, Borough of **Manhattan, Community Board: 2**. Special Permit (§73-36) to allow for a physical culture establishment (PCE Fitness Place) at the existing building, located within an C6-M4 zoning district. C6-M4 district.

60-15-BZ

111 Fulton Street, Fulton Street between William Street and Nassau Street, Block 091, Lot(s) 7502, Borough of **Manhattan, Community Board: 1**. Special Permit (§73-36) to allow for a Physical Culture Establishment (Cross Fit, within the cellar of a ten story mixed use building located within anC6-4/LM zoning district. C6-4/LM district.

61-15-BZ

540 West 26th Street, An interior lot on the south side of West 26th Street 100;east of intersection of 11th Avenue and West 26th Street, Block 0697, Lot(s) 56, Borough of **Manhattan, Community Board: 4**. Special Permit (73-19) to permit the operation of a portion of a school known as Avenues(The School) Use Group 3A, located in a M1-5 zoning district. M1-5 SWCD district.

62-15-BZ

139 Bay Street, Bay Street between Slosson terrace and Central Avenue, Block 01, Lot(s) 10,17,18,19, Borough of **Staten Island, Community Board: 1**. Variance (§72-21) enlargement of a mixed use building contrary floor area regulations, lot coverage, balconies below third story, distance from legally required windows t lot lines and side yard regulation, located within an C4-2/SG zoning district. C4-2/SG district.

63-15-BZ

35 Sutton Place, Corner through-lot with frontage on 59th Street between Sutton Place and Riverview Terrace, Block 01372, Lot(s) 73, Borough of **Manhattan, Community Board: 6**. Variance (§72-21) to legalize the three existing enclosures of portions of the terrace of Unit PHC located on the penthouse floor of the premises, located within an R10 zoning district. R10 district.

64-15-BZ

39 Clarkson Street, north side of Clarkson Street, 117 feet east of the corner formed by intersection of Greenwich Street and Clarkson Street, Block 00601, Lot(s) 0072, Borough of **Manhattan, Community Board: 2**. Variance (§72-21) to permit the conversion of a former manufacturing building to residential use contrary to 42-10. M1-6 zoning district. M1-5 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

APRIL 14, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 14, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

APPEALS CALENDAR

218-14-A

APPLICANT – Paul F. Bonfilio, R.A., for Bo Qian, owner.
SUBJECT – Application September 4, 2014 – Proposed construction of a four-story residential building for eleven units within the bed of 45th Avenue at its intersection within a bed of unmapped street, contrary to GCL 35. R5 zoning district.

PREMISES AFFECTED – 46-03 88th Street, 45th Avenue at intersection of 88th Street, Block 1584, Lot 16, Borough of Queens.

COMMUNITY BOARD #4Q

320-14-A

APPLICANT – Dean Heitner, Esq., for PWV owner LLC c/o The Chevrolet Group, owner.

SUBJECT – Application December 8, 2014 – Interpretative Appeals for an open space requirements on a zoning lot for a proposed nursing facility to be constructed by Jewish Home Life Care on West 97th Street. R7-2/C1-8 zoning district.

PREMISES AFFECTED – 125 West 97th Street, between Amsterdam Avenue and Columbus Avenue, Block 1852, Lot 5, Borough of Manhattan.

COMMUNITY BOARD #7M

APRIL 14, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, April 14, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

29-14-BZ

APPLICANT – Lewis Garfinkel for Leon Goldenberg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-14a); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1255 East 27th Street, East side of East 27th Street, 325 feet from the North corner of Avenue M. Block 7645, Lot 25. Borough of Brooklyn.

COMMUNITY BOARD #14BK

182-14-BZ

APPLICANT – Eric Palatnik, PC, for Izhak Lati, owner.

SUBJECT – Application August 5, 2014 – Special Permit (§73-622) for the enlargement of an existing single family, two story dwelling contrary to floor area (ZR 23-141(b); side yards (ZR 23-461) and less than the minimum rear yard (ZR 23-47). R5 zoning district.

PREMISES AFFECTED – 1977 Homecrest Avenue, between Avenue "S" and Avenue "T", Block 7291, Lot 136, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Ryan Singer, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, MARCH 24, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

172-79-BZ

APPLICANT – Alfonso Duarte, for Luciano Utopia LLC.,
owner.

SUBJECT – Application July 16, 2014 – Extension of Term
of a previously approved variance permitting the operation
of a Real Estate office and accessory parking which will
expire on July 24, 2014. R2 zoning district.

PREMISES AFFECTED – 167-04 Northern Boulevard,
southeast corner of 16th Street, Block 5398, Lot 11,
Borough of Queens

COMMUNITY BOARD #4Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to May 19,
2015, at 10 A.M., for decision, hearing closed.

164-94-BZ

APPLICANT – Jeffrey Chester, Esq., for Tuckahoe Realty
LLC., owner; LRHC Park Chester NY Ink., lessee.

SUBJECT – Application March 28, 2014 – Extension of
Term of a previously approved Variance (§72-21) which
permitted the operation of physical culture establishment
(*Lucille Roberts*), which expired on March 1, 2014. C1-
2/R6 zoning district.

PREMISES AFFECTED – 84 Hugh Grant Circle, Cross
Bronx Expressway Sr. South, Block 3794, Lot 109, Borough
of Bronx.

COMMUNITY BOARD #9BX

ACTION OF THE BOARD – Off-Calendar.

26-02-BZ

APPLICANT – Eric Palatnik, P.C., for Bolla EM Realty
LLC, owner.

SUBJECT – Application March 14, 2014 – Extension of
Term of a previously approved Variance (§72-21) which
permitted the operation of an Automotive Service Station
(UG 16B) with accessory uses, which expired on December
10, 2012; Amendment to covert the existing bays into
accessory convenience store and to enlarge the building;
Waiver of the Rules. C1-2/R3-2 zoning district.

PREMISES AFFECTED – 1680 Richmond Avenue aka
3101 Victory Boulevard, northwest corner of Richmond

Avenue and Victory Boulevard, Block 2160, Lot 1, Borough
Staten Island.

COMMUNITY BOARD #2SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to April 14,
2015, at 10 A.M., for decision, hearing closed.

150-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Shun K. and Oi-
Yee Fung, owners.

SUBJECT – Application May 2, 2014 – Amendment of a
previously approved variance to permit the construction of a
four-story building with retail space and one-car garage.
C6-2G zoning district.

PREMISES AFFECTED – 129 Elizabeth Street, west side
of Elizabeth Street between Broome and Grand Street,
Block 470, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Laid over to May 12,
2015, at 10 A.M., for continued hearing.

51-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Rivoli Realty
Corp., owner; American Dance & Drama, lessee.

SUBJECT – Application July 10, 2014 – Amendment of a
variance (§72-21) which permitted a Physical Culture
Establishment and a dance studio (Use Group 9), contrary to
use regulations. The amendment seeks to enlarge the floor
area utilized by the dance studio on the first floor of the
existing one-story and cellar building. C1-2/R2A zoning
district.

PREMISES AFFECTED – 188-02 Union Turnpike aka 22
Union Turnpike, south side of Union Turnpike between
188th Street and 189th Street, Block 7266, Lot 1, Borough
of Queens.

COMMUNITY BOARD #8Q

ACTION OF THE BOARD – Laid over to June 2,
2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

300-08-A

APPLICANT – Law office of Marvin B. Mitzner LLC, for
Steven Baharestani, owner.

SUBJECT – Application April 24, 2014 – Extension of time
to complete construction and obtain a Certificate of
Occupancy for the construction of a hotel under common
law vested rights. M1-2 /R5-B zoning district.

PREMISES AFFECTED – 39-35 27th Street, east side of
27th Street between 39th and 40th Avenues, Block 397, Lot

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2, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for continued hearing.

167-14-A

APPLICANT – Eric Palatnik, P.C., for 250 Manhattan LLC, owner.

SUBJECT – Application July 11, 2014 – Appeal seeking a determination that the owner has obtained a vested right to complete construction commenced under the prior C4-3(R6) zoning district. R6B zoning district.

PREMISES AFFECTED – 250 Manhattan Avenue, between Powers Avenue and Grand Street, Block 2782, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to May 12, 2015, at 10 A.M., for continued hearing.

ZONING CALENDAR

81-12-BZ

CEQR #12-BSA-112Q

APPLICANT – Eric Palatnik, P.C., for McDonald's Real Estate Co., owner.

SUBJECT – Application April 5, 2012 – Special Permit (§73-243) to permit the demolition and reconstruction of an eating and drinking establishment (Use Group 6) with an accessory drive-through and on-site parking. C1-3/R3-2/R3A zoning district.

PREMISES AFFECTED – 98-01/05 Metropolitan Avenue, northeast corner of 69th Road, Block 3207, Lot(s) 26 & 23, Borough of Queens.

COMMUNITY BOARD #6Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated Aril 28, 2014, acting on DOB Application No. 420508766, reads:

Proposed reinstatement of existing Use Group – 6 eating and drinking establishment with accessory drive thru, requires special permit pursuant to zoning resolution section 73-243; and

WHEREAS, this is an application under ZR §§ 73-243 and 73-03, to permit, on a site within an R3-2 (C1-3) zoning district, and also within an R3A zoning district, the operation of an existing accessory drive-through facility operating in conjunction with an eating and drinking establishment (Use Group 6), contrary to ZR § 32-15; and

WHEREAS, a public hearing was held on this application on September 16, 2014, with a continued hearing on January 27, 2015, and then to decision on March 24, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 6, Queens, expressed no objection to this application; and

WHEREAS, the subject site located on the north side of Metropolitan Avenue, between 69th Road and 70th Avenue, within an R3-2 (C1-3) zoning district, and also within an R3A zoning district, in Queens; and

WHEREAS, the site has approximately 222 feet of frontage along Metropolitan Avenue, and approximately 23,916 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story eating and drinking establishment (Use Group 6, operated as a McDonald’s franchise) with approximately 4,000 sq. ft. of floor area (0.15 FAR), an accessory drive-through, and 31 on-site accessory parking spaces; and

WHEREAS, the existing accessory drive-through was added to the eating and drinking pursuant to a special permit issued by the Board under BSA Cal. No. 614-83-BZ, the term of which was last extended on November 4, 1998 and which expired on November 3, 2003; and

WHEREAS, BSA Cal. No. 614-83-BZ was granted and subsequently amended at a time when a C1-2 zoning district overlay extended across the site to a depth of 150 feet from Metropolitan Avenue and, as such, the existing accessory drive-through and accessory parking spaces were all located within the C1-2 overlay; and

WHEREAS, on October 29, 2007, the zoning map of the City of New York was amended so that the commercial overlay at the subject site (previously a C1-2 commercial overlay with a depth of 150 feet from Metropolitan Avenue) a C1-3 overlay with a depth of 100 feet from Metropolitan Avenue, thus the R3A portion of the subject zoning lot contains approximately 6 accessory parking spaces, a portion of the existing accessory drive-through and refuse storage enclosures servicing the site; and

WHEREAS, on January 31, 2014, DOB determined, pursuant to ZRD1 Reference No. 28643, filed under DOB Application No. 420508766, that “the commercial accessory uses located within the R3A District portion of the [subject] zoning lot may continue...”; and

WHEREAS, because the previously-issued special permit is expired, the instant application seeks a new special permit, as per §1-07.3(b)(3)(iii) of the Board’s Rules of Practice and Procedure; and

WHEREAS, the Board notes that a special permit is required for the proposed accessory drive-through facility in the R3-2 (C1-3) zoning district, pursuant to ZR § 73-243; and

WHEREAS, under ZR § 73-243, the applicant must demonstrate that: (1) the drive-through facility provides reservoir space for not less than ten automobiles; (2) the drive-through facility will cause minimal interference with traffic

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flow in the immediate vicinity; (3) the eating and drinking establishment with accessory drive-through facility complies with accessory off-street parking regulations; (4) the character of the commercially-zoned street frontage within 500 feet of the subject site reflects substantial orientation toward the motor vehicle; (5) the drive-through facility will not have an undue adverse impact on residences within the immediate vicinity; and (6) there will be adequate buffering between the drive-through facility and adjacent residential uses; and

WHEREAS, the applicant submitted a site plan indicating that the drive-through facility provides reservoir space for ten vehicles; and

WHEREAS, the applicant represents that the facility will cause minimal interference with traffic flow in the immediate vicinity of the subject site, which has two existing curb cuts on Metropolitan Avenue and another existing curb cut on 69th Road, and notes that the existing facility has been operating since 1984 pursuant to the approval of a special permit by this Board; and

WHEREAS, in addition, the applicant submitted a zoning analysis form reflecting that the facility complies with the accessory off-street parking regulations for the R3-2 (C1-3) zoning district; there are 31 accessory spaces on the site, 14 in excess of the 17 required spaces; and

WHEREAS, the applicant represents that the facility conforms to the character of the commercially zoned street frontage within 500 feet of the subject site, which reflects substantial orientation toward motor vehicles and is predominantly commercial in nature; and

WHEREAS, the applicant notes that Metropolitan Avenue is one of the busiest commercial thoroughfares in Queens and that there are seven other eating and drinking establishments within a mile of the subject site; and

WHEREAS, the applicant represents that the drive-through facility will not have an undue adverse impact on residences within the immediate vicinity of the subject site and there will be adequate buffering between the drive-through facility and adjacent residential uses; and

WHEREAS, the applicant states that the impact of the drive-through upon residences is minimal, in that (a) all curb cuts will be located on Metropolitan Avenue and 69th Road, within the C1-3 overlay, thereby avoiding any adverse traffic impact on neighboring residential uses; (b) the hours of operation of the existing accessory drive-through facility are limited to 6:00 a.m. to 12:00 a.m.; (c) all lighting at the subject site will be directed away from adjacent residential uses; (d) an 8'-0" high fence with slats and landscaping along the property line will provide a buffer between the subject site and the neighboring residential uses; (e) the outdoor menu soundboard utilized by the operator of the subject site will be located 71'-0" from the residential use closest to the subject site, and will feature automatic sound adjustment to decrease with a reduction in ambient sound and will have a maximum sound pressure of 54dBA; (f) cedar planters will be used to close off parking spaces designates as spots 11, 12, 13, and 14 on the BSA-approved plans between the hours of 9:00 p.m. and 8:00 a.m.; (g) waste removal at the site will occur three

times per week; and (h) the trash will be enclosed on three sides by a brick wall, and by a fence; and

WHEREAS, accordingly, the applicant represents that the drive-through facility satisfies each of the requirements for a special permit under ZR § 73-243; and

WHEREAS, accordingly, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-243 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2 and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 12-BSA-112Q dated March 23, 2015; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-243 and 73-03 to permit, on a site within an R3-2 (C1-3) zoning district, and also within an R3A zoning district, the operation of an accessory drive-through facility operating in conjunction with an as-of-right eating and drinking establishment (Use Group 6), contrary to ZR §32-15; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 18, 2015"- (7) sheets; and *on further condition*:

THAT the term of this grant will expire on March 24, 2025;

THAT the outdoor menu soundboard utilized by the

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operator of the subject site will be located 71'-0" from the residential use closest to the subject site and will feature automatic sound adjustment to decrease with a reduction in ambient sound and will have a maximum sound pressure of 54dBA;

THAT waste removal at the site will occur three times per week;

THAT parking and queuing space for the drive-through will be provided as indicated on the BSA-approved plans;

THAT cedar planters will be used to close off parking spaces designates as spots 11, 12, 13, and 14 on the BSA-approved plans between the hours of 9:00 p.m. and 8:00 a.m.;

THAT all landscaping and/or buffering will be maintained as indicated on the BSA-approved plans;

THAT exterior lighting will be directed away from the nearby residential uses;

THAT all signage, including directional signs, will conform to applicable zoning district regulations;

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, March 24, 2015.

65-13-BZ

CEQR #13-BSA-097K

APPLICANT – Eric Palatnik, Esq., for Israel Rosenberg, owner.

SUBJECT – Application February 12, 2013 – Variance (§72-21) to permit a residential development, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 123 Franklin Avenue, between Park and Myrtle Avenues, Block 1899, Lot 108, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez3

Negative:.....0

Absent: Chair Perlmutter.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated January 24, 2013, acting on DOB Application No. 320704519, reads in pertinent part:

Residential building proposed in M1-1 (zoning district) contrary to 42-00; and

WHEREAS, this is an application under ZR § 72-21, to

permit, on a site partially within an M1-1 zoning district and partially within an M1-2/R6A zoning district, the construction of a three-story multiple dwelling (Use Group 2), contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on December 10, 2013, after due notice by publication in the *City Record*, with subsequent hearings on February 25, 2014, April 29, 2014, June 24, 2014, November 25, 2014, and then to decision on March 24, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by former Chair Srinivasan, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 3, Brooklyn, recommends disapproval of this application; and

WHEREAS, the subject site is located on the east side of Franklin Avenue, between Park Avenue and Myrtle Avenue, within an M1-1 zoning district; and

WHEREAS, the site comprises Tax Lots 9 and 108; it has 37'-6" of frontage along Franklin Avenue, a depth of 123 feet, and approximately 4,612 sq. ft. of lot area; and

WHEREAS, the site is occupied by a vacant, three-story frame residential building, which dates from the late 19th Century; and

WHEREAS, the applicant notes that residential use became non-conforming at the site as of December 15, 1961, when the M1-1 designation took effect; and

WHEREAS, the applicant states that the existing building at the site is structurally unsound and cannot be rehabilitated; in support of this statement, the applicant submitted a report from a structural engineer, which details the deterioration of the building and contrasts such deterioration with nearby buildings of a similar vintage; and

WHEREAS, because the building cannot be retained, the applicant seeks a use variance to maintain the site's historic residential use by constructing a new three-story multiple dwelling with 8,991 sq. ft. of floor area (1.95 FAR), five dwelling units, 65-percent lot coverage, a rear yard depth of 36'-0", and a building height of 38'-0"; and

WHEREAS, initially, the applicant proposed a five-story multiple dwelling with 13,838 sq. ft. of floor area (3.0 FAR), nine dwelling units, 63-percent lot coverage, a rear yard depth of 30'-0", and a building height of 57'-0"; and

WHEREAS, at the Board's direction, through the hearing process, the proposal was reduced in height, number of stories, number of dwelling units, and FAR; and

WHEREAS, the applicant represents that, per ZR § 72-21(a), the following are unique physical conditions which create unnecessary hardship in developing the site in conformance with applicable regulations: (1) the site's history of residential use and adjacency to residential buildings on all sides and across the street; (2) its narrowness; and (3) the condition of the existing building at the site; and

WHEREAS, the applicant states that a residential building has occupied the site for more than 100 years, and that there are residential buildings directly adjacent to the site on all sides and across the street; and

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WHEREAS, in addition, the applicant notes that a portion of the site is within an M1-2/R6A zoning district, where the proposed use is permitted as-of-right; and

WHEREAS, the applicant represents that the site is too narrow, too deep, and too small to accommodate a conforming use; and

WHEREAS, in particular, the applicant states that the site's narrowness yields a conforming manufacturing or commercial building with small, inefficient, and narrow floor plates, which, when considered in conjunction with the adjacent residential uses, would not be attractive to a modern conforming use; and

WHEREAS, in support of its claim that the site is not feasible for modern manufacturing use, the applicant conducted a study of the 13 sites occupied by conforming uses on Franklin Avenue between Flushing Avenue and Myrtle Avenue; and

WHEREAS, based on the study, the applicant states that only two sites are narrower than the subject site and the other 11 are wider, including nine with a width of at least 62 feet; and

WHEREAS, thus, the applicant concludes that the subject site is significantly narrower than the vast majority of nearby sites occupied by conforming uses; and

WHEREAS, as to the uniqueness of the existing residential building itself, the applicant provided an engineer's report that indicates that the building is structurally compromised in a manner that makes renovation infeasible; the report also notes that unlike nearby buildings of a similar vintage with similarly-antiquated construction techniques and materials, the subject building is detached; and

WHEREAS, consequently, the applicant contends that unlike attached (and even semi-detached) buildings from the same era, this building is free to move both laterally and vertically and it is subject to rotation on its foundation, resulting in a building that is uniquely unstable and unsuitable for rehabilitation; and

WHEREAS, to support the assertion that the building's detachedness is unique, the applicant provided a survey, which reflects that within 800 feet of the site, a total of 32 detached buildings were built around the time that the subject building was built, employed similar materials and methods; of these 32 detached buildings, the applicant states that only seven such buildings (less than one percent of the building stock within 800 feet of the site) remain; accordingly, the applicant concludes that existing building on the site contributes to the site's uniqueness and its unsuitability for conforming uses; and

WHEREAS, the Board agrees with the applicant that the site's historic residential use, adjacency to other residential uses, and narrow width, as well as the existing detached building at the site, are unique physical conditions, which, in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, to satisfy ZR § 72-21(b), the applicant submitted a feasibility study which analyzed the rate of return on an as-of-right industrial building at the site and the

proposal; and

WHEREAS, according to the study, a one-story building with approximately 4,613 sq. ft. of floor area occupied by a manufacturing use would yield a negative rate of return; the proposed residential building, on the other hand, would realize a reasonable return; and

WHEREAS, based upon its review of the feasibility study, the Board has determined that because of the subject site's unique physical condition, there is no reasonable possibility that development in strict conformance with applicable use requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the subject block is primarily developed with residential buildings; as noted above, a portion of the site is located within an M1-1/R6A zoning district, where the proposed use would be as-of-right; and

WHEREAS, as to adjacent uses, as noted above, there are residential uses on all adjacent lots and across the street; and

WHEREAS, the applicant also notes that the site has historically been occupied by a residential building; thus, the applicant asserts that the site, and the neighboring stretch of Franklin Avenue, have a long-standing residential character despite the site's M1-1 designation; and

WHEREAS, accordingly, the applicant contends that the proposal is more consistent with the neighborhood character than a conforming use would be; and

WHEREAS, as to bulk, the applicant states that the building complies in all respects with the R6A bulk regulations; and

WHEREAS, at hearing, the Board expressed concerns regarding: (1) the compatibility of the originally-proposed building height and number of stories with the surrounding residential buildings; and (2) the proposed layouts of the dwelling units; and

WHEREAS, in response, the applicant: (1) reduced the height from 57'-0" to 38'-0" and the number of stories from five to three, and provided a streetscape, which demonstrates that the proposal is consistent with the height of the surrounding residential buildings; and (2) removed the interior partitions from the proposed plans, with the understanding that all interior layouts will be as reviewed and approved by DOB; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or

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a predecessor in title, but is rather a function of the site's unique physical conditions; and

WHEREAS, finally, the Board finds that the proposal is the minimum variance necessary to afford relief, as set forth in ZR § 72-21(e); and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement ("EAS") CEQR No. 13-BSA-097K, dated February 15, 2013; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the New York City Landmarks Preservation Commission ("LPC") reviewed the project for potential archaeological impacts and requested that an archaeological documentary study (Phase 1A) be submitted for review and approval; and

WHEREAS, A Restrictive Declaration for an archaeological study was executed and filed for recording on March 2, 2015; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21, and grants a variance to permit, on a site partially within an M1-1 zoning district and partially within an M1-2/R6A zoning district, the construction of a three-story multiple dwelling (Use Group 2), contrary to ZR § 42-00; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received July 21, 2014" –(10) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 8,991 sq. ft. (1.95 FAR),

five dwelling units, a minimum lot coverage of 65 percent, a minimum rear yard depth of 36'-0", and a maximum building height of 38'-0", as indicated on the BSA-approved plans;

THAT the layouts of the dwelling units shall be as reviewed and approved by DOB;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by March 24, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT a permit shall not be issued for any grading, excavation, foundation or other permit which involves soil disturbance until, pursuant to the Restrictive Declaration, the LPC has issued to DOB, as applicable, either a Notice of No Objection, Notice to Proceed, Notice of Satisfaction, or Final Notice of Satisfaction;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 24, 2015.

321-13-BZ

APPLICANT – Eric Palatnik, P.C., for Alejandro Finardo, owner.

SUBJECT – Application December 18, 2013 – Variance (§72-21) for the construction of a three family home on a vacant lot, contrary to side yard requirements (§23-462(a)) and the parking space requirements of (§25-32). R5 zoning district.

PREMISES AFFECTED – 37-19 104th Street, between 37th Avenue and 37th Road, Block 1771, Lot 42, Borough of Queens.

COMMUNITY BOARD #3Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated November 21, 2013, acting on DOB Application No. 420568406, reads in pertinent part:

1. As per ZR 23-462(a), other than single-or two-family residences, a building containing residences are required to have two (2) side yards each with a minimum width of eight (8) feet.
2. As per ZR 25-23 Group Parking Facilities, for

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all new residences, in a [SIC] R5 district, parking shall be provided for 85% of the total number of residences; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a vacant site within an R5 zoning district, the construction of a three-story, three-family residential building that does not comply with the zoning requirements for side yards and parking, contrary to ZR §§ 23-462 and 25-23; and

WHEREAS, a public hearing was held on this application on November 18, 2014, after due notice by publication in the *City Record*, with continued hearings on January 27, 2015, March 3, 2015, and then to decision on March 24, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 3, Manhattan, recommends that the instant application be disapproved; and

WHEREAS, the subject site is a rectangular lot located on the east side of 104th Street, between 37th Avenue and 37th Road, within an R5 zoning district, in Queens; and

WHEREAS, the site has 25 feet of frontage along 104th Street, and a depth of 100 feet, and 2,500 sq. ft. of lot area; and

WHEREAS, the site is vacant and located in an R5 zoning district which was rezoned from an R6B zoning district in 2009; and

WHEREAS, the applicant proposes to construct a three-story, three-family residential building, with a cellar, which will contain 3,120 sq. ft. of floor area (FAR 1.24), have a lot coverage of 42 percent, will be 30'-09" in height, will have a front yard of 10'-0", will have a rear yard of 38'-0", side yards of 2'-0" (to the north) and 3'-0" (to the south), with no parking spaces; and

WHEREAS, in order to construct the building as proposed, the applicant seeks the following waivers: (1) side yards with widths of 2'-0" and 3'-0" (per ZR § 23-462, two side yards are required, each with a minimum width of 8'-0"); and (2) zero parking spaces (per ZR § 25-23, three parking spaces are required in an R5 zoning district with three dwelling units); and

WHEREAS, the applicant states that, in accordance with ZR § 72-21(a), the following are unique physical conditions that create practical difficulties and unnecessary hardships in developing the site in compliance with applicable regulations:

(1) the narrow width of the site; and (2) that fact that the site is vacant; and

WHEREAS, the applicant states that the site's narrow width (25'-0") and the fact that it is vacant render the site unique, and sites, in support of that statement, a land use study concluding that within approximately 400 feet of the site, there are six lots (of a total 153 lots) of 35 feet or less in width that are also vacant; and

WHEREAS, the applicant distinguishes the instant site from the five other sites within the 400 foot radius of the site by noting that (1) one of the sites is being developed and will

be occupied by a semi-detached house; (2) two of the sites are utilized as a parking lots for a church on an adjacent site; (3) another one of the sites, currently used for parking, can be improved with a semi-detached building; and (4) one of the lots, while vacant, is under common ownership with an adjacent site; and

WHEREAS, the applicant concludes that for the foregoing reasons, the site is unique in that it is the only vacant site with a width of less than 35 feet which is impacted by the side yard requirements applicable to buildings within an R5 zoning district within an area of approximately 400 feet; and

WHEREAS, the applicant asserts that the site's unique characteristics create unnecessary hardships in developing the site as-of-right; and

WHEREAS, the applicant notes that the site cannot be developed with a one- or two-family home because it does not have the minimum lot area required in an R5 zoning district, as per ZR §23-32, and states that because of the site's narrow width, a complying three-family home would result in a residential building with dwelling units 9'-0" in width; and

WHEREAS, the applicant states further that providing the three required parking spaces on the site would similarly render the development infeasible due to the lot's narrowness; and

WHEREAS, at hearing, the Board questioned whether the required parking could be located in such a way so as not to render a parking compliant three-family home impracticable; and

WHEREAS, in response, the applicant provided drawings depicting parking situated in the rear of the proposed building and demonstrated that a driveway with a minimum width of 8'-0" leading to the rear of the proposed building would result in a building with a width of 15'-0"; and

WHEREAS, the applicant responded further that parking could not be located in front of the proposed building because setting the proposed building back to accommodate the parking spaces would result in an encroachment into the required 30'-0" rear yard and because if three cars were parked in front of the proposed building, they would impede access thereto; and

WHEREAS, the Board agrees that it is not feasible to provide parking on the site; and

WHEREAS, based upon the foregoing, the Board finds that the site's narrow width, and the fact that it is vacant, constitute unique physical conditions that create unnecessary hardships in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant contends that, per ZR § 72-21(b), there is no reasonable possibility of development of the site in compliance with the Zoning Resolution; and

WHEREAS, in addition to the proposal, the applicant studied the feasibility of constructing an as-of-right three-family home which, as discussed above, would feature a 9'-0" wide residential building with a living space that is only 7'-0" wide; and

WHEREAS, the applicant states that the as-of-right makes it impossible for the applicant earn a reasonable return

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on the zoning lot; and

WHEREAS, the applicant also notes that because the adjacent sites to the north and south of the subject site are improved with detached homes it is not feasible to build an attached home in the space; and

WHEREAS, thus, the applicant contends that only the proposal would realize a reasonable rate of return on investment; and

WHEREAS, based upon its review of the applicant's economic analysis, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in compliance with applicable zoning requirements would provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the neighborhood is characterized by three-family homes and narrow buildings; and

WHEREAS, the applicant submits a study of three-family homes within 400 feet of the site, which concludes that of the 153 lots within that radius, there are 35 lots occupied by three-family homes (23%); and

WHEREAS, the applicant further submits a study and photographic evidence of narrow and non-compliant side yards and states that the requested side yard waiver will not alter the essential character of the neighborhood in which the site is located; and

WHEREAS, as the applicant performed an analysis of the width of buildings within 400 feet of the subject site and concludes that of the 146 homes that are within 400 feet of the site, 56 (38%) are 20'-0" or less in width and that 44 (30%) are between 20'-0" and 23'-0" in width, thus, the width of the proposed building will be consistent with neighborhood character; and

WHEREAS, with respect to the requested waiver of the applicable parking regulations, the applicant states that the neighborhood in which the subject site is located is well served by public transportation, including the 7 train and E/F/M/R subway lines and the Q23 bus line; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is due to the peculiarities of the site; and

WHEREAS, the Board also finds that this proposal is the minimum necessary to afford the owner relief, in accordance with ZR § 72-21(e); and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under

ZR § 72-21; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 to permit, on a vacant site within an R5 zoning district, the construction of a three-story, three-family residential building that does not comply with the zoning requirements for side yards and parking, contrary to ZR §§ 23-462 and 25-23; *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received August 7, 2014" – (10) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: a maximum of three stories, a maximum of 3,120 sq. ft. of floor area (1.24 FAR), side yards with minimum widths of 2'-0" (to the north) and 3'-0" (to the south), and zero parking spaces;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by March 24, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 24, 2015.

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28-14-BZ

CEQR #14-BSA-114K

APPLICANT – Eric Palatnik, P.C. for McDonald Corporation, owner; Brooklyn Avenue U Enterprises Corporation, lessee.

SUBJECT – Application February 10, 2014 – Special Permit (§73-243) to permit the continued use and (Use Group 6) eating and drinking establishment with an accessory drive-through. C1-2/R4 zoning district.

PREMISES AFFECTED – 3540 Nostrand Avenue, westside of Nostrand Avenue, between Avenue V and Avenue W. Block 7386, Lot(s) 114 and 117. Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated January 13, 2014, acting on DOB Application No. 320454192, reads:

Eating or Drinking establishment with an accessory drive through facility is not permitted as of right in C1 District contrary to ZR 32-15; and

WHEREAS, this is an application under ZR §§ 73-243 and 73-03, to permit, on a site within an R4 (C1-2) zoning district, the operation of an accessory drive-through facility operating in conjunction with an as-of-right eating and drinking establishment (Use Group 6), contrary to ZR § 32-15; and

WHEREAS, a public hearing was held on this application on October 21, 2014, with continued hearings on January 27, 2015, and March 3, 2015, and then to decision on March 24, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site located on the west side of Nostrand Avenue, between Avenue V and Avenue W, within an R4 (C1-2) zoning district, in Brooklyn; and

WHEREAS, the site has approximately 200 feet of frontage along Nostrand Avenue, and approximately 21,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story eating and drinking establishment (Use Group 6, operated as a McDonald’s franchise) with 3,268 sq. ft. of floor area (0.16 FAR), an accessory drive-through, and 28 accessory parking spaces; and

WHEREAS, the existing accessory drive-through was added to the eating and drinking on pursuant to a special permit issued by the Board on March 13, 1988, under BSA Cal. No. 1217-88-BZ, the term of which was last extended on October 12, 1999 and which expired on March 13, 2005; and

WHEREAS, because the previously-issued special permit is expired, the instant application seeks a new special permit, as per §1-07.3(b)(3)(iii) of the Board’s Rules of Practice and Procedure; and

WHEREAS, the Board notes that a special permit is required for the proposed accessory drive-through facility in the R4 (C1-2) zoning district, pursuant to ZR § 73-243; and

WHEREAS, under ZR § 73-243, the applicant must demonstrate that: (1) the drive-through facility provides reservoir space for not less than ten automobiles; (2) the drive-through facility will cause minimal interference with traffic flow in the immediate vicinity; (3) the eating and drinking establishment with accessory drive-through facility complies with accessory off-street parking regulations; (4) the character of the commercially-zoned street frontage within 500 feet of the site reflects substantial orientation toward automobiles; (5) the drive-through facility will not have an undue adverse impact on residences within the immediate vicinity; and (6) there will be adequate buffering between the drive-through facility and adjacent residential uses; and

WHEREAS, the applicant submitted a site plan indicating that the drive-through facility provides reservoir space for ten automobiles; and

WHEREAS, the applicant represents that the facility will cause minimal interference with traffic flow in the immediate vicinity of the subject site, and notes that the existing facility has been operating since 1990; and

WHEREAS, the applicant further represents that Nostrand Avenue is a wide street which has two lanes of traffic and a parking lane in both directions and that the west side of Nostrand Avenue, where the subject site is located, is characterized primarily by commercial uses; and

WHEREAS, in addition, the applicant submitted a zoning analysis reflecting that the facility complies with the accessory off-street parking regulations for the R4 (C1-2) zoning district; there are 28 spaces on the site, as required; and

WHEREAS, the applicant represents that the facility conforms to the character of the commercially zoned street frontage within 400 feet of the site, which reflects substantial orientation toward automobiles and is predominantly commercial in nature; and

WHEREAS, the applicant represents that the drive-through facility will not have an undue adverse impact on residences within the immediate vicinity of the site; and

WHEREAS, the applicant states that the impact of the drive-through upon residences is minimal, in that (a) the sites to the north and south of the subject site are occupied with commercial uses; (b) Nostrand Avenue, which consists of four traffic lanes and two parking lines, is situated directly east of the subject site; and (c) there is a buffer fence to the west of site; and

WHEREAS, the applicant states that there will continue to be adequate buffering between the drive-through and adjacent uses in the form of a 6’-0” high chain link fence with safety top caps and 4-0” high perennials; and

WHEREAS, accordingly, the applicant represents that the drive-through facility satisfies each of the requirements for

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a special permit under ZR § 73-243; and

WHEREAS, at hearing, the Board raised concerns about the volume of the outdoor menu soundboard at the site, specifically, the volume of the menu board and its impact on neighboring residential uses; and

WHEREAS, in response the applicant explained that the menu soundboard utilizes a Panasonic 2 WX-CS460 outdoor speaker / microphone, which is fully adjustable between zero (0) decibels and sixty (60) decibels, and that the operator of the restaurant manually adjusts the volume to operate the sound board system in a manner that does not adversely impact neighboring residential uses; further, the applicant represents that the operator has agreed to reduce the volume of the soundboard at approximately 7:00 p.m., daily; and

WHEREAS, accordingly, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-243 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2 and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 14-BSA-114K dated February 7, 2014; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-243 and 73-03 to permit, on a site within R4 (C1-2) zoning district, the operation of an accessory drive-through facility operating in conjunction with an as-of-right eating and drinking

establishment (Use Group 6), contrary to ZR §32-15; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "March 9, 2015"- (5) sheets; and *on further condition*:

THAT the term of this grant will expire on March 24, 2025;

THAT the operator of the restaurant shall remove or cause to be removed the trash from the site no fewer than six (6) times per week;

THAT the fencing at the subject site shall be well maintained and kept in good appearance;

THAT the operator of the restaurant shall cause extermination services to be performed at the site on a bi-monthly (twice a month) basis;

THAT the operator of the restaurant shall maintain the volume of its outdoor soundboard menu so as not to disturb residential neighbors;

THAT parking and queuing space for the drive-through will be provided as indicated on the BSA-approved plans;

THAT all landscaping and/or buffering will be maintained as indicated on the BSA-approved plans;

THAT the planting shown on the Board approved plans shall consist of perennials and shall be well maintained;

THAT all signage will conform to C1-2 zoning district regulations;

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, March 24, 2015.

175-14-BZ
CEQR #15-BSA-033M

APPLICANT – Greenberg Traurig, LLP, for 1162 Broadway LLC, owner.

SUBJECT – Application July 24, 2014 – Variance (§72-21) proposed the construction a new 14-story hotel building seeking waivers for setback and side yard requirements, located within a M1-6 zoning district in a historic district.

PREMISES AFFECTED – 1162 Broadway, east side of Broadway between W 27th Street and W 28th Street, Block 829, Lot 28, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

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Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated July 9, 2014, acting on DOB Application No. 122013908, reads in pertinent part:

1. Proposed base height exceeds six stories, contrary to ZR 43-43;
2. No initial setback provided, contrary to ZR 43-43;
3. Open areas extending along each side lot line less than eight feet in width, contrary to ZR 43-25; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-6 zoning district, within the Madison Square North Historic District, the construction of a 14-story hotel (Use Group 5) that does not comply with the zoning requirements for height and setback and side yards, contrary to ZR §§ 43-25 and 43-43; and

WHEREAS, a public hearing was held on this application on January 27, 2015, after due notice by publication in the *City Record*, with a continued hearing on March 3, 2015, and then to decision on March 24, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 5, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is a trapezoidal interior lot located on the east side of Broadway, between West 27th Street and West 28th Street, within an M1-6 zoning district, within the Madison Square North Historic District; and

WHEREAS, the site has 26.44 feet of frontage along Broadway, a lot depth that varies from 95.98 feet to 105.48 feet, and 2,475 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story commercial building (Use Group 6) with approximately 4,950 sq. ft. of floor area (2.0 FAR); and

WHEREAS, the applicant proposes to construct a 14-story hotel with 24,677 sq. ft. of floor area (10.0 FAR), a building height of 150’-0” without setbacks, and, beginning at the second story at 20’-0” above curb level, open areas with widths of 2’-4¼” along the northern and southern side lot lines at the street wall; such open areas will increase in depth—cant away from Broadway—as they extend upward, from a depth of 0’-1¾” at the second story to a depth of 7’-2½” at the fourteenth story; and

WHEREAS, in order to construct the building as proposed, the applicant seeks the following waivers: (1) open area extending along a side lot line (per ZR § 43-25, an open area extending along a side lot line shall have a minimum width of 8’-0”); and (2) height and setback (per ZR § 43-43, the maximum base height is 85’-0” or six stories, whichever is less; above that base, a setback with a minimum depth of 15’-0” is required and a sky-exposure plane of 5.6 to 1 must be maintained above the maximum base height); and

WHEREAS, the applicant states that, in accordance with

ZR § 72-21(a), the following are unique physical conditions that create practical difficulties and unnecessary hardships in developing the site in compliance with applicable regulations:

- (1) narrow width of the site; (2) the site’s small size; and (3) the classification of the existing building at the site as a “no style” building, according to the historic district designation report issued by the Landmarks Preservation Commission (“LPC”) for the Madison Square North Historic District; and

WHEREAS, the applicant states that the site’s narrow width (less than 25’-0”) and small size (less than 2,500 sq. ft. of lot area) are unique among 162 sites within the study area (the subject M1-6 zoning district between Fifth Avenue and Sixth Avenue, extending from West 23rd Street to West 31st Street); and

WHEREAS, the applicant represents that of those 162 sites, only five other sites (tax lots) are as small and narrow as the subject site and are also: (1) located within the historic district; and (2) occupied by a building classified as a “no style” or non-contributing building (sites occupied by contributing buildings were not considered comparably soft sites because, according to the applicant, LPC is unlikely to allow contributing buildings to be demolished or substantially enlarged); and

WHEREAS, the applicant asserts that unlike sites occupied by contributing buildings, LPC will allow the demolition of a “no style” building within a historic district; thus, the applicant contends that the subject site is more analogous to a vacant site than a site occupied by an underbuilt but contributing building; and

WHEREAS, the applicant also states that of the five sites that are similar to the subject site in terms of size, width, and lack of architectural significance, two sites have four or more above-grade stories; in contrast, the subject site has a building with only two stories; thus, two of five sites similar to the subject site are significantly more developed than the subject site; and

WHEREAS, the applicant concludes that because the site has similar characteristics (size, width, lack of architectural significance, and underdevelopment) to only three other sites among 162 sites in the study area, it is unique; and

WHEREAS, the applicant asserts that the site’s unique characteristics create unnecessary hardships in developing the site as-of-right; and

WHEREAS, specifically, the applicant states that due to the small and narrow shape of the site, a complying building—that is, a building with a 15-foot setback beginning at 85 feet—would have a maximum floorplate above the base of 1,362 sq. ft.; in addition, a complying building would rise 16 stories in order to utilize the 10.0 FAR permitted in the subject M1-6 district; as such, the construction costs for the complying building would be higher than for the proposed; and

WHEREAS, the applicant also states that building core (elevator shafts and stairwells) will occupy approximately 600 sq. ft. of the 1,362 sq. ft., leaving only 762 sq. ft. for hotel rooms in each of the eight stories above the maximum base

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height, resulting in three hotel rooms per story above the base and reducing the total number of hotel rooms to 50 (the proposal reflects 52 hotel rooms); accordingly, in addition to higher construction costs, the complying building would yield fewer hotel rooms; and

WHEREAS, as to the open area waiver, the applicant contends that it allows the creation of a significant architectural feature that will give the building a distinctive and recognizable façade, which, the applicant contends, will distinguish the proposed building, which will be occupied as a hotel, from nearby hotels; and

WHEREAS, at hearing, the Board noted that the buildings adjacent to the site are comparatively low-rise and therefore likely to be enlarged or replaced with taller buildings; as such, the Board questioned whether the distinctive architectural feature created by the waiver of ZR § 43-25 would be diminished in significance by higher abutting building walls; and

WHEREAS, in response, the applicant stated that the proposed building was designed with the understanding that the adjacent buildings were underdeveloped and that one or both could rise to a height similar to that proposed; further, the applicant asserted that the façade would remain distinctive even if both buildings were enlarged, because the use of light brick in the sloping wall and dark painted metal bays creates a contrast that is evident irrespective of adjacent building walls; the applicant also notes that neither building would be permitted to match the street wall of the proposed building as-of-right; finally, the applicant observes that any enlargement or redevelopment of the adjacent buildings is subject to the approval of LPC; and

WHEREAS, based upon the above, the Board finds that the site's narrow width, small size, and existing, two-story "no-style" building, in the aggregate, are unique physical conditions that create unnecessary hardships in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant contends that, per ZR § 72-21(b), there is no reasonable possibility of development of the site in compliance with the Zoning Resolution; and

WHEREAS, in addition to the proposal, the applicant studied the feasibility of constructing an as-of-right hotel at the site; as noted above, the as-of-right hotel would be 16 stories tall with a 15'-0" setback at the seventh story (resulting in increased construction costs) and have 50 hotel rooms (resulting in a lower operating income for the hotel); and

WHEREAS, thus, the applicant contends that only the proposal would realize a reasonable rate of return on investment; and

WHEREAS, based upon its review of the applicant's economic analysis, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in compliance with applicable zoning requirements would provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use

or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by medium- and high-density commercial buildings; uses include wholesale establishments, offices, eating and drinking establishments, and hotels; and

WHEREAS, as to adjacent uses, the applicant states that five-story office and retail buildings flank the site to the north and south; directly east of the site is an eight-story mixed residential and commercial building; west of the site, across Broadway, is a large office building with various retail and wholesale establishments at the ground floor; and

WHEREAS, the applicant states that the proposed hotel use is as-of-right in the subject M1-6 district and is entirely compatible with nearby existing uses; and

WHEREAS, turning to bulk, the applicant notes that, aside from the requested waivers, the proposal complies in all respects with the M1-6 bulk regulations, including building height and FAR; and

WHEREAS, the applicant contends that the requested waivers are essential to creating a building that complements the distinctive rowhouses, Art Deco-style towers, and loft buildings that characterize the Madison Square North Historic District, in that such buildings typically rise without setback and contain façade articulations and decorative elements; and

WHEREAS, LPC issued a Certificate of Appropriateness for the proposal dated, September 8, 2014; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is due to the peculiarities of the site; and

WHEREAS, the Board also finds that this proposal is the minimum necessary to afford the owner relief, in accordance with ZR § 72-21(e); and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the EAS CEQR No. 15-BSA-033M, dated November 4, 2014; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and

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Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type I Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 to permit, on a site within an M1-6 zoning district, within the Madison Square North Historic District, the construction of a 14-story hotel (Use Group 5) that does not comply with the zoning requirements for height and setback and side yards, contrary to ZR §§ 43-25 and 43-43; *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 20, 2015"– twelve (12) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: a maximum of 14 stories, a maximum of 24,677 sq. ft. of floor area (9.97 FAR), a maximum building height of 150'-0" without setbacks, and, beginning at the second story at 20'-0" above curb level, open areas with widths of 2'-4¼" along the northern and southern side lot lines at the street wall, as reflected on the BSA-approved drawings;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by March 24, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 24, 2015.

350-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Overcoming Love Ministries, owner.

SUBJECT – Application December 31, 2012 – Variance (§72-21) to permit the construction of an 11-story community facility/residential building, contrary to use regulations (§42-00). M3-1 zoning district.

PREMISES AFFECTED – 5 32nd Street, southeast corner of 2nd Avenue and 32nd Street, Block 675, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

ACTION OF THE BOARD – Laid over to March 31, 2015, at 10 A.M., for continued hearing.

309-13-BZ

APPLICANT – Law office of Lyra J. Altman, for Miriam Josefovic and Mark Josefovia, owners.

SUBJECT – Application November 22, 2013 – Special Permit (73-622) for the enlargement of an existing single family home, contrary to floor area and open space (23-141); side yards (23-461) and less than the required rear yard (23-47). R2 zoning district.

PREMISES AFFECTED – 965 East 24th Street, east side of East 24th Street between Avenue I and Avenue J, Block 7588, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for continued hearing.

8-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Oleg Saitskiy, owner.

SUBJECT – Application January 16, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (23-141); side yards requirements (§23-461) and less than the rear yard requirement (23-47). R3-2 zoning district.

PREMISES AFFECTED – 1824 East 22nd Street, west side of East 22nd Street between Quentin Road and Avenue R, Block 6804, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for continued hearing.

60-14-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for Sephardic Congregation of Kew Gardens Hills, owners.

SUBJECT – Application April 11, 2014 – Variance (§72-21) to enlarge a community facility (*Sephardic Congregation*), contrary to floor lot coverage rear yard, height and setback (24-00). R4-1 zoning district.

PREMISES AFFECTED – 141-41 72nd Avenue, 72nd Avenue between Main Street and 141st Street, Block 6620, Lot 41, Borough of Queens.

COMMUNITY BOARD #8Q

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for continued hearing.

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64-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Moshe Dov Stern & Goldie Stern, owners.

SUBJECT – Application April 29, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1320 East 23rd Street, west side of East 23rd Street between Avenue M and Avenue N, Block 7658, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for continued hearing.

94-14-BZ

APPLICANT – Dennis D. Dell'Angelo, for Rivka Shapiro, owner.

SUBJECT – Application May 5, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-141) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1150 East 22nd Street, west side of East 22nd Street, 140' north of Avenue "K", Block 7603, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to April 21, 2015, at 10 A.M., for continued hearing.

146-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Fair Only Real Estate Corps., owner; LES Fitness LLC., lessee.

SUBJECT – Application June 23, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Bowery CrossFit*) in the cellar of an existing building. C6-1G zoning district.

PREMISES AFFECTED – 285 Grand Street, south side of Grand Street approximately 25' west of the intersection formed by Grand Street and Eldridge Street, Block 306, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

148-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 11 Avenue A Realty LLC, owner.

SUBJECT – Application June 24, 2014 – Variance (§72-21) to permit multi-family residential use at the premises. R8A/C2-5 zoning districts.

PREMISES AFFECTED – 11 Avenue A, west side of Avenue A between East 1st Street and East 2nd Street, Block 429, Lot 39, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for continued hearing.

186-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Bond Street Owner, LLC, owners.

SUBJECT – Application August 15, 2014 – Variance (§72-21) to permit the construction of a new hotel building with ground floor retail contrary to allowable commercial floor area (ZR 33-122) located within C6-1/R6B District in the Downtown Brooklyn Special District.

PREMISES AFFECTED – 51-63 Bond Street aka 252-270 Schermerhorn Street, southeast corner of Bond Street and Schermerhorn Street, Block 172, Lot(s) 5, 7, 10, 13, 14, 15, 109, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for continued hearing.

324-14-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for Kulwanty Pittam, owner.

SUBJECT – Application December 15, 2014 – Reinstatement (§11-411) for an automotive repair facility (UG 16B) granted under Cal. No. 909-52-BZ, expiring January 29, 2000; Amendment to permit the sale of used cars; Waiver of the Rules. C2-2/R5 zoning district.

PREMISES AFFECTED – 198-30 Jamaica Avenue, Southwest corner of Jamaica Avenue. Block 10829, Lot 56, Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Laid over to May 12, 2015, at 10 A.M., for continued hearing.

MINUTES

REGULAR MEETING
TUESDAY AFTERNOON, MARCH 24, 2015
1:00 P.M.

Negative:.....0
ACTION OF THE BOARD – Laid over to April 14,
2015, at 10 A.M., for decision, hearing closed.

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

Ryan Singer, Executive Director

ZONING CALENDAR

322-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Gloria B. Silver,
owner.

SUBJECT – Application December 18, 2013 – Re-
instatement (§11-411) of a previously approved variance
which permitted accessory parking on the zoning lot for the
use Group 6 commercial building, which expired on
September 23, 1990; Waiver of the Rules. R6/C1-2 and R6
zoning district.

PREMISES AFFECTED – 42-01 Main Street, southeast
corner of the intersection of Main Street and Maple Avenue,
Block 5135, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to July 14,
2015, at 10 A.M., for continued hearing.

51-14-BZ

APPLICANT – Lewis E. Garfinkel, for David Freier, owner.

SUBJECT – Application April 2, 2014 – Special Permit
(§73-622) for the enlargement of an existing single family
residence contrary to floor area and open space ZR §23-141;
side yards ZR §23-461 and rear yard ZR §23-47. R2 zoning
district.

PREMISES AFFECTED – 1369 East 28th Street, East side
of East 28th Street, 220' north from Avenue N, Block 7664,
Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to May 12,
2015, at 10 A.M., for continued hearing.

242-14-BZ

APPLICANT – Jay Goldstein, Esq., for Sutton Realty LLC.,
owner; Halevy Life, Inc., lessee.

SUBJECT – Application October 8, 2014 – Special Permit
(§73-36) to allow for operation of a physical culture
establishment (*Halevy Life*) on portions of the cellar and
first floor. C1-9 zoning district.

PREMISES AFFECTED – 212 East 57th Street, between
3rd Avenue and 2nd Avenue on the south side of 57th
Street, Block 1330, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #6M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4

BULLETIN

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April 8, 2015

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65-15-BZ

361 Central Park West, northwest corner of Central Park West and West 96th Street, Block 01832, Lot(s) 0029, Borough of **Manhattan, Community Board: 7**. Variance (§72-21) to permit the conversion of an existing vacant church building into a 39 unit residential building. Companion case: 66-15-A for an Appeal pursuant to MDL 310 of MDL 30.2. R10A Zoning District. R10A district.

66-15-A

361 Central Park West, northwest corner of Central Park West and West 96th Street, Block 01832, Lot(s) 0029, Borough of **Manhattan, Community Board: 7**. Variance (§72-21) to permit the conversion of an existing vacant church building into a 39 unit residential building. Companion case: 66-15-A for an Appeal pursuant to MDL 310 of MDL 30.2. R10A Zoning District. R10A district.

67-15-BZ

338 West 23rd Street, south side of West 23rd Street between 8th and 9th Avenues, Block 00746, Lot(s) 0053, Borough of **Manhattan, Community Board: 4**. Special Permit (§73-201) to permit the legalization of a theater (Cell Theatre) with a capacity of not more than 500 persons in an existing building. C1-6A zoning district C1-6A district.

68-15-A

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69-15-BZ

245 Page Avenue, Page Avenue between Richmond Valley Road and Amboy Road, Block 08008, Lot(s) 74, Borough of **Staten Island, Community Board: 3**. Variance (§72-21) a proposed eating and drinking establishment with accessory drive through facility, located within an R3X/C1-1/SRD zoning district. R3X/C1-1/SRD district.

70-15-BZ

38-50 Cooper Square, Situated on the West Side of Cooper Square, 326.79 feet south of the corner formed by the intersection of Cooper Square and Astor Place, Block 0544, Lot(s) 7503/aka38, Borough of **Manhattan, Community**

Board: 2. Variance (§72-21) with an SOC companion(14-10-BZ) to construct a multifunctional Gymnasium with appropriate floor-to-ceiling heights on the fourth floor of an existing school building presently housing Grace Church School high school division, located wit M1-5B district.

71-15-BZ

548 West 22nd Street, Property is situated on the south side of West 22nd Street between Tenth Avenue and Eleventh Avenue, Block 0693, Lot(s) 59, Borough of **Manhattan, Community Board: 4**. Variance (§72-21) the conversion and enlargement of the existing 4-story building, build around 1920 on a fragile foundation system for manufacturing use and later concerted to an art Museum to a 20-story mixed-use building with commercial uses on the gro M1-5/SWCD district.

72-15-BZ

9029 Flatlands Avenue, Northeast corner of intersection of Flatlands Avenue and East 92nd Street, Block 08179, Lot(s) 1, Borough of **Brooklyn, Community Board: 18**. Special Permit (§73-36) to allow a physical culture (Blink Fitness) establishment within an existing commercial building under alteration located within an C2-3(R5D+R4-1) zoning district. C2-3(R5D+R4-1)R district.

73-15-A

170 Arbutus Avenue, east side of arbutus Avenue, 513.26 ft. north of intersection of Arbutus Avenue and Louise Street, Block 06552, Lot(s) 0058, Borough of **Staten Island, Community Board: 3**. Proposed construction of buildings that do not front on a legally mapped street, pursuant to, Section 36 Article 3 of the General City Law. R3X (SRD) district.

74-15-A

176 Arbutus Avenue, east side of arbutus Avenue, 513.26 ft. north of intersection of Arbutus Avenue and Louise Street, Block 06552, Lot(s) 0060, Borough of **Staten Island, Community Board: 3**. Proposed construction of buildings that do not front on a legally mapped street, pursuant to, Section 36 Article 3 of the General City Law. R3X (SRD) district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

APRIL 21, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 21, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

1207-66-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Apple Art Supplies of New York, LLC., owner.
SUBJECT – Application December 10, 2014 – Extension of Term of a previously granted variance for the continued operation of a UG6 art supply and bookstore which expired July 5, 2012; Waiver of the Rules. R6 zoning district.
PREMISES AFFECTED – 305 Washington Avenue aka 321 DeKalb Avenue, northeast corner of Washington Avenue & DeKalb Avenue, Block 1918, Lot 7501, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APRIL 21, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, April 21, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

30-14-BZ

APPLICANT – Eli Katz of Binyan Expediting, for Cong. Machine Chaim, owner; Yeshiva Bais Sorah, lessee.
SUBJECT – Application February 11, 2014 – Variance (§72-21) proposed enlargement to an existing school (Use Group 3) is contrary to §§42-00 & 43-43. M1-1 zoning district.
PREMISES AFFECTED – 6101 16th Avenue aka 1602 61st Street aka 1601 62nd Street, north east corner of 62nd Street and south east side of 16th Avenue, Block 5524, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #11BK

173-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 244 Madison Realty Corp., owner; Coban's Muay Thai Camp NYC, lessee.
SUBJECT – Application July 22, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Evolution Muay Thai Camp*) in the cellar of

an existing 16-story mixed-used residential and commercial building, located within an C5-2 zoning district.

PREMISES AFFECTED – 20 East 38th Street aka 244 Madison Avenue, southwest corner of Madison Avenue and East 38th Street, Block 867, Lot 57, Borough of Manhattan.
COMMUNITY BOARD #5M

231-14-BZ

APPLICANT – Sheldon Lobel, PC, for Orangetheory Fitness, owner; OTF Man One, LLP, lessee.
SUBJECT – Application September 26, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Orangetheory Fitness*) within a portion of an existing commercial building. C6-3X zoning district.
PREMISES AFFECTED – 124 West 23rd Street, south side of West 23rd Street, between Avenue of the Americas and 7th Avenue, Block 00798, Lot 7507, Borough of Manhattan.
COMMUNITY BOARD #4M

248-14-BZ

APPLICANT – Slater & Beckerman, P.C., for KIOP Forest Avenue L.P., owner; Fitness International LIC aka LA Fitness, lessee.
SUBJECT – Application October 24, 2014 – Special Permit (§73-36) to allow the operation of a new physical culture establishment (*LA Fitness*) in the existing building. C4-1 zoning district.
PREMISES AFFECTED – 1565 Forest Avenue, Forest Avenue, Between Barrett and Decker Avenues, Block 1053, Lot (s) 130, 133, 138, 189, 166, Borough of Staten Island.
COMMUNITY BOARD #1SI

258-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Henry Atlantic Partners LLC, owner.
SUBJECT – Application October 16, 2014 – Variance (§72-21) to permit the construction of a 4-story mixed-use building of an existing with commercial use on the first floor in a (R6) zoning district located in Cobble Hill Historic District.
PREMISES AFFECTED – 112 Atlantic Avenue, southeast corner of the intersection formed by Atlantic Avenue and Henry Street, Block 285, Lot 6, Borough of Brooklyn.
COMMUNITY BOARD #6BK

Ryan Singer, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, MARCH 31, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

76-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Alexander and Inessa Ostrovsky, owners.

SUBJECT – Application April 25, 2014 – Amendment to modify the previously granted special permit (§73-622) for the enlargement of an existing single-family detached residence. R3-1 zoning district.

PREMISES AFFECTED – 148 Norfolk Street, west side of Norfolk Street between Oriental Boulevard and Shore Boulevard, Block 8756, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a re-opening and an amendment to allow certain modifications, including an increase in floor area, to a special permit authorizing the enlargement of a single-family home within a flood zone; and

WHEREAS, a public hearing was held on this application on August 19, 2014, after due notice by publication in *The City Record*, with continued hearings on September 16, 2014, October 28, 2014, November 25, 2014, January 6, 2015, January 30, 2015, and March 10, 2015, and then to decision on March 31, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Perlmutter, Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, the subject site is located on the west side of Norfolk Street, between Shore Boulevard and Oriental Boulevard, within an R3-1 zoning district; and

WHEREAS, the site has 25 feet of frontage along Norfolk Street and approximately 3,108 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story, single-family detached home with approximately 1,385 sq. ft. of floor area (0.45 FAR); the applicant notes that the site is within Flood Zone 1 and that the existing home was damaged during Superstorm Sandy in late October, 2012; and

WHEREAS, on November 20, 2012, under the subject calendar number, the Board granted a special permit pursuant to ZR § 73-622, authorizing the enlargement of the home contrary to floor area ratio (“FAR”), open space ratio, lot coverage, and side yard regulations; and

WHEREAS, specifically, the 2012 grant authorized a two-story building with 2,806 sq. ft. of floor area (0.90 FAR), a minimum open space ratio of 54 percent, a maximum lot coverage of 46 percent, and side yards with widths of 0.7 feet and 4.4 feet; and

WHEREAS, subsequent to the grant, on January 31, 2013, Mayor Michael R. Bloomberg issued Executive Order 230 (“EO 230”), which allows buildings in certain flood-prone areas to be reconstructed and elevated contrary to the Zoning Resolution in order to enhance their flood resilience; and

WHEREAS, the applicant states that, pursuant to EO 230, the Department of Buildings (“DOB”) requires elevation of the proposed home and removal of its cellar level; accordingly, the applicant seeks to amend the grant to permit these modifications to the proposal, as well as an increase in floor area from 2,806 sq. ft. (0.90 FAR) to 3,304 sq. ft. (1.06 FAR) to accommodate an attic (the original proposal reflected only a crawl space above the second story); and

WHEREAS, the applicant states that in order to comply with this requirement, it must backfill the existing cellar, remove the existing slabs on grade, and create an open-to-air space, six feet in height, enclosed with vinyl lattice between the existing foundation walls and the floor of the first story; and

WHEREAS, the applicant notes that the proposal includes maintaining existing floor joists and existing exterior framing along the northern and southern walls of the home; and

WHEREAS, the applicant contends that the removal of the cellar eliminates 1,140 sq. ft. of floor space, which would have been used for recreation, mechanical space, and storage; as such, the applicant seeks to introduce 535 sq. ft. of floor area to the attic level of the home, to recover some of the lost space; and

WHEREAS, initially, the proposal reflected an additional 618 sq. ft. of floor area, for a total proposed floor area of 3,424 sq. ft. (1.1 FAR); and

WHEREAS, however, in response to the Board’s concerns regarding the incompatibility of the proposal with the neighborhood, the attic was reduced in height, pulled away from the street, and reduced in size; and

WHEREAS, the applicant notes and the Board agrees that the flood zone design requirements of the Building Code and Zoning Resolution will inevitably result in the construction of buildings with more apparent height than currently exist in many flood zone neighborhoods; and

WHEREAS, based on its review of the record, the Board finds that the requested amendment is appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated November 20, 2012, so that as amended the resolution reads: “to permit the noted modifications, including the proposed increase in floor area; *on condition* that all work will substantially conform to drawings, filed with this application marked ‘Received March 18, 2015’ – eight (8) sheets; and *on further condition*:

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THAT the following shall be the bulk parameters of the proposed building: a maximum of 3,304 sq. ft. (1.06 FAR); a minimum open space ratio of 54 percent; a maximum lot coverage of 46 percent; and side yards with minimum widths of 0.7 feet and 4.4 feet, as illustrated on the BSA-approved drawings;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by March 31, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s); and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, March 31, 2015.

545-56-BZ

APPLICANT – Eric Palatnik, P.C., for Williamsbridge Road Realty corporation, owner.

SUBJECT – Application June 12, 2014 – Extension of Term (§11-411) to seek the term of a previously granted variance for a gasoline service station and maintenance which expired October 19, 2012; Waiver of the Rules. C2-4/R5D zoning district.

PREMISES AFFECTED – 2001-2007 Williamsbridge Road aka 1131 Neil Avenue, southeast corner of Williamsbridge Road and Neil Avenue, Block 4306, Lot 20, Borough of Bronx.

COMMUNITY BOARD #11BX

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for adjourned hearing.

25-57-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 221-016 Merrick Blvd. Associates, LLC, owner.

SUBJECT – Application July 31, 2014 – Amendment (§11-413) to permit a change in use (UG 6 retail use) of an existing commercial building in conjunction with alteration of an existing commercial building, demolition of three existing commercial buildings and construction of a new commercial building located within a C2-3 and R3A zoning district.

PREMISES AFFECTED – 221-18 Merrick Blvd, southwest corner of intersection of Merrick Blvd. and 221st Street, Block 13100, Lot(s) 22 & 26, Borough of Queens.

COMMUNITY BOARD #13Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for decision, hearing closed.

1203-65-BZ

APPLICANT – Warshaw Burstein, LLP, for NY Dealers Stations, LLC, owner.

SUBJECT – Application August 20, 2014 – Amendment of a previously approved Special Permit (§73-211) which permitted the operation of an Automotive Service Station (UG 16B) with accessory used. The amendment seeks to permit the conversion of existing services bays to an accessory convenient store. C2-2/R5 zoning district.

PREMISES AFFECTED – 1929 Bruckner Boulevard, northwest corner of the intersection formed by Virginia Avenue and Bruckner Boulevard, Block 3787, Lot 1, Borough of Bronx.

COMMUNITY BOARD #9BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for decision, hearing closed.

35-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Torath Haim Ohel Sara, owner.

SUBJECT – Application September 24, 2014 – Extension of Time to Obtain a Certificate of Occupancy of a previously approved Variance (§72-21) which permitted the legalization of an existing synagogue (Congregation Torath Haim Ohel Sara), contrary to front yard (§24-34), side yard (§24-35) and rear yard (§24-36), which expired on March 8, 2012; Amendment to permit minor changes to the construction; Waiver of the rules. R4 zoning district.

PREMISES AFFECTED – 144-11 77th Avenue, between Main Street and 147th Street, Block 6667, Lot 45, Borough of Queens.

COMMUNITY BOARD #8Q

ACTION OF THE BOARD – Laid over to April 21, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

126-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for McAllister Maritime Holdings, LLC, owner.

SUBJECT – Application June 5, 2014 – Proposed construction of a warehouse building located partially within the bed of mapped unbuilt street, pursuant Article 3 Section 35 of the General City Law. M3-1 zoning district.

PREMISES AFFECTED – 3153 Richmond Terrace, north side of Richmond Terrace at intersection of Richmond

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Terrace and Grandview Avenue, Block 1208, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated June 3, 2014, acting on DOB Application No. 520180508, reads in pertinent part:

1. Proposed construction of warehouse building and 1 accessory off street parking space located partially within the bed of a mapped street is contrary to section 35 of the General City Law. Obtain Board of Standards and Appeals for approval.
2. Proposed new building has Bulk non-compliances resulting from the location of such mapped street. Obtain Board of Standards and Appeals waiver pursuant to 72-01(g); and

WHEREAS, a public hearing was held on this application on March 3, 2015, after due notice by publication in *The City Record*, and then to decision on March 31, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Montanez; and

WHEREAS, this is an application to allow the construction of a one-story warehouse building that will be located partially within the bed of a mapped but unbuilt portion of Richmond Terrace, in Staten Island;

WHEREAS, Community Board 1, Staten Island, recommends approval of the instant application; and

WHEREAS, the subject site is located on the north side of Richmond Terrace at the intersection of Richmond Terrace and Grandview Avenue, in an M3-1 zoning district; and

WHEREAS, the site, which is irregularly shaped, has approximately 462 feet of frontage along Richmond Terrace and a depth of approximately 700 feet, with a lot area of approximately 368,468 sq. ft.; and

WHEREAS, the proposed development will conform and comply with all zoning regulations applicable in an M3-1 zoning district and will contain 9,975 sq. ft. of floor area, including a mezzanine (.02 FAR), which will bring the total floor area of the zoning lot, including existing and already approved structures, to 36,662.6 sq. ft. (.09 FAR) (the maximum permitted FAR for the zoning lot is 2.0); and

WHEREAS, by letter dated February 25, 2014, the New York City Fire Department (“FDNY”) states that it has no objections to the proposed application; and

WHEREAS, by letter dated March 2, 2015, the New York City Department of Environmental Protection (“DEP”) states that it has no objections to the proposed application; and

WHEREAS, by letter dated January 15, 2015, the New

York City Department of Transportation (“DOT”) states that the improvement of Richmond Terrace at the site is not presently included in DOT’s Capital Improvement Program; and

WHEREAS, by letter dated January 15, 2015, DOT requests that:

The applicant must make a provision for the largest design commercial vehicle expected to access the proposed building and parking lot to enter and exit the site safely; and

WHEREAS, the Board notes that pursuant to GCL § 35, it may authorize construction within the bed of the mapped street subject to reasonable requirements; and

WHEREAS, the Board notes that pursuant to ZR § 72-01(g), the Board may waive bulk regulations where construction is proposed in part within the bed of a mapped street; such bulk waivers will be only as necessary to address non compliances resulting from the location of construction within and outside of the mapped street, and the zoning lot will comply to the maximum extent feasible with all applicable zoning regulations as if the street were not mapped; and

WHEREAS, therefore, consistent with GCL § 35 and ZR § 72-01(g), the Board finds that applying the bulk regulations across the portion of the subject lot within the mapped street and the portion of the subject lot outside the mapped street as if the lot were unencumbered by a mapped street is both reasonable and necessary to allow the proposed construction; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the Board modifies the decision of the DOB, dated June 3, 2014, acting on DOB Application No. 520180508, by the power vested in it by Section 35 of the General City Law, and also waives the bulk regulations associated with the presence of the mapped but unbuilt street pursuant to Section 72-01(g) of the Zoning Resolution to grant this appeal, limited to the decision noted above *on condition* that construction will substantially conform to the drawing filed with the application marked “March 18, 2015”- one (1) sheet; and *on further condition*:

THAT DOB will review and approve plans associated with the Board’s approval for compliance with the underlying zoning regulations as if the unbuilt portion of the street were not mapped;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT DOB will review and approve plans associated with the Board’s approval for compliance with the underlying zoning regulations as if the unbuilt street were not mapped;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its

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jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on March 31, 2015.

140-14-A

APPLICANT – Eric Palatnik, P.C., for 1016 East 13th Realty, LLC, owner.

SUBJECT – Application June 16, 2014 – Appeal seeking a determination that the owner has acquires a common law vested rights to complete construction under the prior C4-3A/R6 zoning district. R5 zoning district.

PREMISES AFFECTED – 1016 East 16th 13th Street, Block 6714, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this application seeks a determination from the Board that the owner of the subject site has obtained the right to complete construction of a five-story, mixed residential and community facility building under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on February 10, 2015, after due notice by publication in *The City Record*, with a continued hearing March 10, 2015, and then to decision on March 31, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 14, Brooklyn, recommends disapproval of this application; and

WHEREAS, the subject site is located on the west side of East 13th Street, between Avenue J and Avenue K, within an R5 zoning district; and

WHEREAS, the site has 40 feet of frontage along East 13th Street, and 4,000 sq. ft. of lot area; and

WHEREAS, under construction at the site is a five-story, mixed residential and commercial building with 10,778 sq. ft. of floor area (2.69 FAR) (8,600 sq. ft. of residential floor area (2.15 FAR) and 2,178 sq. ft. of community facility floor area (0.54 FAR)), eight dwelling units, and no accessory parking spaces (the “Building”); and

WHEREAS, the applicant represents that the Building complies with the parameters of the former C4-3 zoning district, which is an R6 equivalent, per ZR § 35-23(a); and

WHEREAS, on December 29, 2005, the Department of Buildings (“DOB”) issued New Building Permit No. 302056343-01-NB (hereinafter, the “New Building Permit”) authorizing construction of the Building; and

WHEREAS, on April 5, 2006, (hereinafter, the

“Enactment Date”), the City Council voted to adopt the Midwood Rezoning, which rezoned the site from C4-3 to R5; and

WHEREAS, as a result of the Midwood Rezoning, the Building no longer complies with following zoning regulations: (1) total FAR (a maximum total FAR of 2.0 is permitted, 2.69 FAR is proposed); (2) residential FAR (a maximum residential FAR of 1.25 is permitted, 2.15 FAR is proposed); (3) maximum street wall height (a maximum street wall height of 30’-0” is permitted, a street wall height of 45’-0” is proposed); (4) maximum building height (a maximum building height of 40’-0” is permitted, a building height of 55’-0” is proposed); (5) lot coverage (a maximum lot coverage of 92 percent is permitted, 100 percent lot coverage is proposed); and (6) side yards (two side yards with minimum widths of 8’-0” are required, no side yards are proposed); and

WHEREAS, the applicant represents that, as of the Enactment Date, the applicant had obtained permits and completed, among other things, 100 percent of the foundations; as such, pursuant to ZR § 11-331, the owner had two years—until April 5, 2008—in which to complete construction pursuant to the New Building Permit and obtain a certificate of occupancy; and

WHEREAS, the applicant notes that subsequent to the Enactment Date, the owner encountered significant financial difficulties; work on the Building ceased and the site was backfilled to grade to preserve public safety and to prevent degradation of the foundation; and

WHEREAS, the applicant states that as of April 5, 2008, construction had not been completed and a certificate of occupancy had not been obtained; accordingly, on May 8, 2008, the owner filed an application under BSA Cal. No. 140-08-BZ and pursuant to ZR § 11-332, seeking reinstatement of the New Building Permit and a two-year extension of time to complete construction; and

WHEREAS, the applicant represents that BSA Cal. No. 140-08-BZ was not prosecuted and the application was withdrawn; and

WHEREAS, accordingly, the applicant now seeks recognition of its vested right to complete construction pursuant to the common law doctrine of vested rights; and

WHEREAS, as set forth below, to establish the owner’s entitlement to a vested right, the applicant relies on the work performed and the expenditures made prior to the Enactment Date, as well as the serious loss that would result from having to comply with the R5 regulations; and

WHEREAS, a threshold matter for the vested rights analysis is that a permit be issued lawfully prior to the Enactment Date and that the work was performed pursuant to such lawful permit; and

WHEREAS, by letter dated November 8, 2014, DOB confirmed that the New Building Permit was lawfully issued, authorizing construction of the Building prior to the Enactment Date; and

WHEREAS, the Board notes that when work proceeds under a lawfully-issued permit, a common law vested right to continue construction after a change in zoning generally exists

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if: (1) the owner has undertaken substantial construction; (2) the owner has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, specifically, as held in *Putnam Armonk, Inc. v. Town of Southeast*, 52 AD 2d 10 (2d Dept 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner's rights under the prior ordinance are deemed vested "and will not be disturbed where enforcement [of new zoning requirements] would cause 'serious loss' to the owner," and "where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance"; and

WHEREAS, however, notwithstanding this general framework, as discussed by the court in *Kadin v. Bennett*, 163 AD 2d 308 (2d Dept 1990) "there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess 'a vested right'. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action"; and

WHEREAS, as noted above, the applicant obtained a permit to construct the Building and performed certain work prior to the Enactment Date; and

WHEREAS, specifically, the applicant states that the work it performed constitutes substantial construction, in that, prior to the Enactment Date, it constructed 100 percent of the foundation, completed all footings and foundation walls, and constructed the elevator pit in the proposed cellar; and

WHEREAS, in support of this statement, the applicant has submitted the following: a breakdown of the construction costs by line item; copies of cancelled checks; construction permits; and photographs of the site; and

WHEREAS, the Board has reviewed the representations as to the amount and type of work completed before and after the Enactment Date and the documentation submitted in support of these representations, and agrees that it establishes that substantial work was performed; and

WHEREAS, as to expenditure, the Board notes that unlike an application for relief under ZR § 11-30 *et seq.*, soft costs and irrevocable financial commitments can be considered in an application under the common law and accordingly, these costs are appropriately included in the applicant's analysis; and

WHEREAS, the applicant represents that the total expenditure paid toward the construction of the Building prior to the Enactment Date is \$296,408 (\$236,612 in hard costs and \$59,796 in soft costs), or approximately 15 percent, out of the \$1,920,000 cost to complete; and

WHEREAS, the applicant also notes that subsequent to the Enactment Date, an additional \$51,356 has been expended, including \$49,131 in soft costs; and

WHEREAS, the Board considers the amount of expenditures significant, both for a project of this size, and when compared with the development costs; and

WHEREAS, the Board's consideration is guided by the percentages of expenditure cited by New York courts

considering how much expenditure is needed to vest rights under a prior zoning regime; and

WHEREAS, as to serious loss, the Board examines not only whether certain improvements and expenditures could not be recouped under the new zoning, but also considerations such as the diminution in income that would occur if the new zoning were imposed and the reduction in value between the proposed building and the building permitted under the new zoning; and

WHEREAS, the applicant states that the R5 floor area and yard regulations are significantly more restrictive than the C4-3 regulations; to demonstrate the serious loss inherent in complying with the current zoning regulations, the applicant explored the feasibility of the following four complying developments: (1) a community facility building with 8,000 sq. ft. of floor area (2.0 FAR) and two side yards with widths of 8'-0"; (2) a mixed residential and community facility building 8,000 sq. ft. of floor area (2.0 FAR) and side yards with widths of 8'-0"; (3) a detached single-family home with 5,000 sq. ft. of floor area (1.25 FAR) and side yards with widths of 5'-0" and 8'-0"; and (4) a semi-detached multiple dwelling with 5,000 sq. ft. of floor area (1.25 FAR), seven dwelling units, and one side yard with a width of 8'-0"; and

WHEREAS, the applicant states that scenarios (1), (2), and (3) would require removal of 100 percent of the foundation and that scenario (4) would require removal of 85 percent of the foundation; the cost of removing the entire foundation would be \$65,000 and the cost of removing 85 percent of the foundation would be \$55,250; and

WHEREAS, in addition to the costs of removing work already performed, the applicant states that the value of each of the complying buildings would be significantly less (at least \$2,500,000 less) than the value of the Building authorized; and

WHEREAS, thus, the applicant states that it would suffer a serious loss if the site was required to comply with the R5 district regulations; and

WHEREAS, the Board agrees that complying with the R5 district regulations would result in a serious economic loss for the applicant; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed and the expenditures made both before and after the Enactment Date, the representations regarding serious loss, and the supporting documentation for such representations, and agrees that the applicant has satisfactorily established that a vested right to complete construction of the Building has accrued to the owner of the premises.

Therefore it is Resolved, that this application made pursuant to the common law doctrine of vested rights requesting a reinstatement of Permit No. 302056343-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for four years from the date of this grant.

Adopted by the Board of Standards and Appeals,

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March 31, 2015.

166-12-A

APPLICANT – NYC Department of Buildings.
OWNER – Sky East LLC c/o Magnum Real Estate Group, owner.
SUBJECT – Application June 4, 2012 – Application to revoke the Certificate of Occupancy. R8B zoning district.
PREMISES AFFECTED – 638 East 11th Street, south side of East 11th Street, between Avenue B and Avenue C, Block 393, Lot 26, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Off-Calendar.

107-13-A

APPLICANT – Law Office of Marvin B. Mitzner LLC, for Sky East LLC, owner.
SUBJECT – Application April 18, 2013 – An appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior R7- 2 zoning district. R7B zoning district.

PREMISES AFFECTED – 638 East 11th Street, south side of East 11th Street, between Avenue B and Avenue C, Block 393, Lot 25, 26 & 27, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Off-Calendar.

315-14-A

APPLICANT – Mitchel A. Korbey, Esq., for 485 Seventh Avenue Associates LLC, owner.
SUBJECT – Application November 21, 2014 – MDL (Multiple Dwelling Law (section 310(2)(a) for waivers to permit the conversion of and small addition to the building, located within an M1-6 Special Garment Center District.

PREMISES AFFECTED – 485 Seventh Avenue, northeast corner of West 36th Street and Seventh Avenue, Block 812, Lot 1 & 2, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for continued hearing.

16-15-A

APPLICANT – Sheldon Lobel, P.C., for Alan Bigel, owner; Blue School, lessee.

SUBJECT – Application January 23, 2015 – BCG304 to permit the redevelopment of the existing building, The Blue School, a new middle school, located within a flood hazard area. C6-2 zoning district.

PREMISES AFFECTED – 233-235 Water Street, east of the intersection of Water Street and Beekman Street, Block 97, Lot 49, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

ZONING CALENDAR

225-13-BZ

APPLICANT – Eric Palatnik, P.C., for Yitta Neiman, owner.

SUBJECT – Application July 25, 2013 – Variance (§72-21) to permit the development of a three-family, four-story residential building, contrary to use regulations (§42-00). M1-2 zoning district.

PREMISES AFFECTED – 810 Kent Avenue, east Side of Kent Avenue between Little Nassau Street and Park Avenue, Block 1883, Lot 35, 36, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Application withdrawn.

Adopted by the Board of Standards and Appeals, March 31, 2015.

254-13-BZ

CEQR #14-BSA-032K

APPLICANT – Law Office of Marvin B. Mitzner, for Moshe Packman, owner.

SUBJECT – Application August 30, 2013 – Variance (§72-21) to permit a residential development, contrary to floor area (§23-141(a)), dwelling units (§23-22), lot coverage (§23-141(a)), front yard (§23-45(a)), side yard (§23-462(a)), and building height (§23-631(b)) regulations. R3-2 zoning district.

PREMISES AFFECTED – 2881 Nostrand Avenue, east side of Nostrand Avenue between Avenue P and Marine Parkway, Block 7691, Lot 91, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated August 14, 2013 acting on DOB Application No. 320590099, reads in pertinent part:

Proposed floor area exceed[s] maximum permitted for bldg.

Proposed 26 dwelling units exceed[s] maximum permitted for zoning lot

Proposed bldg. exceed[s] maximum aggregate street width of 125’

Proposed bldg. is within required front yard and is prohibited

Proposed bldg. is built within one of two required side yards and is prohibited

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Proposed bldg. exceed[s] maximum height permitted; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R3-2 zoning district, the construction of a four-story residential building that does not comply with the zoning regulations for floor area, maximum number of dwelling units, front yards, lot coverage and height, contrary to ZR §§ 23-141, 23-22, 23-45, and 23-631; and

WHEREAS, a public hearing was held on this application on February 11, 2014, after due notice by publication in the *City Record*, with continued hearings on June 10, 2014, July 15, 2014, September 23, 2014, November 18, 2014 and December 16, 2014, and then to decision on March 31, 2015; and

WHEREAS, Vice Chair Hinkson and Commissioners Montanez and Ottley-Brown performed an inspection of the site and premises, as well as the surrounding area and neighborhood; and

WHEREAS, Community Board 18, Brooklyn, recommends disapproval of the application; and

WHEREAS, the subject site is an irregularly shaped through lot with approximately 160 feet of frontage along Nostrand Avenue, and approximately four feet of frontage along Marine Parkway, between Avenue P, to the south, and the convergence of Nostrand Avenue and Marine Parkway, to the north, within an R3-2 zoning district; and

WHEREAS, the site has approximately 12,796 sq. ft. of lot area and is currently improved with a one-story automobile service station; and

WHEREAS, initially, the applicant proposed to construct a new 26-unit residential building containing a total of 31,201.5 sq. ft. of floor area (2.4 FAR), comprised of four stories and a penthouse; and

WHEREAS, in response to the Board's concerns, the proposal was modified such that the applicant withdrew its application for a waiver related to street width pursuant to ZR §23-463 and side yards pursuant to ZR §23-631(b) and reduced the lot coverage of the building by 40 percent in order to accommodate the required parking on the surface of the lot; and

WHEREAS, thus, the applicant now proposes to construct a four-story building with a height of forty feet (the maximum height permitted is 21'-0") consisting of 21,827 sq. ft. of floor area (1.71 FAR) (the maximum permitted FAR is 0.5), lot coverage of 56 percent (a maximum lot coverage of 35 percent is permitted), no front yard (a front yard of 15'-0" is required) containing 19 dwelling units (the maximum number permitted is seven dwelling units); and

WHEREAS, accordingly, the applicant seeks a variance to permit the proposed FAR for the building, the proposed number of dwelling units within the building, the proposed lot coverage of the building, the proposed height of the building, and the proposed non-complying front yard; and

WHEREAS, the applicant states that, in accordance with ZR § 72-21(a), the unique physical condition that creates

practical difficulties and unnecessary hardships in developing the site in compliance with applicable regulations relate to the significant environmental contamination at the site attributable to previous automotive related uses thereof, and the cost of remediating such contamination which result in premium construction costs; and

WHEREAS, the applicant asserts that the site, which was used as a car wash facility for approximately 65 years, was subject to regular discharge of hazardous and toxic materials, and provided a Remedial Corrective Action Report prepared by Tri-State Drilling Technologies Inc., together with the applicant's Environmental Assessment Statement which establish that volatile and semi-volatile organic compounds and heavy metals were present in the soil of the site, as were petroleum products and debris associated with the aforesaid automotive use; and

WHEREAS, the applicant states that the site must be substantially excavated and soil must be removed from the site in both the as-of-right and proposed development scenarios; and

WHEREAS, specifically, the applicant states that an as-of-right multiple dwelling would require excavation and remediation of the soil under the existing building in an area of 5,741.5 sq. ft., to a depth of at least nine feet, as well as remediation under such a building to a depth of at least 12 feet, at an estimated cost of \$1,244,610; and

WHEREAS, the applicant further states that an as-of-right one and two-family home development would require excavation and remediation of the soil under the existing building in an area of 5,741.5 sq. ft., to a depth of at least nine feet, as well as remediation under such buildings to a depth of at least two feet, at an estimated cost of \$669,102; and

WHEREAS, thus, the applicant contends that there are physical conditions that create practical difficulties in constructing a building in compliance with applicable bulk regulations; and

WHEREAS, the applicant also contends that such physical conditions are unique in that they are owing to the historic use of the site for a car wash and automobile repair facility, rather than widespread neighborhood contamination; and

WHEREAS, the applicant notes that the proposed development plan requires excavation and remediation of the soil under the proposed building at a cost of \$1,441,105; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical condition creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable bulk regulations; and

WHEREAS, to satisfy ZR § 72-21(b), the applicant assessed the financial feasibility of both an as-of-right development multiple dwelling and also three as-of-right two-story buildings with one one-story building, both with the support of a financial analysis; and

WHEREAS, the applicant states that an as-of-right multiple dwelling would be comprised of a seven unit building consisting of 6,275 sq. ft. of floor area and containing seven dwelling units with an average size of 711 square feet, and that

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such as-of-right development would result in an annualized loss of \$2,005,000, and is therefore not feasible; and

WHEREAS, the applicant states that an as-of-right development consisting of three two-story buildings and one one-story building would consist of 6,265 sq. ft. of floor area and would contain, in total, seven dwelling units with an average size of 864 square feet, and that such as-of-right development would result in an annualized loss of \$226,000, and is therefore not feasible; and

WHEREAS, the applicant states that the proposed development consisting of a single four-story building with 19 units would yield an annualized return of 1.4 percent on the total investment; and

WHEREAS, the Board inquired as to the methodology employed by the applicant in calculating the costs of the remediation necessary at the site; and

WHEREAS, the applicant clarified its methodology in evaluating the remediation costs associated with multiple scenarios, including the proposed development and the as-of-right development scenarios, which methodology includes an examination of costs including transportation and disposal costs, contractor costs, the costs of installing a vapor barrier, and the costs incurred in hiring environmental consultants, all of which are determined by the size of the project and the total volume of soil to be remediated; and

WHEREAS, based upon its review of the record, the Board has determined that because of the subject site's unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed use will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the surrounding area consists of a mix of single-story commercial buildings, two- and three-story residential buildings and a number of four-story apartment buildings; and

WHEREAS, the applicant provided the Board with a streetscape identifying the FAR and heights of buildings in the surrounding area, which shows that buildings in the surrounding area range in height from 11 feet to 61 feet, and noted that a number of sites exceed the allowable FAR for the zoning district; and

WHEREAS, at the hearing, the Board directed the applicant to lower the initially proposed height of the building and provide parking on the surface of the site; and

WHEREAS, in response to the Board's directive, the applicant reduced the height of the proposed building, the number of proposed units within the building and provided the required parking on the surface of the lot; and

WHEREAS, thus, the Board finds that this action will neither alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, likewise, the Board finds, per ZR § 72-

21(d), that the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the unique physical characteristics of the site, specifically the site's history of permitted industrial use as an automobile repair shop and car wash; and

WHEREAS, finally, the applicant asserts and the Board agrees that the current proposal is the minimum necessary to offset the hardship associated with the uniqueness of the site and to afford the owner relief, in accordance with ZR § 72-21(e); as noted above, the scope and number of waivers initially sought by the applicant were reduced in response to the Board's concerns; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Sections 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 14-BSA-032K, dated August 1, 2013; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit the construction of a four-story residential building that does not comply with the zoning regulations for floor area, maximum number of dwelling units, front yards, lot coverage, and height, contrary to ZR §§ 23-141, 23-22, 23-45, and 23-631, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "March 23, 2015" – six (6) sheets; and *on further condition*:

THAT the bulk parameters of the building will be as follows: four stories with a height of 40'-0" consisting of 21,827 sq. ft. of floor area (1.71 FAR) and containing 19

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apartments, with no front yard, side yards of 20'-0" and 15'-0", a 30'-0" rear yard, lot coverage of 56 percent and 19 parking spaces;

THAT interior partitions shall be as reviewed and approved by DOB;

THAT the applicant shall comply in all respects with the February 2015 Remedial Action Report (RAP) and Construction Health and Safety Plan (CHASP) prepared in conjunction with the proposed development and shall provide a Professional Engineer-certified Remedial Closure Report to DEP upon the completion of the project, which report shall indicate that all remedial requirements as set forth in the RAP and CHASP have been properly implemented and shall include "CEQR # 14BSA032K" as a reference to DEP; and

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT substantial construction will be completed in accordance with ZR § 72-23;

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 31, 2015.

46-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Boerum Place LLC, owner; for Blink Atlantic Avenue, Inc., lessee.

SUBJECT – Application March 20, 2014 – Special Permit (§73-36) to allow the physical culture establishment (*Blink Fitness*) within portions of a new commercial building. C2-4 (R6A) (DB) zoning districts.

PREMISES AFFECTED – 252/60 Atlantic Avenue, southeast corner of intersection of Atlantic Avenue and Boerum Place, Block 181, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated March 10, 2014, acting on DOB Application No. 320502210, reads, in pertinent part:

Physical culture establishment needs BSA approval as per ZR73-36 and ZR 12-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an R6A (C2-4) zoning district, partially within the Special Downtown Brooklyn

District, a physical culture establishment (the "PCE") on the cellar and first story of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on March 10, 2015, after due notice by publication in the *City Record*, and then to decision on March 31, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 2, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is a corner lot with 100.25 ft. of frontage on Atlantic Avenue, 159.42 ft. of frontage on Boerum Place, and 100 ft. of frontage on Pacific Street, within an R6A (C2-4) zoning district;

WHEREAS, the northerly half of the site, fronting on Atlantic Avenue, is located within the Special Downtown Brooklyn District; and

WHEREAS, the site contains approximately 16,240.21 sq. ft. of lot area and the subject two-story building will contain approximately 32,480 sq. ft. of floor area, with the PCE occupying 1,386 sq. feet of floor area on the first floor and 13,555 sq. ft. of floor space in the cellar of the building; and

WHEREAS, the PCE will operate as Blink Fitness; and

WHEREAS, the hours of operation for the PCE will be Monday through Saturday, from 5:30 a.m. to 11:00 p.m., and on Sunday from 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as

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amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an R6A (C2-4) zoning district, partially within the Special Downtown Brooklyn District, the operation of a PCE on the first story and cellar of a two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “March 18, 2015, four (4) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on March 31, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all massages at the PCE shall be performed by New York State licensed massage therapists;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by March 31, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 31, 2015.

56-14-BZ

APPLICANT – Walter Gorman, P.E.P.C., for Leemilts Petroleum Ink., owner; Capitol Petroleum Group, lessee.

SUBJECT – Application April 10, 2014 – Re-Instatement (§11-411) of a variance which permitted an auto service station (UG16B), with accessory uses; Waiver of the Rules. C1-3/R3-A zoning district.

PREMISES AFFECTED – 161-51/6 Bailey Boulevard, northwest corner of Guy Brewer Boulevard, Block 12256, Lot 36, Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a reinstatement of a prior variance authorizing a gasoline service station (Use Group 16) contrary to use regulations; and

WHEREAS, a public hearing was held on this application on October 28, 2014, after due notice by publication in *The City Record*, with continued hearings on January 6, 2015 and March 10, 2015, and then to decision on March 31, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 12, Queens, recommends disapproval of this application; and

WHEREAS, the subject site is located on the northwest corner of the intersection of Guy R. Brewer Boulevard and Baisley Boulevard, within an R3A (C1-3) zoning district; and

WHEREAS, the site has 100 feet of frontage along Guy R. Brewer Boulevard, 87.28 feet of frontage along Baisley Boulevard, and approximately 9,342 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story building with 1,800 sq. ft. of floor area (0.19 FAR); the building is occupied by a gasoline service station (Use Group 16); in addition, the site has parking for six automobiles; and

WHEREAS, the Board has exercised jurisdiction over the site since April 15, 1952, when, under BSA Cal. No. 782-51-BZ, it granted a variance authorizing the operation of a gasoline service station with accessory uses contrary to the use regulations of the 1916 Zoning Resolution, for a term of 15 years, to expire on April 15, 1967; this grant was amended at various times; its term last expired on January 31, 1977; and

WHEREAS, on May 16, 1989, under BSA Cal. No. 847-87-BZ, the Board reinstated the grant pursuant to ZR § 11-411 and authorized the continued operation of the gasoline service station for a term of five years, to expire on May 16, 1994; and

WHEREAS, on September 19, 1995, the Board extended the term of the 1989 grant for ten years, to expire on May 16, 2004; and

WHEREAS, because the variance has been expired for more than ten years, the applicant requests a waiver of the Rules of Practice and Procedure and seeks reinstatement of the variance pursuant to ZR § 11-411; and

WHEREAS, pursuant to 2 RCNY § 1-07.3(b)(4), the Board may reinstate a use variance granted under the 1916 Zoning Resolution, provided that: (i) the use has been continuous since the expiration of term; (ii) substantial prejudice would result without such reinstatement; and (iii) the use permitted by the grant does not substantially impair the appropriate use and development of adjacent properties; and

WHEREAS, the applicant states that the use has been continuous at the site since the expiration of the term in 2004; in support of this statement, the applicant provided various records from Consolidated Edison, the New York Department of Environmental Protection, the New York State Department of State Division of Corporations, and

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New York City Department of Consumer Affairs; and

WHEREAS, the applicant asserts that substantial prejudice would result without the requested reinstatement of the variance, in that absent such reinstatement, the owner of the site will not be able to obtain a certificate of occupancy (“CO”) for the gasoline service station from the Department of Buildings; if the owner does not obtain a CO, it may be subject to violations from DOB and it may encounter difficulties in financing, leasing, or selling the site; and

WHEREAS, the applicant contends that the subject gasoline service station is compatible with the surrounding neighborhood and does not substantially impair the appropriate use and development of adjacent properties; and

WHEREAS, the applicant states that the service station is a long-standing business, upon which the neighborhood relies; the applicant notes that uses in the immediate area are commercial in nature, as reflected by the rezoning of the site subsequent to the 1995 grant from R3-2 to R3A (C1-3); the applicant also notes that the only site directly abutting the subject site (Lot 35) is owned and controlled by the owner of the subject site; and

WHEREAS, additionally, the applicant submitted a vehicle circulation plan, which demonstrates that the operation of the site will not negatively impact traffic in the neighborhood, and agreed to direct all lighting at the site downward and away from adjacent residential uses; and

WHEREAS, based on the applicant’s representations, the Board accepts the proposed application as a request for a reinstatement of a pre-1961 use variance; and

WHEREAS, at hearing, the Board directed the applicant to: (1) provide a security fence around adjacent Lot 35 (which the applicant states the owner of the subject site owns), remove all debris and vegetation from the lot, and install a security camera to monitor the lot; (2) provide additional landscaping along the northern boundary of the site; (3) remove all clothing donation bins from the site; (4) repair all fencing, including slats; and (5) remove all excessive signage from the site; and

WHEREAS, in response, the applicant provided photos depicting the construction of the requested security fence (including repair of the fence slats), the removal of all debris and vegetation from Lot 35, and the removal of the clothing bins and excessive signage from the site; in addition, the applicant submitted amended drawings depicting the additional landscaping, the security camera system, and all required fencing at the site; and

WHEREAS, based upon the above, the Board finds that the evidence in the record supports the findings required to be made under ZR § 11-411, and the requested reinstatement of the variance for a term of five years is appropriate, with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, and, pursuant to ZR § 11-411, *reinstates* a previously-granted variance to permit, on a site located within an R3A (C1-3) zoning district, the operation of a gasoline service station (Use

Group 16), contrary to use regulations; *on condition* that all work will substantially conform to plans, filed with this application marked ‘Received February 20, 2015’– four (4) sheets; and *on further condition*:

THAT this grant shall be limited to a term of five years, to expire on March 31, 2020;

THAT signage, fencing, and landscaping will be maintained in accordance with the BSA-approved plans;

THAT lighting shall be directed downward and away from residential uses;

THAT the site shall be maintained free of debris and graffiti;

THAT there shall be no outdoor repairs;

THAT parking shall be limited to six passenger automobiles;

THAT there shall be no truck parking and no parking on the sidewalk;

THAT lighting shall be directed downward and away from adjoining residences;

THAT the above conditions shall be noted in the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by March 31, 2016;

THAT all conditions from prior resolutions not specifically waived by the Board shall remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s); and

THAT DOB shall ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

(DOB Application No. 420932334)

Adopted by the Board of Standards and Appeals, March 31, 2015.

63-14-BZ

CEQR #14-BSA-142X

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 188 W. 230th Street Corporation, owner; Atlas Athletics, Inc., lessee.

SUBJECT – Application April 23, 2014 – Special Permit (§73-36) to allow the legalization of an existing physical culture establishment (*Astral Fitness*). M1-1 zoning district. PREMISES AFFECTED – 5500 Broadway, southeast corner of intersection of Broadway and W 230th Street, Block 3264, Lot 109, Borough of Bronx.

COMMUNITY BOARD #8BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

THE RESOLUTION –

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WHEREAS, the decision of the Department of Buildings (“DOB”), dated April 3, 2014, acting on DOB Application No. 220358146, reads, in pertinent part:

Proposed physical culture establishment is contrary to ZR 42-31 and BSA 74-00 BZ; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within an M1-1 zoning district, a physical culture establishment (the “PCE”) in the cellar of a three-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on December 16, 2014 after due notice by publication in the *City Record*, with a continued hearing on March 3, 2015, and then to decision on March 31, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Ottley-Brown; and

WHEREAS, Community Board 8, Bronx, recommends approval of this application; and

WHEREAS, the subject site is a corner lot with 113.62 feet of frontage on Exterior Street and 110.62 feet of frontage on West 230th Street, within an M1-1 zoning district, in the Bronx; and

WHEREAS, the site contains approximately 14,765 sq. ft. of lot area and is occupied by a three-story commercial building with approximately 31,455 sq. ft. of floor area; and

WHEREAS, authorization to operate the PCE was initially granted under BSA Cal. No. 74-00-BZ, which expired on October 17, 2010 and which was not timely renewed by the applicant; and

WHEREAS, the applicant represents that the site and premises have not undergone any material changes since the initial authorization and that the operator of the facility is unchanged; and

WHEREAS, the PCE will operate as Astral Fitness; and

WHEREAS, the hours of operation for the PCE will be Monday through Friday, from 5:30 a.m. to 10:30 p.m., Saturday, from 7:00 a.m. to 8:00 p.m., and on Sunday from 7:00 a.m. to 6:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the

community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No.14-BSA-142X, dated April 23, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site within an M1-1 zoning district, the operation of a PCE in the cellar of a three-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “March 23, 2015”- Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on March 31, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by March 31, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 31, 2015.

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122-14-BZ

APPLICANT – Lewis E Garfinkel, for Ariel Boiangiu, owner.

SUBJECT – Application October 21, 2014 – Special Permit (§73-622) for the enlargement of an existing single family semi-detached home contrary to floor area and open space ZR 23-141; side yards ZR 23-461 and less than the required rear yard ZR 23-47. R2 zoning district.

PREMISES AFFECTED – 1318 East 28th Street, west side of 28th Street 140 feet of Avenue M, Block 7663, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 22, 2014, acting on DOB Application No. 320595129, reads in pertinent part:

1. The proposed enlargement exceeds the 0.50 maximum permitted floor area ratio contrary to ZR 23-141(a);
2. The proposed enlargement exceeds the 150 maximum permitted open space ratio contrary to ZR 23-141(a);
3. Two side yards are required for a total of 13’-0” with any side yard a minimum width of 5’-0”; the proposed side yards are contrary to ZR 23-461(a);
4. The proposed rear yard is less than the 30 feet required contrary to ZR 23-47; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a semi-detached, two-story, single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, and rear and side yards, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on October 21, 2014, after due notice by publication in *The City Record*, with continued hearings on November 25, 2014, January 6, 2015, February 10, 2015, and March 10, 2015, and then to decision on March 31, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of East 28th Street, between Avenue M and Avenue N, within an R2 zoning district; and

WHEREAS, the site has 20 feet of frontage along East 28th Street and 2,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a semi-detached, two-story, single-family home with 1,372 sq. ft. of floor area (0.68 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the building, resulting in an increase in the floor area from 1,372 sq. ft. (0.68 FAR) to 2,000 sq. ft. (1.0 FAR); the maximum permitted floor area is 1,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant seeks to maintain and extend its non-complying side yards, which have widths of 6’-10” and 0’-0” (the home is semi-detached with the home directly south of the site); the requirement is two side yards with a minimum total width of 13’-0” and a minimum width of 5’-0” each; and

WHEREAS, the applicant seeks to decrease its non-complying open space ratio from 91 percent and to 54 percent; a minimum open space ratio of 150 percent is required; and

WHEREAS, the applicant seeks to decrease its rear yard from 32’-10” to 20’-0”; the requirement is a minimum depth of 30’-0”; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, at a hearing, the Board directed the applicant to: (1) modify the attic to reduce the apparent height and mass of the home; and (2) provide analysis of the surrounding rear yard conditions to support the assertion that a rear yard with a depth of 20’-0” is consistent with neighborhood character; and

WHEREAS, in response, the applicant modified the attic at the front and at the rear; the applicant also provided photos and a land use study, which demonstrate that the proposed rear yard depth does not negatively impact the character of the neighborhood; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a semi-detached, two-story, single-family home, which does not comply with the zoning requirements for FAR, open space ratio, and rear and side yards, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to

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drawings as they apply to the objections above-noted, filed with this application and marked "Received March 19, 2015"– twelve (12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 2,000 sq. ft. (1.0 FAR), one side yard with a minimum width of 6'-10", a minimum open space ratio of 54 percent, and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by March 31, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 31, 2015.

143-14-BZ

CEQR #14-BSA-182K

APPLICANT – Eric Palatnik, P.C., for Wanda Y. Ng, owner; 99 Health Club Inc., lessee.

SUBJECT – Application June 20, 2014 – Special Permit (§73-36) to allow for the proposed physical culture establishment (*99 Health Club Inc.*) in the cellar, first and second floor of two story building in an M1-1 zoning district.

PREMISES AFFECTED – 746 61st Street, between 7th and 8th Avenue, Block 5794, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #7BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated May 9, 2014, acting on DOB Application No. 320959539, reads, in pertinent part:

Proposed Physical Culture Establishment at zoning M1-1 is not permitted as of right and a special permit by the Board of Standards and Appeals (BSA) is required as per ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, a physical culture establishment (the "PCE") that will operate

in the cellar, ground floor, and second floor of a two-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on March 10, 2014 after due notice by publication in the *City Record*, and then to decision on March 31, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 7, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site has 40 feet of frontage on the south side of 61st Street, between 7th Avenue and 8th Avenue, within an M1-1 zoning district, in Brooklyn; and

WHEREAS, the site contains approximately 4,934 sq. ft. of lot area and is occupied by a two-story and cellar commercial building with approximately 4,419 sq. ft. of floor area; and

WHEREAS, the proposed PCE will occupy a total of 4,414 sq. ft. of lot area on the first floor of the building and 4,608.33 sq. ft. of floor space in the cellar of the building;

WHEREAS, the second floor of the building will be utilized solely for mechanical equipment and will not be occupied by the proposed PCE;

WHEREAS, the PCE will operate as 99 Health Club, Inc.; and

WHEREAS, the hours of operation for the PCE will be seven days a week, 24 hours per day; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 14-BSA-182K, dated June 20, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in

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accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, the operation of a PCE in the cellar and first floor of a two-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “March 17, 2014”- six (6) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on March 31, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all massages at the PCE shall be performed by New York State licensed massage therapists;

THAT accessibility compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by March 31, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution (including those provisions related to parking at the subject site), the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 31, 2015.

241-14-BZ CEQR #15-BSA-081M

APPLICANT – Warshaw Burstein, LLP, for Tiago Holdings, LLC, owner; East River Plaza Fitness Group, LLC, lessee.

SUBJECT – Application October 3, 2014 – Special Permit (§73-36) to allow the operation of physical culture establishment (*Planet Fitness*) on a portion of the third floor of the existing large scale development. C4-4 zoning district. PREMISES AFFECTED – 517 East 117th Street, located within a large scale development located along FDR Drive between East 116th Street and 119th Streets, Block 1715,

Lot(s) 22, 8, Borough of Manhattan.

COMMUNITY BOARD #11M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated September 30, 2014, acting on DOB Application No. 104161835, reads, in pertinent part:

Physical Culture Establishment is not permitted as-of-right in C4-4 district (ZR 32-10); and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C4-4 zoning district, the operation of a physical culture establishment (the “PCE”) in a portion of the third story of a six-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on March 10, 2015 after due notice by publication in the *City Record*, and then to decision on March 31, 2015; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Vice-Chair Hinkson; and

WHEREAS, Community Board 11, Manhattan, recommends approval of this application; and

WHEREAS, the subject site spans Blocks 1715 and 1716, with frontages along Franklin Delano Roosevelt Drive, East 117th Street, East 118th Street, and East 119th Street and 176,074 sq. ft. of lot area; it is known as the East River Plaza; and

WHEREAS, the site was developed pursuant to a 2007 City Planning Commission Special Permit (Lead ULURP Appl. No. C990098 ZMM) that rezoned the site from M2-2 and R7-2 to C4-4; and

WHEREAS, the site is occupied by two six-story commercial buildings (a retail and wholesale shopping center and a public parking garage) connected by a footbridge; the site has a total of 507,265 sq. ft. of floor area and 1,248 parking spaces; and

WHEREAS, the PCE occupies 14,477 sq. ft. on the third story of the retail and wholesale building; and

WHEREAS, the PCE operates as Planet Fitness; and

WHEREAS, the hours of operation for the PCE will be seven days a week, 24 hours per day; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, at hearing, the Board directed the

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applicant to: (1) confirm that a fire alarm and sprinkler systems have been installed within the PCE and are operational; and (2) amend the proposed drawings to reflect the proposed sound attenuation measures; and

WHEREAS, in response, the applicant confirmed that the fire alarm and sprinkler systems have been installed and are operational; in addition, the applicant submitted amended drawings that reflect the proposed sound attenuation measures; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the Board notes that the term of the grant has been reduced to reflect the operation of the PCE without the special permit; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-081M, dated October 3, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site within a C4-4 zoning district, the operation of a physical culture establishment (the "PCE") in a portion of the third story of a six-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "March 26, 2015"- Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on January 1, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be

signed off by DOB and all other relevant agencies by March 31, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 31, 2015.

350-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Overcoming Love Ministries, owner.

SUBJECT – Application December 31, 2012 – Variance (§72-21) to permit the construction of an 11-story community facility/residential building, contrary to use regulations (§42-00). M3-1 zoning district.

PREMISES AFFECTED – 5 32nd Street, southeast corner of 2nd Avenue and 32nd Street, Block 675, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for continued hearing.

264-13-BZ

APPLICANT – Francis R. Angelino, Esq., for David Lowenfeld, owner; BB Fitness dba Brick Crossfit NYC, lessee.

SUBJECT – Application September 6, 2013 – Special Permit (§73-36) to legalize a physical culture establishment (*Brick CrossFit*) on the ground floor and cellar of an existing 10-story building. C6-2A zoning district.

PREMISES AFFECTED – 257 West 17th Street, north side, West 17th Street, between 7th & 8th Avenues, Block 767, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to May 12, 2015, at 10 A.M., for continued hearing.

59-14-BZ

APPLICANT – Caroline G. Harris, for School Settlement Association Ink., owner.

SUBJECT – Application April 10, 2014 – Variance (§72-21) to permit the construction of a four-story plus penthouse community facility (UG 4), contrary to (24-11). R6B zoning district.

PREMISES AFFECTED – 114-122 Jackson Street, located on the SW corner of the Intersection of Jackson Street and

MINUTES

Manhattan Avenue. Block 2748, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for continued hearing.

124-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Yuriy Teyf, owner.
SUBJECT – Application June 2, 2014 – Special Permit (§73-622) for the enlargement of a single-family detached residence to be converted into a two-family home contrary to floor area, lot coverage and open space (ZR §23-141); side yards (ZR §23-461) and less than the required rear yard (ZR §23-47). R4 zoning district.

PREMISES AFFECTED – 1112 Gilmore Court, southern side of Gilmore Court between East 11th Street and East 12th Street, Block 7455, Lot 74, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to May 12, 2015, at 10 A.M., for continued hearing.

238-14-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for DDG 100 Franklin, LLC., owner.

SUBJECT – Application October 1, 2014 – Variance (§72-21) to permit the construction of two mixed residential and commercial buildings on a single zoning lot contrary to §§35-21 & 23-145 (Lot Coverage), 35-24c (Height and setback), 35-52 and 33-23 (minimum width of open area along a side lot line and permitted obstruction regulations), 35-24b (Street wall location). C6-2A Zoning District, Historic District.

PREMISES AFFECTED – 98-100 Franklin Street, Bounded by Avenue of the Americas, Franklin and White Streets, West Broadway, Block 00178, Lot 0029, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to April 21, 2015, at 10 A.M., for continued hearing.

**REGULAR MEETING
TUESDAY AFTERNOON, MARCH 31, 2015
1:00 P.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

303-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for SoBro Development Corporation, owner.

SUBJECT – Application November 15, 2013 – Variance (§72-21) to allow a new mixed use building with 36 residential units and community facility space. R6 & C1-4 zoning districts.

PREMISES AFFECTED – 506-510 Brook Avenue, east side of Brook Avenue between 147th and 148th Street, Block 2274, Lot(s) 6, 7 and 8, Borough of Bronx.

COMMUNITY BOARD #1BX

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

147-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Iris E. Shalam, owner.

SUBJECT – Application June 24, 2015 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area ZR 23-141; and less than the required rear yard ZR 23-47. R3-1 zoning district.

PREMISES AFFECTED – 4167 Ocean Avenue, east side of Ocean Avenue between Hampton Avenue and Oriental Boulevard, Block 8748, Lot 227, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for decision, hearing closed.

171-14-A & 172-14-BZ

APPLICANT – Law Office of Steven Simicich, for Dxngmnt2, LLC, owner.

SUBJECT – Application July 22, 2014 – Proposed construction of a single family detached home on the site which a portion is located within the bed of a mapped street, pursuant to the General City Law 35 and requires a waiver under ZR Section 72-01(g). Variance (§72-21) to allow for the reduction in the required front yard fronting from 10' to 4'. R3A zoning district.

PREMISES AFFECTED – 235 Dixon Avenue, corner of Dixon and Granite Avenue, Block 1172, Lot 244, Borough of Staten Island.

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COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to April 21, 2015, at 10 A.M., for continued hearing.

204-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Wythe Berry LLC, owner.

SUBJECT – Application August 25, 2014 – Special Permit (§73-44) for reduction of required off-street parking spaces for proposed ambulatory diagnostic or treatment health care facilities (UG 4A) and commercial office use (UG 6B listed in Use Group 4 and PRC-B1. M1-2 Zoning District.

PREMISES AFFECTED –55 Wythe Avenue, between North 12th Street and North 13th Street, Block 2283, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Laid over to May 12, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

BULLETIN

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April 22, 2015

DIRECTORY

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SUSAN M. HINKSON, *Vice-Chair*

DARA OTTLEY-BROWN

EILEEN MONTANEZ

Commissioners

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DOCKETS

New Case Filed Up to April 14, 2015

75-15-BZ

153-157 Sherman Avenue, located 100' east of the intersection of Academy Street and Sherman Avenue, Block 02221, Lot(s) 0005, Borough of **Manhattan, Community Board: 12**. Variance (§72-21) to permit the construction of a school (UG 3) contrary to front setback requirements (§24-522). C1-4/R7-2 zoning district. C1-2/R7-2 district.

76-15-BZ

1825 East 22nd Street, east side of East 22nd Street between Quentin Road and Avenue R, Block 06805, Lot(s) 0057, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to permit the enlargement of a one family home. R3-2 zoning district. R3-2 district.

77-15-BZ

244-36 85th Avenue, Southside of 85th Avenue, 40ft. West of intersection with 246th Street, Block 08609, Lot(s) 22, Borough of **Queens, Community Board: 13**. Variance (§72-21) to allow the alteration of an existing two-family dwelling on the second floor and an enlargement, located within an R2A zoning district. R2A district.

78-15-BZ

201 East 66th Street, Third Avenue bet between 66th and 67th Street, Block 01421, Lot(s) 1, Borough of **Manhattan, Community Board: 8**. Special Permit (§73-36) to allow the operation of a Physical Culture Establishment (PCE) (Boom Fitness) on the first floor and sub- cellar of a twenty one (21) story mixed-use building located within an C1-9 zoning district. C1-9 district.

79-15-BZ

3094 Dare Place, Through lot from Dare Place to Casler Place, approximately 170 feet East of Pennyfield Avenue, Block 05529, Lot(s) 487, Borough of **Bronx, Community Board: 10**. Variance (§72-12) to propose construction of two semi-attached two family dwellings that are on separate tax lots which area proposing to be four detached family dwelling on a single zoning lot which is not permitted contrary to rear yard, rear wall, and parking spacing and unenclosed and driveways shall not permitted, located within an R3-1 zoning district. R3-1 district.

80-15-BZ

3093 Casler Place, Through lot from Dare Place to Casler Place, approximately 170 feet East of Pennyfield Avenue, Block 05529, Lot(s) 500, Borough of **Bronx, Community Board: 10**. Variance (§72-21) propose construction of two semi-attached two family dwellings that are on separate tax lots which are proposing to be four detached family dwelling on a single zoning lot which is not permitted contrary to rear yard, rear wall and parking spacing and unenclosed driveways, shall not be permitted, located within an R3-1 zoning district. R3-1 district.

81-15-BZ

3095 Casler Place, Through lot from Dare Place to Casler Place, approximately 170 feet East of Pennyfield Avenue, Block 05529, Lot(s) 488, Borough of **Bronx, Community Board: 10**. Variance (§72-12) proposed construction of two semi-attached two family dwellings that are on separate tax lots which area proposing to be four detached family dwelling on a single zoning lot which is not permitted contrary to rear yard, rear wall, and parking spacing and unenclosed and driveways shall not be permitted, located within an R3-1 zoning district. R3-1 district.

82-15-BZ

3098 Dare Place, Through lot from Dare Place to Casler Place, approximately 170 feet East of Pennyfield Avenue, Block 05529, Lot(s) 489, Borough of **Bronx, Community Board: 10**. Variance (72-12) to propose construction of two semi-attached two family dwellings that are on separate tax lots which are proposing to be four detached family dwelling on a single zoning lot which is not permitted contrary to rear yard, rear wall, and parking spacing and unenclosed driveways shall not be permitted, located within an R3-1 zoning district. R3-1 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

APRIL 28, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 28, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

584-55-BZ

APPLICANT – Nasir J. Khanzada, PE, for Gurnam Singh, owner.

SUBJECT – Application June 11, 2014 – Amendment (§11-412) of a previously approved variance which permitted the alteration of an existing Automotive Service Station (UG 16B). The amendment seeks to permit the conversion of the accessory auto repair shop to a convenience store and alter the existing building. C2-4/R7-2 zoning district.

PREMISES AFFECTED – 699 Morris Avenue, southwest corner of East 155th Street and Park Avenue, Block 2422, Lot 65, Borough of Bronx.

COMMUNITY BOARD #2BX

619-73-BZ

APPLICANT – Sheldon Lobel, P.C., for CI Gateway LL, owner.

SUBJECT – Application October 23, 2014 – Reinstatement of a variance (§72-21) which permitted the operation of an eating and drinking establishment (UG 6) with an accessory drive thru which expired on February 26, 2004; Amendment to permit the redevelopment of the site; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 2940 Cropsey Avenue, front of Bay 52nd Street, Cropsey Avenue and 53rd Street, Block 6949, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APRIL 28, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, April 28, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

237-14-BZ

APPLICANT – Jeffrey A. Chester/GSHLLP, for 162nd Street Realty, LLC, owner; SPE Jamaica Avenue, LLC, lessee.

SUBJECT – Application October 1, 2014 – Special Permit (§73-36) to allow for the operation of a physical culture establishment (*Lucille Roberts*). C6-3 zoning district.

PREMISES AFFECTED – 162-01 Jamaica Avenue, corner of Jamaica Avenue and 162nd Street, Block 09761, Lot 0001, Borough of Queens.

COMMUNITY BOARD #12Q

284-14-BZ

APPLICANT – Jay Goldstein, Esq., for 257-267 Pacific Street, LLC, owner; 718 Bar LLC d/b/a The Bar Method, lessee.

SUBJECT – Application November 6, 2014 – Special Permit (§73-36) to allow for the operation of a physical culture establishment (*The Bar Method*) on the first floor of the existing building. R6-2 with an C2-4 Overlay zoning district.

PREMISES AFFECTED – 267 Pacific Street, between Smith Street and Boerum Place on the north side of Pacific Street, Block 181, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #2BK

1-15-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Manhattan Country School (contract vendee).

SUBJECT – Application January 2, 2015 – Variance (§72-21) proposed enlargement of an existing school structure to be used by the Manhattan Country School which will exceed permitted floor area and exceeds the maximum height. R8B zoning district.

PREMISES AFFECTED – 150 West 85th Street, southerly side of West 85th Street between Columbus Avenue and Amsterdam Avenue, Block 1215, Lot 53, Borough of Manhattan.

COMMUNITY BOARD #7M

Ryan Singer, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, APRIL 14, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

25-57-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for
221-016 Merrick Blvd. Associates, LLC, owner.

SUBJECT – Application July 31, 2014 – Amendment (§11-
413) to permit a change in use (UG 6 retail use) of an
existing commercial building in conjunction with alteration
of an existing commercial building, demolition of three
existing commercial buildings and construction of a new
commercial building located within a C2-3 and R3A zoning
district.

PREMISES AFFECTED – 221-18 Merrick Blvd, southwest
corner of intersection of Merrick Blvd. and 221st Street,
Block 13100, Lot(s) 22 & 26, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Application granted on
condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and
an amendment to permit a change in use of a portion of an
existing commercial building located partially within an R5D
(C2-3) zoning district and partially within an R3A zoning
district, from an auto repair and tire use (Use Group 16) to a
retail use (Use Group 6); and

WHEREAS, a public hearing was held on this
application on February 10, 2015, after due notice by
publication in the *City Record*, with continued hearings on
March 10, 2015 and March 31, 2015, and then to decision on
April 14, 2015; and

WHEREAS, Commissioners Montanez and Ottley-
Brown performed examinations of the subject site and
premises, as well as the surrounding area; and

WHEREAS, the subject site is a corner lot located at the
southeast corner of the intersection of Merrick Boulevard and
221st Street, within an R5D (C2-3) zoning district, and also
within an R3A zoning district, in Queens; and

WHEREAS, the site has approximately 205 feet of
frontage along the south side of Merrick Boulevard and 97
feet of frontage along the east side of 221st Street, and contains
30,734 sq. ft. of lot area; and

WHEREAS, the site is occupied by four commercial
buildings currently used for retail sales and operated as the
Merrick Flea Market; and

WHEREAS, the applicant proposes to demolish the

three buildings located closest to Merrick Boulevard and
reduce the floor area of the fourth building, situated on the
southerly portion of the subject site (the “Subject Building”),
from 10,600 sq. ft. to 8,176 sq. ft., thereby reducing the total
FAR of the zoning lot from 0.67 to 0.27; and

WHEREAS, the applicant further proposes to change
the use of the Subject Building to a Use Group 6 retail use;
and

WHEREAS, the site has been subject to the Board’s
jurisdiction since September 24, 1957, when, under BSA Cal.
No. 25-57-BZ, the Board permitted the extension of the
existing use (manufacturing, sales, and storage of auto
supplies) to include parking of more than five cars in the
southerly portion of the subject site; and

WHEREAS, the foregoing variance was amended on
April 10, 1962 to permit the erection of the Subject Building;
and

WHEREAS, the applicant now seeks approval for a
change of use to retail (Use Group 6) on that portion of the
Subject Building which is located in the R3A zoning district
pursuant to ZR §§ 11-413 and 52-34; and

WHEREAS, pursuant to ZR § 11-413, the Board may
permit a change in use from a non-conforming use to a
conforming use; and pursuant to ZR § 52-34, the Board may
permit a change in use from a non-conforming use to certain
other uses which do not comply with underlying use
regulations, including Use Group 6, provided that the change
of use does not impair the character or future use or
development of the surrounding area; and

WHEREAS, the applicant states that the proposal
significantly reduces the amount of floor area devoted to a
non-conforming use and the conversion of the use from auto
repair and tire use (Use Group 16) to retail (Use Group 6)
reduces the impact of the non-conforming use on the
surrounding neighborhood; and

WHEREAS, the application asserts that the proposed
commercial use is compatible with the essential character of
the conforming and non-conforming commercial uses in the
surrounding area, including other retail uses at the intersection
of Merrick Boulevard and 221st Street, and notes the historic
commercial use of the site; and

WHEREAS, the applicant also notes that the planned
development of the site will increase the number of accessory
parking spaces thereupon from 18 to 44; and

WHEREAS, the applicant represents that all signage at
the site shall comply with the regulation applicable to the C2
zoning district and will not be located on that portion of the
zoning lot located in the residence district; and

WHEREAS, based on the foregoing, the Board has
determined that the evidence in the record supports the
findings required to be made under ZR §§ 11-412 and 11-
413.

Therefore it is Resolved, that the Board of Standards and
Appeals *reopens* and *amends* the resolution, dated September
24, 1957, to permit the noted changes in use; *on condition* that
any and all work shall substantially conform to drawings as
they apply to the objection above noted, filed with this

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application marked "April 14, 2015"-(3) sheets; and *on further condition:*

THAT the total floor area of the Subject Building is limited to 8,176 sq. ft. and all other bulk parameters shall be as reflected on the BSA-approved plans;

THAT the subject zoning lot shall not be modified without further BSA approval;

THAT all signage at the site shall comply with C2 regulations and that no signage shall be located in that portion of the site which is located in the R3A zoning district;

THAT all construction will be completed and a certificate of occupancy obtained within four years of the date of this grant;

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

THAT DOB Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 14, 2015.

26-02-BZ

APPLICANT – Eric Palatnik, P.C., for Bolla EM Realty LLC, owner.

SUBJECT – Application March 14, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses, which expired on December 10, 2012; Amendment to convert the existing bays into accessory convenience store and to enlarge the building; Waiver of the Rules. C1-2/R3-2 zoning district.

PREMISES AFFECTED – 1680 Richmond Avenue aka 3101 Victory Boulevard, northwest corner of Richmond Avenue and Victory Boulevard, Block 2160, Lot 1, Borough Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening of a variance and an amendment to permit, on a site within an R3X (C1-2) zoning district, the enlargement of a one-story automobile service station and the conversion of the automobile service bays therein (Use Group 16) to an accessory convenience store, and the legalization of an existing enclosure for on-site remediation equipment, two existing 12,000 gallon tanks (the previous grant provided for four 10,000 gallon tanks), a 0'-6" canopy setback to Richmond Avenue and 42'-0" canopy setback to Victory Boulevard, a fenced trash enclosure and a realignment of permitted signage, as well as an extension of the term; and

WHEREAS, a public hearing was held on this application on March 24, 2015, after due notice by publication in *The City Record*, and then to decision on April 14, 2015; and

WHEREAS, Commissioner Montanez performed an inspection of the premises, site, and surrounding neighborhood; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, the subject site is a corner lot located on the northwest corner of the intersection of Richmond Avenue and Victory Boulevard, within an R3X (C1-2) zoning district, on Staten Island; and

WHEREAS, the site has approximately 126 feet of frontage along Richmond Avenue, 93 feet of frontage along Victory Boulevard, and 13,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story building used as an automotive service station with gasoline sales (Use Group 16), which contains 1,955 sq. ft. of floor area, three automotive service bays, and an existing, smaller accessory convenience store; and

WHEREAS, the Board has exercised jurisdiction over the site since January 6, 1970, when, under BSA Cal. No. 141-69-BZ, the Board granted an application to permit an automotive service station at the site; and

WHEREAS, on December 10, 2002, under the subject calendar number, the Board extended the term of the variance granted under BSA Cal. NO. 141-69-BZ and permitted the extension of the dispenser at the site; and

WHEREAS, the grant was subsequently amended and the term extended; and

WHEREAS, on January 13, 2009, the Board extended the applicant's deadline to obtain a certificate of occupancy for the site to July 13, 2009; and

WHEREAS, on December 10, 2012, the term of the grant expired and was not timely renewed; and

WHEREAS, accordingly, the applicant now seeks a waiver of the Board's Rules to extend the term of the grant; and

WHEREAS, in addition, the applicant seeks an amendment to permit the following: (1) the enlargement and conversion of the one-story building at the site to an accessory convenience store; (2) the legalization of an existing enclosure for on-site remediation equipment; (3) the legalization of two existing 12,000 gallon tanks (the previous grant provided for four 10,000 gallon tanks); (4) the legalization of a 0'-6" canopy setback to Richmond Avenue and 42'-0" canopy setback to Victory Boulevard; and (5) the legalization of a fenced trash enclosure and a realignment of permitted signage; and

WHEREAS, with respect to the proposed expansion of the accessory store, the applicant represents that the proposal complies with DOB Technical Policy and Procedure Notice No. 10/1999, which sets forth the requirements for convenience stores accessory to gasoline and automotive service stations; and

WHEREAS, at hearing, the Board inquired as to a

MINUTES

temporary structure on the site; and

WHEREAS, in response, the applicant explained that the temporary structure houses a two-phase groundwater/soil vapor extraction remediation system; and

WHEREAS, the Board directed the applicant to remove the temporary structure upon the completion of the remediation and, upon removal of the aforesaid temporary structure, to provide parking as required on Board-approved plans; and

WHEREAS, based upon the above, the Board finds that the evidence in the record supports the findings required to be made under ZR § 11-411, and the requested extension of term and amendment are appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated December 10, 2002, so that as amended the resolution reads: “to permit the noted modifications and to extend the term of the grant for ten years from the prior expiration, to expire on December 10, 2022”; *on condition* that all work will substantially conform to drawings, filed with this application marked “Received April 2, 2015” – (7) sheets; and on further condition:

THAT this grant shall be limited to a term of ten years, to expire on December 10, 2022;

THAT the building will have a maximum of 2,519 sq. ft. of floor area;

THAT the temporary structure containing remediation equipment will be removed upon completion of the required remediation of the site and that parking shall be restored to the area currently occupied by the aforesaid temporary structure as per BSA-approved plans;

THAT the site will be maintained free of debris and graffiti;

THAT the trash enclosure shall be in accordance with the BSA-approved plans;

THAT signage shall be in accordance with C1 regulations;

THAT landscaping and buffering will be maintained in accordance with the BSA-approved plans;

THAT lighting will be directed downward and away from adjoining residences;

THAT the above conditions will be noted in the Certificate of Occupancy;

THAT a certificate of occupancy will be obtained by April 15, 2017;

THAT all conditions from prior resolutions not specifically waived by the Board shall remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s); and

THAT DOB shall ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Application No. 520146191)

Adopted by the Board of Standards and Appeals, April 14, 2015.

195-02-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for McDonald's Real Estate Company, owner; Lauren Enterprises, lessee.

SUBJECT – Application December 2, 2013 – Extension of Term of a previously approved Variance (§72-21) permitting an eating and drinking establishment with an accessory drive through facility with a legalization of a small addition to the establishment, which expired on February 11, 2013; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 2797 Linden Boulevard, between Drew and Ruby Streets, Block 4471, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #5BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of term for a variance permitting an eating and drinking establishment with an accessory drive-through within a residence district, which expired on February 11, 2013; and

WHEREAS, a public hearing was held on this application on October 28, 2014, after due notice by publication in *The City Record*, with a continued hearing on January 27, 2015, and then to decision on April 14, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 5, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site spans the north side of Linden Boulevard, between Drew Street and Ruby Street, within an R4 zoning district; and

WHEREAS, the site, which is rectangular, has 100 feet of frontage along both Drew Street and Ruby Street and 200 feet of frontage along Linden Boulevard; and

WHEREAS, the site has 20,000 sq. ft. of lot area and is occupied by a one-story eating and drinking establishment with approximately 2,240 sq. ft. of floor area (0.11 FAR), 18 parking spaces, and a drive-through with a pickup window; and

WHEREAS, the applicant represents that the site has operated continuously as a McDonald's restaurant since 1972; and

WHEREAS, the Board has exercised jurisdiction over the site since October 31, 1972, when, under BSA Cal. No. 231-72-BZ, it granted, pursuant to ZR § 72-21, an application

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to permit in an R4 zoning district the construction of a one-story building to be operated as an eating and drinking establishment (Use Group 6) contrary to use regulations, for term of 10 years, to expire on October 31, 1972; and

WHEREAS, the grant was amended at various times in subsequent years, including on May 8, 1979, when the Board amended the grant to authorize the operation of an accessory drive-through; in addition, on that same date, the Board extended the term of the grant for ten years, to expire on May 8, 1989; and

WHEREAS, on July 11, 1989, the Board granted a further extension of term, for ten years, to expire on May 8, 1999; and

WHEREAS, on February 11, 2003, under the subject calendar number, the Board granted an application pursuant to ZR § 72-21 to permit the reestablishment of the expired variance authorizing the eating and drinking establishment and accessory drive through, for a term of ten years, to expire on February 11, 2013; and

WEHREAS, accordingly, the applicant now seeks an extension of the term of the variance; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may, in appropriate cases, allow an extension of the term of a variance; and

WHEREAS, at hearing, the Board directed the applicant to: (1) provide additional information regarding the noise management equipment for the menu board; (2) clarify the hours of the garbage collection; (3) provide photographs of the site demonstrating that the signage complies with the C1 regulations; and (4) provide proof that neighbors have been notified of the proposed 24-hour operation of the establishment; and

WHEREAS, in response, the applicant provided the menu board information and noted that the volume is reduced nightly at 9:00 p.m., clarified the hours of the garbage collection (Sundays and Wednesdays, between 9:00 p.m. and 10:00 p.m.), submitted photographs demonstrating compliance with the C1 sign regulations, and submitted proof of notification; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made for an extension of term under ZR §§ 72-01 and 72-22.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated February 11, 2003, so that as amended the resolution reads: “to permit an extension of the term of the variance for an additional ten years from the prior expiration, to expire on February 11, 2023; *on condition on condition* that all work will substantially conform to drawings, filed with this application marked ‘Received August 22, 2014’ –(7) sheets; and on further condition:

THAT the term of the variance shall expire on February 11, 2023;

THAT the signage shall comply with the C1 regulations;

THAT landscaping shall be maintained in accordance with the BSA-approved plans;

THAT the site shall be maintained free of graffiti and

debris;

THAT the menu board volume shall not exceed 50 decibels between the hours of 9:00 p.m. and 8:00 a.m.;

THAT the above conditions shall be noted on the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by April 15, 2016;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s); and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, April 15, 2015.

545-56-BZ

APPLICANT – Eric Palatnik, P.C., for Williamsbridge Road Realty corporation, owner.

SUBJECT – Application June 12, 2014 – Extension of Term (§11-411) to seek the term of a previously granted variance for a gasoline service station and maintenance which expired October 19, 2012; Waiver of the Rules. C2-4/R5D zoning district.

PREMISES AFFECTED – 2001-2007 Williamsbridge Road aka 1131 Neil Avenue, southeast corner of Williamsbridge Road and Neil Avenue, Block 4306, Lot 20, Borough of Bronx.

COMMUNITY BOARD #11BX

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

131-93-BZ

APPLICANT – Eric Palatnik, P.C., for Paul Memi, owner.

SUBJECT – Application April 25, 2014 – Extension of Term (§11-411) of a previously approved variance which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses which expires on November 22, 2014. C2-2/R5 zoning district.

PREMISES AFFECTED – 3743-3761 Nostrand Avenue, north of the intersection of Avenue "Y", Block 7422, Lot 53, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

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318-06-BZ

APPLICANT – Eric Palatnik, LLP for Sun Company Inc. (R&M), owner.

SUBJECT – Application August 9, 2013 – Extension of Term (§11-411) of a previously approved variance which permitted the operation of an automotive service station (UG 16B), which expired on May 22, 2013; Extension of Time to Obtain a Certificate of Occupancy which expired on November 22, 2007; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 49-05 Astoria Boulevard, Noreast corner of Astoria Boulevard and 49th Street. Block 1000, Lot 35, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

42-08-BZ

APPLICANT – Eric Palatnik, P.C., for David Nikchemny, owner.

SUBJECT – Application July 22, 2014 – Extension of Time to Complete Construction of a previously granted Special Permit (73-622) for the enlargement of an existing two family home to be converted into a single family home which expired on January 27, 2013; Waiver of the Rules. R3-1 zoning district.

PREMISES AFFECTED – 182 Girard Street, between Oriental Boulevard and Hampton Street, Block 8749, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

278-13-A

APPLICANT – Slater & Beckerman, P.C., for 121 Varick St. Corp., owner.

SUBJECT – Application September 27, 2013 – Appeal of Department of Buildings’ determination that the advertising sign was not established as a lawful non- conforming use. M1-6 zoning district/SHSD.

PREMISES AFFECTED – 121 Varick Street, southwest corner of Varick Street and Dominick Street, Block 578, Lot 67, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for continued hearing.

163-14-A thru 165-14-A

APPLICANT – Ponte Equities, for Ponte Equities, Ink, owner.

SUBJECT – Application July 10, 2014 – Appeal seeking waiver of Section G304.1.2 of the NYC Building Code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A zoning district. PREMISES AFFECTED – 502, 504, 506 Canal Street, Greenwich Street and Canal Street, Block 595, Lot 40, 39, 38, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

218-14-A

APPLICANT – Paul F. Bonfilio, R.A., for Bo Qian, owner. SUBJECT – Application September 4, 2014 – Proposed construction of a four-story residential building for eleven units within the bed of 45th Avenue at its intersection within a bed of unmapped street, contrary to GCL 35. R5 zoning district.

PREMISES AFFECTED – 46-03 88th Street, 45th Avenue at intersection of 88th Street, Block 1584, Lot 16, Borough of Queens.

COMMUNITY BOARD #4Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for decision, hearing closed.

320-14-A

APPLICANT – Dean Heitner, Esq., for PWV owner LLC c/o The Chevrolet Group, owner.

SUBJECT – Application December 8, 2014 – Interpretative Appeals for an open space requirements on a zoning lot for a proposed nursing facility to be constructed by Jewish Home Life Care on West 97th Street. R7-2/C1-8 zoning district.

PREMISES AFFECTED – 125 West 97th Street, between Amsterdam Avenue and Columbus Avenue, Block 1852, Lot 5, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

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16-15-A

APPLICANT – Sheldon Lobel, P.C., for Alan Bigel, owner; Blue School, lessee.

SUBJECT – Application January 23, 2015 – BCG304 to permit the redevelopment of the existing building, The Blue School, a new middle school, located within a flood hazard area. C6-2 zoning district.

PREMISES AFFECTED – 233-235 Water Street, east of the intersection of Water Street and Beekman Street, Block 97, Lot 49, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Off-Calendar.

ZONING CALENDAR

176-13-BZ

CEQR #13-BSA-155M

APPLICANT – Sheldon Lobel, P.C., for 31 BSP LLC, owner.

SUBJECT – Application June 17, 2013 – Variance (§72-21) to permit Use Group 2 residential in an existing 6-story building with a new penthouse addition, contrary to Section 42-10 of the zoning resolution. M1-5B zoning district.

PREMISES AFFECTED – 31 Bond Street, southern side of Bond Street approximately 1170' from Lafayette Street, Block 529, Lot 25, Borough of Manhattan.

COMMUNITY BOARD # 2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 15, 2013, acting on DOB Application No. 121331184, reads in pertinent part:

Proposed UG 2 is not permitted; contrary to ZR 42-10; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-5B zoning district, within the NoHo Historic District Extension, the conversion of a vacant, mixed-use, six-story, non-complying building to a seven-story residential building (Use Group 2), contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on September 16, 2014, after due notice by publication in the *City Record*, with subsequent hearings on October 28, 2014, December 9, 2014, and January 30, 2015, and then to decision on April 14, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by former Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 2, Manhattan,

recommends approval of this application, with conditions; and

WHEREAS, the subject site is located on the south side of Bond Street, between Lafayette Street and the Bowery, in the NoHo Historic District Extension, within an M1-5B zoning district, in Manhattan; and

WHEREAS, the site is irregularly shaped and has 25 feet of frontage along Bond Street and a depth of 119 feet, at its eastern boundary, and 114.5 feet, at its western boundary, containing 3,038 square feet of lot area;

WHEREAS, the site is occupied by a six-story and cellar, non-complying, mixed-use building which was constructed in the 19th Century and which is a contributing building within the NoHo Historic District; and

WHEREAS, the existing building contains approximately 16,412 sq. ft. of floor area, has an FAR of 5.4, and has a rear yard that varies in depth from 6'-1" to 10'-10.5" at the first story and from 6'-0" to 17'-7.5" at the upper floors; and

WHEREAS, the applicant notes that the building, which has been vacant since May, 2010, was previously occupied by multiple firms which manufactured hats, hat frames and ribbons, dealt in textiles and also for gallery and performing space, recording studios, classrooms and Joint Live Work Quarters for Artists (“JLWQA”); and

WHEREAS, initially, the applicant proposed to utilize the first floor of the building for a Use Group 6 retail use on the first floor (which is not permitted as-of-right below the floor level of the second story in an M1-5B zoning district) and Use Group 2 residential on the second through sixth floors of the building, and to redistribute floor area throughout the building to construct a penthouse addition above the sixth floor of the building; and

WHEREAS, in response to the Board’s concerns, the proposal was modified and the applicant now seeks to use the entire building for Use Group 2 residential use; and

WHEREAS, in addition, the applicant proposes to remove the backshaft at the rear of the building and to redistribute floor area from the rear of the building to construct a seventh story containing a 1,501 sq. ft. penthouse so that the proposed building will have a total floor area of 15,190 sq. ft. (5.0 FAR) and an increase in the depth of the building’s rear yard to approximately 20'-2.625" to 25'-.5" at the first story, 29'-8.125" to 36'-6.625" at the second story, and 29'-8.125" to 36'-6" on the third through seventh stories; and

WHEREAS, the applicant notes that the proposed improvements to the building will include compliance with modern safety requirements, removal of the backshaft at the rear yard of the building and increased mechanical ventilation, which will result in a safer building; and

WHEREAS, because, per ZR § 42-00, Use Group 2 is not permitted within the subject M1-5B zoning district, the applicant seeks a use variance; and

WHEREAS, the applicant represents that, per ZR § 72-21(a), the following are unique physical conditions which create unnecessary hardship in developing the site in conformance with applicable regulations: (1) the narrowness

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of the subject lot; (2) the irregular, varying, lot depth; (3) the obsolescence of the existing building for a conforming use; and (4) structural constraints; and

WHEREAS, the applicant states that the narrowness of the subject lot (25'-0"), combined with its irregular and varying lot depth of 119'-0" to 124'-0" yields a small, inefficient floor plate which, is not suitable for modern manufacturing or commercial use; and

WHEREAS, the applicant notes that there are 182 lots within a 1,000 foot radius of the site (the "Study Area") that are also within the M1-5B zoning district, only 26 of which have a width of 25'-0" or less; and

WHEREAS, the applicant further notes that of the 26 lots in the Study Area that are 25'-0" in width or narrower, 18 contain residential use; of the eight lots which do not contain residences, seven of which are distinguishable from the subject site in that they all contain either a non-conforming commercial use on the ground floor (retail or eating and drinking establishment) or are located on lots which, because they are shallower than the subject lot, allow for significant light and air and are, therefore, more marketable for conforming commercial uses; and

WHEREAS, the above-noted assertions are supported in a uniqueness study commissioned by the applicant in support of the instant application and reviewed by the Board; and

WHEREAS, the applicant also asserts that the building itself is obsolete for conforming uses; and

WHEREAS, in support of its assertion that the building is obsolete, the applicant notes that the existing building, constructed approximately 120 years ago for manufacturing uses, does not have a loading dock or the space to install a loading dock without relocating the existing stair and elevator core within the building and negatively impacting the historic façade of the building, which, as noted, is a contributing building within the NoHo Historic District; and

WHEREAS, the applicant states that the existing wood joists throughout the subject building are insufficient to support any load in excess of 70 PSF, which precludes manufacturing uses; and

WHEREAS, the Board agrees with the applicant that the site's narrow width and irregular shape as well as the obsolescence of the existing building for a conforming use, are unique physical conditions, which, in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, to satisfy ZR § 72-21(b), the applicant assessed the financial feasibility of three scenarios: (1) an as-of-right office building; (2) an as-of-right hotel; and (3) the proposed residential building; and

WHEREAS, the applicant states that an as-of-right office building with a single elevator and insufficient floor plates would provide a capitalized value of \$5.27 million, which is insufficient to offset development costs estimated to be \$16.79 million, and notes the existence of more marketable spaces within the Study Area which have larger floor plates better suited to modern office build-outs; and

WHEREAS, the applicant states that an as-of-right hotel use, which would require the relocation of the elevator to the middle of the building and would provide for 20 hotel rooms, would provide a capitalized value of \$4.36 million, which is insufficient to offset development costs estimated to be \$18.56 million; and

WHEREAS, the applicant states that the proposed residential building will provide for a capitalize value of \$22.67 million, which will adequately offset development costs estimated to be \$20.01 million; and

WHEREAS, the above-noted assertions are supported in a financial feasibility study submitted by the applicant in support of the instant application and reviewed by the Board; and

WHEREAS, based upon its review of the feasibility study, the Board has determined that because of the subject site's unique physical condition, there is no reasonable possibility that development in strict conformance with applicable use requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the subject block and surrounding area is increasingly characterized by residential uses, and notes that the LPC's designation report for the NoHo Historic District Extension recognizes that the neighborhood has become increasingly residential; and

WHEREAS, the applicant further states that the proposed use of the building is consistent with the abundance of JLWQA lofts in the neighborhood, which provide for residential use within the M1-5B zoning district, and notes that uses immediately adjacent to the Premises include a mixed use retail and condominium building and two buildings with JLWQA unit; and

WHEREAS, the New York City Landmarks Preservation Commission ("LPC") approved of the proposed building by Certificate of Appropriateness No. 16-9063, approved for design only on March 18, 2015; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the site's unique physical conditions; and

WHEREAS, finally, the Board finds that the proposal is the minimum variance necessary to afford relief, as set forth in ZR § 72-21(e); and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

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WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement (“EAS”) CEQR No. 13-BSA-155M, dated May 22, 2014; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21, and grants a variance to permit, on a site within an M1-5B zoning district, within the NoHo Historic District Extension, the conversion of a vacant, mixed-use, six-story, non-complying building to a seven-story residential building (Use Group 2), contrary to ZR § 42-00; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received April 13, 2015” – fourteen (14) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 15,190 sq. ft. (5.0 FAR), seven stories, three dwelling units, a maximum lot coverage of 81 percent, a maximum building height of 91’-6”, and a varying rear yard depth, all as indicated on the BSA-approved plans;

THAT the layouts of the dwelling units shall be as reviewed and approved by DOB;

THAT all heating components shall be powered by natural gas and shall comply with applicable New York City laws and regulations with respect to energy and exhaust type, including, without limitation, location of exhaust;

THAT the window/wall construction shall have a sound attenuation rating of 31dBA to ensure a minimum interior noise level of 45 dBA (closed window condition);

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by April

14, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 14, 2015.

232-14-BZ CEQR #15-BSA-072K

APPLICANT – Warsaw Burstein, LLP, for Pennsylvania Associates, LLC., owner; Pennsylvania Avenue Fitness Group, LLC, lessee.

SUBJECT – Application September 26, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Planet Fitness*) within a portion of an existing commercial building. M1-1 zoning district.

PREMISES AFFECTED – 946 Pennsylvania Avenue aka 1000 Pennsylvania Avenue, west side of Pennsylvania Avenue between Wortman Avenue and Cozine Avenue, Block 04389, Lot 0001, Borough of Brooklyn.

COMMUNITY BOARD #5BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated September 10, 2014, acting on DOB Application No. 320916960, reads, in pertinent part:

Proposed Physical Culture Establishment is not permitted as-of-right in an M1-1 zoning district per ZR section 42-10 ...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, a physical culture establishment (the “PCE”) on the first story of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 3, 2015 after due notice by publication in the *City Record*, and then to decision on April 14, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by former Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 5, Brooklyn, recommends approval of this application; and

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WHEREAS, the subject site is an entire zoning lot comprising an entire block bounded by Pennsylvania Avenue, to east, Georgia Avenue, to the west, Wortman Avenue, to the north, and Cozine Avenue, to the south; the site has a lot area of 225,000 sq. ft. and is located within an M1-1 zoning district, in Brooklyn; and

WHEREAS, the site is occupied by a two-story and cellar commercial use building containing 400,000 sq. ft. of floor area; and

WHEREAS, the Board granted a variance to permit the construction of the building under BSA Cal. No. 243-71-BZ, pursuant to which certain bulk regulations were waived and the required accessory parking for the site was permitted off-site at 850 Georgia Avenue, Brooklyn (Block 4366, Lot 1 [formerly lots 1 and 20]); and

WHEREAS, the PCE will occupy 13,530 sq. ft. of floor area on the building's first floor and will have approximately 94 feet of frontage along Pennsylvania Avenue; and

WHEREAS, the PCE will operate as Planet Fitness; and

WHEREAS, the hours of operation for the PCE will be 24 hours per day, seven days per week; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-072K, dated September 26, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, a physical culture

establishment (the "PCE") on the first story of a two-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "March 24, 2015," Three (3) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on April 14, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by April 14, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 14, 2015.

242-14-BZ

CEQR #15-BSA-080M

APPLICANT – Jay Goldstein, Esq., for Sutton Realty LLC., owner; Halevy Life, Inc., lessee.

SUBJECT – Application October 8, 2014 – Special Permit (§73-36) to allow for operation of a physical culture establishment (*Halevy Life*) on portions of the cellar and first floor. C1-9 zoning district.

PREMISES AFFECTED – 212 East 57th Street, between 3rd Avenue and 2nd Avenue on the south side of 57th Street, Block 1330, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #6M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated October 3, 2014, acting on DOB Application No. 122080504, reads, in pertinent part:

Proposed change of use to a physical culture establishment ... is not permitted as of right in a

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C1-9/R10 zoning district ...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C1-9 zoning district, a physical culture establishment (the "PCE") which currently operates in the cellar and first story of a 24-story mixed use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 3, 2015, after due notice by publication in the *City Record*, and then to decision on April 14, 2015; and

WHEREAS, Community Board 6, Manhattan, recommends approval of this application; and

WHEREAS, the subject site has 56.25 feet of frontage along the south side of East 57th Street, between Third Avenue and Second Avenue, within a C1-9 zoning district, in Manhattan; and

WHEREAS, the site has a depth of approximately 11 feet and contains approximately 5,648 sq. ft. of lot area and is occupied by a 24-story mixed use building with 75,623 sq. ft. of floor area; and

WHEREAS, the PCE occupies 2,032 sq. ft. of floor space in the cellar and 2,580 sq. ft. of floor area on the first floor of the building, for a total floor area of 2,580 sq. ft.; and

WHEREAS, the PCE will operate as Halevy Life; and

WHEREAS, the hours of operation for the PCE will be Monday through Thursday, from 5:00 a.m. to 9:00 p.m., and on Saturday and Sunday from 8:00 a.m. to 5:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-080M, dated October 7, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site within a C1-9 zoning district, the operation of a PCE on the cellar and first story of a 24-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "April 2, 2015," Five (5) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on November 2, 2024;

THAT all massages at the PCE shall be performed by New York State licensed massage therapists;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by April 14, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 14, 2015.

30-12-BZ

APPLICANT – Eric Palatnik, P.C., for Don Ricks Associates, owner; New York Mart Group, Inc., lessee.

SUBJECT – Application February 8, 2012 – Remand Back to Board of Standards and Appeals; seeks a judgment vacating the resolution issued on January 15, 2013 and filed on January 17, 2013. R6-/C2-2 zoning district.

PREMISES AFFECTED – 142-41 Roosevelt Avenue, northwest corner of Roosevelt Avenue and Avenue B, Block 5020, Lot 34, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to June 16, 2015, at 10 A.M., for continued hearing.

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343-12-BZ

APPLICANT – Akerman Senterfitt, LLP., for Ocean Ave Education Support, Inc., owner.

SUBJECT – Application December 19, 2012 – Variance (§72-21) to permit the construction of a Use Group 3 school (*Brooklyn School for Medically Frail Children*) with dormitory facilities in a split zoning lot, contrary to lot coverage(§24-11), yard requirements (§24-382, §24-393, §24-33) and use regulations (§22-13). R1-2/R7A zoning district.

PREMISES AFFECTED – 570 East 21st Street, between Dorchester Road and Ditmas Avenue, Block 5184, Lot(s) 39, 62, 66, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for continued hearing.

155-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Cong Kozover Zichron Chaim Shloime, owners.

SUBJECT – Application May 15, 2013 – Variance (§72-21) to permit the enlargement of an existing synagogue (*Congregation Kozover Sichron Chaim Shloime*) and rabbi's residence (UG 4) and the legalization of a Mikvah, contrary to floor area (§24-11), lot coverage (§24-11), wall height and setbacks (§24-521), front yard (§24-34), side yard (§24-35), rear yard (§24-36), and parking (§25-18, 25-31) requirements. R3-2 zoning district.

PREMISES AFFECTED – 1782-1784 East 28th Street, west side of East 28th Street between Quentin road and Avenue R, Block 06810, Lots 40 & 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for continued hearing.

248-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Moshe Benefeld, owner.

SUBJECT – Application August 23, 2014 – Special Permit (§73-622) for the enlargement of an existing single-family home, contrary to floor area and open space (23-141a); side yards (23-461). R2 zoning district.

PREMISES AFFECTED – 1179 East 28th Street, east side of East 28th Street, approximately 127' north of Avenue L, Block 7628, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to May 12, 2015, at 10 A.M., for decision, hearing closed.

301-13-BZ

APPLICANT – Eric Palatnik, P.C., for Rabbi Mordechai Jofen, owner.

SUBJECT – Application November 12, 2013 – Variance (72-21) to add three floors to an existing one story and basement UG 4 synagogue for a religious-based college and post graduate (UG 3) with 10 dormitory rooms, contrary to sections 24-11, 24-521, 24-52,24-34(a),24-06. R5B zoning district.

PREMISES AFFECTED – 1502 Avenue N, southeast Corner of East 15th Street and Avenue N, Block 6753, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for decision, hearing closed.

17-14-BZ

APPLICANT – Moshe M. Friedman, PE, for Cong Chasdei Belz Beth Malka, owner.

SUBJECT – Application January 28, 2014 – Variance (§72-21) to add a third and fourth floor to an existing school building (*Congregation Chasidei Belz Beth Malka*), contrary to floor area (§24-11) lot coverage, maximum wall height (§24-521), side yard (§24-35), front yard (§24-34) and rear yard (§24-361) regulations. R5 zoning district.

PREMISES AFFECTED – 600 McDonald Avenue aka 14 Avenue C, aka 377 Dahill Road, south west corner of Avenue C and McDonald Avenue 655', 140'W, 15'N, 100'E, 586'N, 4"E, 54'N, 39.67'East, Block 5369, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #12BK

ACTION OF THE BOARD – Off-Calendar.

31-14-BZ

APPLICANT – Moshe M. Friedman, PE, for Bnos Square of Williamsburg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-19) to allow a conversion of an existing Synagogue (*Bnos Square of Williamsburg*) building (Use Group 4 to (Use Group 3). M1-2 zoning district.

PREMISES AFFECTED – 165 Spencer Street, 32'6" Northerly from the corner of the northerly side of Willoughby Avenue and easterly side of Spencer Street, Block 1751, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to June 16, 2015, at 10 A.M., for continued hearing.

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37-14-BZ

APPLICANT – Eric Palatnik, P.C., for FHM Roosevelt FLP, owner;

Executive Fitness Gym Inc., lessee.

SUBJECT – Application February 28, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Enterprise Fitness Gym*), which will occupy a portion of the second floor of a two story building. C2-3/R6 zoning district.

PREMISES AFFECTED – 86-10 Roosevelt Avenue, west corner of Elbertson Street and Roosevelt Avenue, Block 1502, Lot 6, Borough of Queens.

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

98-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 404-414 Richmond Terrace Inc., owner.

SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the reestablishment of a banquet facility (catering hall -UG 9) with accessory parking. Located in an R5 and R3A zoning districts within the St. George Historic District.

PREMISES AFFECTED – 404 Richmond Terrace, southeast corner of Richmond Terrace and Westervelt Avenue, Block 3, Lot(s) 40, 31, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

127-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Sean Banayan, owner.

SUBJECT – Application June 5, 2014 – Variance (§72-21) to permit construction of a cellar and two-story, two-family dwelling on a vacant lot that does not provide two required side yards, and does not provide two off street parking spaces. R4 zoning district.

PREMISES AFFECTED – 32-41 101st Street, east side of 101st, 180’ north of intersection with Northern Boulevard, Block 1696, Lot 48, Borough of Queens.

COMMUNITY BOARD #3Q

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

146-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Fair Only Real Estate Corps., owner; LES Fitness LLC., lessee.

SUBJECT – Application June 23, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Bowery CrossFit*) in the cellar of an existing building. C6-1G zoning district.

PREMISES AFFECTED – 285 Grand Street, south side of Grand Street approximately 25’ west of the intersection

formed by Grand Street and Eldridge Street, Block 306, Borough of Manhattan.

COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for decision, hearing closed.

169-14-BZ

APPLICANT – Jay Goldstein, Esq., for Midyan Gate Reality No. 3 LLC., owner.

SUBJECT – Application July 21, 2014 – Special Permit (§73-19) to allow a pre-school and child care services (Use Group 3) (*Inner Force Y*) within the existing building. M1-1 Ocean Parkway Special Zoning District.

PREMISES AFFECTED – 325 Avenue Y, southwest corner of Avenue Y between Shell Road and West 3rd Street, Block 7192, Lot 46, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

289-14-BZ

APPLICANT – Sheldon Lobel, P.C., 22-32 31st Street LLC, owner.

SUBJECT – Application November 6, 2015 – Special Permit (§73-42) to extend the conforming Use Group 6 restaurant use located partially within a C4-2A zoning district into the adjacent R5B zoning district.

PREMISES AFFECTED – 22-32/36 31st Street, located on the west side of 31st Street. Block 844, Lot 49, 119, 149. Borough of Queens.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for decision, hearing closed.

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**REGULAR MEETING
TUESDAY AFTERNOON, APRIL 14, 2015
1:00 P.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

29-14-BZ

APPLICANT – Lewis Garfinkel for Leon Goldenberg,
owner.

SUBJECT – Application February 11, 2014 – Special
Permit (§73-622) for the enlargement of an existing single
family home contrary to floor area and open space (ZR 23-
14a); side yards (ZR 23-461) and less than the required rear
yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1255 East 27th Street, East side
of East 27th Street, 325 feet from the North corner of
Avenue M. Block 7645, Lot 25. Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to June 2,
2015, at 10 A.M., for continued hearing.

182-14-BZ

APPLICANT – Eric Palatnik, PC, for Izhak Lati, owner.

SUBJECT – Application August 5, 2014 – Special Permit
(§73-622) for the enlargement of an existing single family,
two story dwelling contrary to floor area (ZR 23-141(b));
side yards (ZR 23-461) and less than the minimum rear yard
(ZR 23-47). R5 zoning district.

PREMISES AFFECTED – 1977 Homecrest Avenue,
between Avenue "S" and Avenue "T", Block 7291, Lot 136,
Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to June 23,
2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

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CORRECTION

This resolution adopted on October 7, 2014, under Calendar No. 300-12-BZ and printed in Volume 99, Bulletin Nos. 40-41, is hereby corrected to read as follows:

300-12-BZ

CEQR #13-BSA-049M

APPLICANT – Davidoff Hutcher & Citron LLP, for Columbia Grammar & Preparatory School, owner.

SUBJECT – Application October 19, 2012 – Variance (§72-21) to permit an enlargement of an existing school building (*Columbia Grammar and Preparatory*), contrary to lot coverage (§24-11), permitted obstruction (§24-33), rear yard equivalent (§24-382), initial setback distance (§24-522), height (§23-692), and side yard (§24-35(b)) regulations. R7-2 zoning district.

PREMISES AFFECTED – 36 West 93rd Street aka 33 West 92nd Street, between Central Park West and Columbus Avenue, Block 1206, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated July 1, 2013, acting on Department of Buildings Application No. 121161857, reads in pertinent part:

1. ZR 24-11 - The lot coverage proposed exceeds that permitted.
2. ZR 24-382 - Provide the required minimum rear yard equivalent. The project site is a through lot, with a depth in excess of 180'-0".
3. ZR 24-33 - Only a (1) one story building portion, with a maximum height of 23'-0", is allowed as a permitted obstruction in a rear yard equivalent. The proposed building envelope indicates two stories and a mechanical space in the rear yard equivalent.
4. ZR 24-522 - The building envelope does [not] meet the initial setback requirement.
5. ZR 23-692 - The frontage on 92nd Street is less than 45'-0" in width. The proposed street-wall is higher than the width of the narrow street and higher than the lowest abutting building.
6. ZR 24-35B The proposed side yard, at the new vertical extension, is less than the required 8'-0"; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R7-2 zoning district within the Upper West Side/Central Park West Historic District, the enlargement of an existing school building, which does not comply with zoning regulations for lot coverage, permitted

obstruction, rear yard equivalent, encroachment into the required initial setback distance, width and height of street wall, and side yard, contrary to ZR §§ 24-11, 24-382, 24-33, 24-522, 23-692, and 24-35; and

WHEREAS, a public hearing was held on this application on June 17, 2014, after due notice by publication in the *City Record*, with a continued hearing on August 19, 2014, and then to decision on October 7, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 7, Manhattan, recommends disapproval of the application; and

WHEREAS, certain members of the community testified at the hearing and provided testimony in opposition to the application (collectively, the "Opposition"), citing primary concerns about traffic generated by the school and construction disturbance; other concerns from a shareholder at 36 West 93rd Street include that there are inconsistencies between the subject application and a 2008 variance application for the School, specifically as related to the School's needs; and

WHEREAS, certain members of the community, the West Side Organization for Responsible Development ("WORD"), represented by counsel, cited concerns about traffic associated with the school and construction disturbance and requested the following conditions for any approval: (1) the School continue to work with the community to address traffic concerns and provide a written traffic plan; (2) the School provide a traffic, noise, and pollution baseline report prior to the Board's decision; (3) the School commit to not increasing enrollment by more than 30 students over the next ten years; (4) the School ensure that all construction is performed during the summer, and only on weekdays between the 9:00 a.m. and 5:00 p.m.; (5) the School provide the Board with a site logistics plan and construction calendar prior to a final resolution; (6) the rooftop not be used as a play area; and (7) that the community be consulted prior to installation of the rooftop HVAC systems, which must include sufficient sound mitigation; and

WHEREAS, this application is brought on behalf of Columbia Grammar & Preparatory School (the "School"), a nonprofit educational institution founded in 1764, which serves students from grades pre-kindergarten through 12; and

WHEREAS, the subject site is an interior through lot with frontage on West 93rd Street and West 92nd Street between Central Park West and Columbus Avenue, within an R7-2 zoning district within the Upper West Side/Central Park West Historic District; and

WHEREAS, the site is currently occupied by a five-story building with a sub-cellar and cellar constructed in 1996; the building includes 13 classrooms and ancillary facilities for students in grades 5 and 6, 12 high school classrooms, and several shared spaces, including two dining areas and four art studios/technology classrooms; and

WHEREAS, the applicant notes that the School also

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occupies several other buildings in the vicinity: the lower division (pre-kindergarten through grade 4) occupies five interconnected brownstones on West 94th Street and 5 West 93rd Street, directly behind the brownstones; and the upper division (grades 7 through 12) occupies 4 West 93rd Street; and

WHEREAS, the School proposes to (1) build out an existing setback area at the West 92nd Street frontage at existing floors three and four; (2) build out an existing setback area at the West 93rd Street frontage at the existing fifth floor; and (3) add two new floors so that, upon completion, the building will consist of a sub-cellar, cellar and seven floors above grade; and

WHEREAS, the enlarged building will include ten additional middle school classrooms for a total of 23 classrooms, an additional art/technology studio and a library for the middle school, in addition to new space for faculty and administration offices; and

WHEREAS, while certain portions of the enlarged building will still be used by high school students (the cellar/first floor level will be occupied by high school classrooms and dining, half of the second floor will be high school classrooms and the third floor will contain shared art studios and technology classrooms), the number of high school classrooms will be reduced from 12 to eight and upper floors four through seven will be occupied solely by the middle school; and

WHEREAS, the applicant proposes to increase the building height from 68 feet to 95 feet, excluding rooftop bulkheads and mechanical space; increase the floor area from 28,187 sq. ft. (3.37 FAR) to 40,778 sq. ft. (4.88 FAR) (54,301 sq. ft. (6.50 FAR) is the maximum permitted); and

WHEREAS, because the enlargement does not comply with the applicable bulk regulations in the subject zoning district, the applicant seeks the requested variance; and

WHEREAS, the applicant states that the variance is necessary to meet the School's programmatic need to create a self-contained middle school and alleviate overcrowding in the high school building; and

WHEREAS, specifically, the applicant notes that the relocation of the seventh graders to the new building will free up space at the high school building; and

WHEREAS, the School also proposes to increase enrollment by 30 students which is still substantially below the demand for new admissions; and

WHEREAS, the applicant states that the proposed enlargement would result in 151 sq. ft. of space per student compared to the average new middle school in the region which provides 178.3 sq. ft. per student and 216.7 sq. ft. per high school student; and

WHEREAS, the applicant states that the proposed floor area to be added to the existing building is required to fulfill the School's longstanding goal of having a self-contained middle division consisting of grades five through seven; and

WHEREAS, the applicant asserts that the existing building is too small to accommodate the organization of the school with lower, middle and upper divisions, as it was not

designed to accommodate the necessary classrooms and ancillary space needed for a middle division; and

WHEREAS, the applicant asserts that the School is one of the last public or private schools in New York City with grades pre-kindergarten through 12 that does not have a separate middle school; and

WHEREAS, the applicant asserts that in the years since the School's facilities were developed, educators have come to recognize the benefits of grouping grades kindergarten through 12 into lower, middle and upper schools; and

WHEREAS, however, the applicant states that the School's space limitations have required it to maintain grades five and six in the existing building at the subject site as the final two years of its grammar school division and to house grade seven in its high school building; and

WHEREAS, the applicant notes that the proposed floor area is significantly less than the maximum allowed for the underlying zoning district; and

WHEREAS, the applicant asserts that the proposed encroachment into the existing rear yard equivalent (above the 23-ft. height for a permitted obstruction), combined with the build-out of the existing setback on West 93rd Street and the two additional floors above the West 92nd Street portion of the building, allows the school to create a rational design for the additional classrooms and ancillary facilities while minimizing the proposed height of the enlarged building to seven stories; and

WHEREAS, the applicant asserts that practical difficulties arise in complying strictly with the underlying bulk regulations; and

WHEREAS, additionally, the applicant asserts that the unique features affecting the site include (1) the lot's narrowness and odd shape with its varying frontages on West 92nd Street and West 93rd Street and (2) the existing building's unique footprint, configuration and structural support system; and

WHEREAS, as to the lot size and shape, the applicant notes that it has 45 feet of frontage along West 93rd Street and widens by approximately five feet at its eastern property line, then narrows at the midblock, and the property line runs slightly diagonal towards West 92nd Street where it has frontage of 35 feet; and

WHEREAS, further, the applicant states that the footprint of the existing under-built building reflects the inability to use space that would have been available in a more typical square-shaped lot; and

WHEREAS, the applicant states that the existing building's constraints require that the enlargement be constructed within the required setback area along West 93rd Street and within the rear yard equivalent, as well as above the 23-ft. tall portion of the building along West 92nd Street, thereby exceeding the maximum permitted lot coverage; and

WHEREAS, the applicant notes that the required sky exposure plane would be encroached into by 7'-7" along the West 93rd Street façade at the fifth and sixth floors due to the inclusion of a middle school library at the fifth floor and two new classrooms at the sixth floor; and

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WHEREAS, the applicant asserts that if the street wall on West 93rd Street were to set back to comply with the 7'-7" sky exposure plane encroachment, it would effectively eliminate the proposed rooms because their depth would be too narrow (with the presence of the existing elevator and stairwell); and

WHEREAS, the applicant asserts that the proposed location of the majority of the additional proposed floor area along West 93rd Street is driven in part by the existing building's structural support system; the applicant's architect and engineer state that the load capacity for the addition along West 93rd Street is designed to be distributed across both building sections to be supported by the building's existing column and foundation support system; and

WHEREAS, the applicant represents that its development team reviewed the possibility of shifting the proposed floor area from the West 93rd Street portion of the building to the West 92nd Street frontage, and determined that the existing transfer beams in the West 92nd Street portion of the building are already very close to their allowable stress level; and

WHEREAS, further, the applicant states that the relocation of the floor area is programmatically problematic since the building narrows along West 92nd Street, which does not accommodate sufficiently-sized classrooms; and

WHEREAS, finally, the applicant states that a major piece of mechanical equipment must be located in the proposed fourth floor addition, and its required air intake and discharge would be directed toward the "open" area on that floor; and

WHEREAS, accordingly, the applicant states that the propose enlargement most effectively meets the School's programmatic needs; and

WHEREAS, the Board acknowledges that the School, as an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the School along with the existing constraints of the site create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the School is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant represents that the variance, if granted, will not alter the essential character of the

neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the site is located within the West Side Urban Renewal Area and the existing building was limited, in 1996, by the then-applicable West Side Urban Renewal Plan controls affecting the site, which were more restrictive than the applicable zoning bulk regulations (the West Side Urban Renewal Plan was established in 1962 and expired in 2002); and

WHEREAS, because the site is within the Upper West Side/Central Park West Historic District, the applicant has obtained a Certificate of Appropriateness from the Landmarks Preservation Commission ("LPC"), dated September 18, 2013 and amended January 14, 2014; and

WHEREAS, the applicant cites to LPC's designation report which states that the area's residential buildings range from three-, four-, and five-story row houses, to twelve- to seventeen-story multiple dwellings and also include eight- to twelve-story apartment hotels and studio buildings that are on both the avenues as well as streets; and

WHEREAS, additionally, the applicant cites to LPC's recognition that the Upper West Side is characterized by a variety of institutional buildings intended to meet the social, educational, and religious needs of neighborhood residents; and

WHEREAS, the applicant also cites to the Certificate of Appropriateness which states that "...the proposed additions will not cause damage to [the] historic fabric or any significant historic features of the district; that the construction of rooftop additions on this through-lot building will result in an overall building height that relates to the taller surrounding buildings; that the geometry of the addition, which raises the street wall two floors on West 93rd Street with set-back addition and two floors on West 92nd Street, will be compatible with the massing of other institutional buildings in this historic district..."; and

WHEREAS, the applicant asserts that the height and bulk of the proposed enlarged school building will be in context with the nearby buildings on the north and south sides of both West 92nd Street and West 93rd Street; and

WHEREAS, specifically, the applicant cites to 50 West 93rd Street to the west, which is eight stories, and 70 West 93rd Street, which is 31 stories; to the east of the high school building is 2 West 93rd Street with 16 stories and 325 Central Park West with 16 stories; and on the north side of West 92nd Street there are One West 92nd Street with 15 stories, 7 West 92nd Street with seven stories, 35 West 92nd Street, with 13 stories, and 73 West 92nd Street with 31 stories; on the north side of West 93rd Street to the west there is 37 West 93rd Street with eight stories and 689 Columbus Avenue with 16 stories; and to the east on the north side of West 93rd Street, 333 Central Park West with 12 stories; and

WHEREAS, in response to concerns raised by the Community Board regarding the potential impact on the light and air to the immediately adjacent buildings along West 92nd Street, the proposed fourth floor (which contains mechanical

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equipment) has been reduced in depth to be located closer to West 92nd Street, and the proposed third floor roof has been sloped along the sides to allow additional light and air to the adjacent neighbors; and

WHEREAS, in response to the Opposition's concerns, the applicant asserts first that the traffic concerns associated with the School exist now and will not be exacerbated by the proposed enlargement of the building; and

WHEREAS, the applicant represents that its traffic consultant is conducting additional field observations and will develop additional recommendations to address the traffic concerns including whether it would be helpful to install a red light camera and left turn traffic signal at West 93rd Street and Central Park West or closing West 93rd Street to traffic during peak times; and

WHEREAS, the School states that it is committed to developing a comprehensive traffic plan for review and comment from the community and agrees to continue to work with the community to try to resolve existing traffic issues; the School commits to participating in a working group with representatives from WORD to ensure safe traffic and pedestrian conditions; and

WHEREAS, the applicant states that it considered several other suggestions which it concluded were not feasible such as student drop-off on Columbus Avenue, including staggered drop-off and pick-up times, student shuttles from offsite, and drop-off on West 92nd Street; and

WHEREAS, in response to the Opposition's proposed conditions, the School states that (1) it will establish a traffic plan in consultation with WORD, with whom it will meet on an ongoing basis to focus on traffic concerns and that it will coordinate with the Department of Transportation; (2) it has complied fully with CEQR requirements and that noise, traffic, and air quality analyses were not triggered by the proposal; (3) it proposes to add 30 students, but will not agree to cap enrollment; (4) it will strive to complete construction during the summer, only on weekdays and during business hours but notes the possibility of unforeseen delays which may require additional time; (5) it cannot produce a site logistics plan and construction calendar at this point in the process; (6) it does plan to use the sixth-floor rooftop for a play area but will fence and buffer it as well as limit the hours to school hours not to be later than 5:00 p.m.; and (7) the rooftop mechanicals will occupy the fourth-floor roof and will include an acoustical enclosure, all of which is subject to LPC approval; and

WHEREAS, finally, as to the Opposition's concerns about inconsistencies between the subject application and the 2008 variance application, the applicant states that numerous circumstances have changed since the 2008 application, which should be viewed independently from the subject application and that all current and prior claims were credible, based on the respective circumstances; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be

detrimental to the public welfare; and

WHEREAS, the applicant states that the hardship was not self-created, and that no development that would meet the programmatic needs of the School could occur given the existing conditions of the North Building and the South Building; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner; and

WHEREAS, the applicant represents that the requested waivers are the minimum necessary to accommodate the School's current and projected programmatic needs; and

WHEREAS, as noted, the applicant revised the plans to provide additional setback and slope at the fourth and third floor, respectively; and

WHEREAS, the Board finds that the requested relief is the minimum necessary to allow the School to fulfill its programmatic needs; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, 13BSA049M dated October 12, 2012; and

WHEREAS, the EAS documents that the operation of the School would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R7-2 zoning district within the Upper West Side/Central Park West Historic District, the enlargement of an existing school building, which does not comply with zoning regulations for lot coverage, permitted obstruction, rear yard equivalent, encroachment into the required initial setback distance, width and height of street wall, and side yard, contrary to ZR §§ 24-11, 24-382, 24-33, 24-522, 23-692, and

MINUTES

24-35, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received October 3, 2014”– fourteen (14) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a floor area of 40,778 sq. ft. (4.88 FAR) and total height of 95 feet, exclusive of bulkheads, as illustrated on the BSA-approved plans;

THAT the School will establish a traffic plan to improve traffic flow at the site, in a timely manner; measures, in consultation with the community working group, may include a red light camera and left turn traffic signal, among other measures;

THAT fencing and buffering will be installed around the seventh-floor rooftop play area, which will have hours not to exceed school hours and no use after 5:00 p.m.;

THAT the use of the fourth-floor rooftop will be limited to mechanical systems accessible for maintenance/service-related work, will comply with all Noise Code requirements, and will include an acoustical enclosure for the generator;

THAT any change in the use, occupancy, or operator of the School requires review and approval by the Board;

THAT construction will proceed in accordance with ZR § 72-23;

THAT all construction will be in conformance with the LPC Certificate of Appropriateness, dated September 18, 2013 and amended January 14, 2014;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 7, 2014.

The resolution has been amended to correct the tax lot number which read “Lot 50”...now reads: “Lot 20”. Corrected in Bulletin Nos. 16-17, Vol. 100, dated April 22, 2015.

BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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Volume 100, No. 18

April 29, 2015

DIRECTORY

MARGERY PERLMUTTER, *Chair*

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Tuesday, April 21, 2015**

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131-11-A thru 133-11-A 159-14-A thru 161-14-A	464, 468 Arthur Kill Road, 120 Pemberton Avenue, Staten Island
95-14-A	237 East 72 nd Street, Manhattan
180-14-A	332 West 44 th Street, Manhattan
222-13-BZ	2472 Coney Island Avenue, Brooklyn
44-14-BZ	92 Laight Street, aka 256 West Street, Manhattan
94-14-BZ	1150 East 22 nd Street, Brooklyn
171-14-A & 172-14-BZ	235 Dixon Avenue, Staten Island
238-14-BZ	98-100 Franklin Street, Manhattan

Afternoon Calendar265

Affecting Calendar Numbers:

30-14-BZ	6101 16 th Avenue, Brooklyn
173-14-BZ	20 East 38 th Street, aka 244 Madison Avenue, Manhattan
231-14-BZ	124 West 23 rd Street, Manhattan
248-14-BZ	1565 Forest Avenue, Staten Island
258-14-BZ	112 Atlantic Avenue, Brooklyn

DOCKETS

New Case Filed Up to April 21, 2015

83-15-A

220 36th Street, Southside of 36th Street between 2nd Avenue and 3rd Avenue, Block 0695, Lot(s) 20, Borough of **Brooklyn, Community Board: 7**. GCL 35: seeks authorization to build in the bed of a privately owned mapped street an elevated pedestrian walkway and loading docks to improve pedestrian and vehicle safety and the flow of traffic. M3-1 district.

84-15-A

219 36th Street, North side 36th Street and south side of 35th Street and 34, 68, 88, & 35th Street, Block 0691, Lot(s) 1, Borough of **Brooklyn, Community Board: 7**. GCL 35 seeks authorization to build in the bed of privately owned mapped street to build elevated pedestrian walkways and loading docks to improve pedestrian and vehicle safety and the flow of traffic. M3-1 district.

85-15-A

33.67,87,35 35th Street, North side of 35th Street and South side of 34th Street between 2nd Avenue and 3rd Avenue, Block 0687, Lot(s) 1, Borough of **Brooklyn, Community Board: 7**. GCL 35 seeks authorization to build in the bed of privately owned mapped street and build elevated pedestrian walkways and loading docks to improve pedestrian and vehicle safety and the flow of traffic. M3-1 district.

86-15-A

67,87 34th Street, North side of 34th Street, between 2nd Avenue and 3rd Avenue, Block 0683, Lot(s) 01, Borough of **Brooklyn, Community Board: 7**. GCL 35 seeks authorization to build in the bed of a privately owned mapped street and to build an elevated pedestrian walkway and loading docks to improve pedestrian and vehicle safety and the flow of traffic. M3-1 district.

87-15-BZ

182 Minna Street, north side of Minna Street between 36th Street and Chester Avenue, Block 05302, Lot(s) 0074, Borough of **Brooklyn, Community Board: 12**. Variance (§72-21) to permit the development of a new community facility (UG 3) contrary to underlying bulk requirements. R5 zoning district. R5 district.

88-15-BZ

1834 East 21st Street, west side of East 21st Street between Quentin Road and Avenue R, Block 06803, Lot(s) 0021, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to permit the enlargement of an existing one family home. R3-2 zoning district. R3-2 district.

89-15-BZ

92 Walworth Street, west side of Walworth Street between Park Avenue and Myrtle Avenue, Block 01735, Lot(s) 0016, Borough of **Brooklyn, Community Board: 3**. Variance (§72-21) to permit the construction of a 4-story, 4-family home contrary to §42-11. M1-1 zoning district M1-1 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

MAY 12, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, May 12, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

APPEALS CALENDAR

250-14-A thru 257-14-A

APPLICANT – Sheldon Lobel, P.C., for Villanova Heights, Inc., owner.

SUBJECT – Application October 15, 2014 – Extension of time to complete construction of eight (8) homes and obtain a Certificate of Occupancy under the common law and Vested Rights. (R1-2) zoning district.

PREMISES AFFECTED – 5401, 5031, 5021, 5310, 5300, 5041, 5030, 5040 Grosvenor Avenue, Goodridge Avenue to the East of Iselin Avenue and West 250th Street, Borough of Bronx.

250-14-A thru 252-14-A, Block 05831, Lot(s) 50, 60, 70

253-14-A and 254-14-A, Block 05839, Lot, 4025, 4018

255-14-A, Block 05830, Lot 3940

256-14-A and 257-14-A, Block 05829, Lot 3630, 3635

COMMUNITY BOARD #8BX

MAY 12, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, May 12, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

233-14-BZ

APPLICANT – Law Office of Fredrick A. Becker, for TF Cornerstone, Inc., owner; LOC Kickboxing LLC dba ilovekickboxing LIC, lessee.

SUBJECT – Application September 29, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (“iLovekickboxing”) within a portion of an existing commercial building. M3-1 zoning district.

PREMISES AFFECTED – 4545 Center Boulevard, east side of Center Boulevard between north Basin Road and 46th Avenue, Block 00021, Lot 0020, Borough of Queens.

COMMUNITY BOARD #2Q

260-14-BZ

APPLICANT – Goldman Harris LLC, for The Chapin School, Ltd., owner.

SUBJECT – Application October 17, 2014 – Variance (§72-21) to permit the construction of a three-story enlargement to the existing school, contrary to floor area, rear yard, height and setback requirements. (R8B/R10A) zoning districts.

PREMISES AFFECTED – 100 East End Avenue aka 106 East End Avenue, Block 1581, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #8M

Ryan Singer, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, APRIL 21, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

1207-66-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Apple Art Supplies of New York, LLC., owner.

SUBJECT – Application December 10, 2014 – Extension of Term of a previously granted variance for the continued operation of a UG6 art supply and bookstore which expired July 5, 2012; Waiver of the Rules. R6 zoning district.

PREMISES AFFECTED – 305 Washington Avenue aka 321 DeKalb Avenue, northeast corner of Washington Avenue & DeKalb Avenue, Block 1918, Lot 7501, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to July 14, 2015, at 10 A.M., for continued hearing.

35-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Torath Haim Ohel Sara, owner.

SUBJECT – Application September 24, 2014 – Extension of Time to Obtain a Certificate of Occupancy of a previously approved Variance (§72-21) which permitted the legalization of an existing synagogue (Congregation Torath Haim Ohel Sara), contrary to front yard (§24-34), side yard (§24-35) and rear yard (§24-36), which expired on March 8, 2012; Amendment to permit minor changes to the construction; Waiver of the rules. R4 zoning district.

PREMISES AFFECTED – 144-11 77th Avenue, between Main Street and 147th Street, Block 6667, Lot 45, Borough of Queens.

COMMUNITY BOARD #8Q

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

131-11-A thru 133-11-A

159-14-A thru 161-14-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Dalip Karpuzzi, Luizime Karpuzzi, owners.

SUBJECT – Application September 6, 2011 & July 7, 2014 – Proposed construction of three two story dwellings with parking garages located within the bed of a mapped street, contrary to General City Law Section 35. R3-1 zoning district.

PREMISES AFFECTED – 464, 468 Arthur Kill Road, 120 Pemberton Avenue, intersection of Arthur Kill Road and Giffords Lane, Block 5450, Lot 35, 36, 37, Borough of Staten Island.

COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to May 12, 2015, at 10 A.M., for decision, hearing closed.

95-14-A

APPLICANT – Bernard Marson, for BBD & D Ink., owner.
SUBJECT – Application May 5, 2014 – MDL 171 & 4.35 to allow for a partial one-story vertical enlargement (*Penthouse*) of the existing 3 story and basement building located on the site. Pursuant to the 310 MDL. R8 zoning district.

PREMISES AFFECTED – 237 East 72nd Street, north Side of East 72nd Street 192.6' West of 2nd Avenue, Block 1427, Lot 116, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to May 12, 2015, at 10 A.M., for decision, hearing closed.

180-14-A

APPLICANT – Fried Frank Harris Shriver and Jacobson LLP, for EXG 332 W 44 LLC c/o Edison Properties, owner.
SUBJECT – Application August 1, 2014 – Appeal challenging the Department of Building's determination that the subject façade treatment located on the north wall is an impermissible accessory sign as defined under the ZR Section 12-10. C6-2SCD zoning district.

PREMISES AFFECTED – 332 West 44th Street, south side West 44th Street, 378 west of the corner formed by the intersection of West 44th Street and 8th Avenue and 250' east of the intersection of West 44th Street and 8th Avenue, Block 1034, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for adjourned hearing.

MINUTES

ZONING CALENDAR

222-13-BZ

APPLICANT – Eric Palatnik, P.C., for 2464 Coney Island Avenue, LLC, owner.

SUBJECT – Application July 23, 2013 – Special Permit (§73-44) to allow the reduction of required parking for the use group 4 ambulatory diagnostic treatment healthcare facility. C8-1/R5 zoning district.

PREMISES AFFECTED – 2472 Coney Island Avenue, southeast corner of Coney Island Avenue and Avenue V, Block 7136, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

44-14-BZ

APPLICANT – Sheldon Lobel, P.C., for AA Olympic LLC., owner;

The Live Well Company LLC., lessee.

SUBJECT – Application March 17, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Live Well*) on the first floor of the existing building, located within C6-3A & C6-2A zoning districts in a historic district.

PREMISES AFFECTED – 92 Laight Street aka 256 West Street, 416 Washington Street, block bounded by Washington Street, West Street, and Vestry Street, Block 218, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for continued hearing.

94-14-BZ

APPLICANT – Dennis D. Dell'Angelo, for Rivka Shapiro, owner.

SUBJECT – Application May 5, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-141) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1150 East 22nd Street, west side of East 22nd Street, 140' north of Avenue "K", Block 7603, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

171-14-A & 172-14-BZ

APPLICANT – Law Office of Steven Simicich, for Dxngrnt2, LLC, owner.

SUBJECT – Application July 22, 2014 – Proposed construction of a single family detached home on the site which a portion is located within the bed of a mapped street, pursuant to the General City Law 35 and requires a waiver under ZR Section 72-01(g). Variance (§72-21) to allow for the reduction in the required front yard fronting from 10' to 4'. R3A zoning district.

PREMISES AFFECTED – 235 Dixon Avenue, corner of Dixon and Granite Avenue, Block 1172, Lot 244, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

238-14-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for DDG 100 Franklin, LLC., owner.

SUBJECT – Application October 1, 2014 – Variance (§72-21) to permit the construction of two mixed residential and commercial buildings on a single zoning lot contrary to §§35-21 & 23-145 (Lot Coverage), 35-24c (Height and setback), 35-52 and 33-23 (minimum width of open area along a side lot line and permitted obstruction regulations), 35-24b (Street wall location). C6-2A Zoning District, Historic District.

PREMISES AFFECTED – 98-100 Franklin Street, Bounded by Avenue of the Americas, Franklin and White Streets, West Broadway, Block 00178, Lot 0029, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for adjourned hearing.

MINUTES

**REGULAR MEETING
TUESDAY AFTERNOON, APRIL 21, 2015
1:00 P.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

30-14-BZ

APPLICANT – Eli Katz of Binyan Expediting, for Cong. Machine Chaim, owner; Yeshiva Bais Sorah, lessee.

SUBJECT – Application February 11, 2014 – Variance (§72-21) proposed enlargement to an existing school (Use Group 3) is contrary to §§42-00 & 43-43. M1-1 zoning district.

PREMISES AFFECTED – 6101 16th Avenue aka 1602 61st Street aka 1601 62nd Street, north east corner of 62nd Street and south east side of 16th Avenue, Block 5524, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #11BK

ACTION OF THE BOARD – Laid over to July 28, 2015, at 10 A.M., for continued hearing.

173-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 244 Madison Realty Corp., owner; Coban's Muay Thai Camp NYC, lessee.

SUBJECT – Application July 22, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Evolution Muay Thai Camp*) in the cellar of an existing 16-story mixed-used residential and commercial building, located within an C5-2 zoning district.

PREMISES AFFECTED – 20 East 38th Street aka 244 Madison Avenue, southwest corner of Madison Avenue and East 38th Street, Block 867, Lot 57, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Laid over to June 16, 2015, at 10 A.M., for continued hearing.

231-14-BZ

APPLICANT – Sheldon Lobel, PC, for Orangetheory Fitness, owner; OTF Man One, LLP, lessee.

SUBJECT – Application September 26, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Orangetheory Fitness*) within a portion of an existing commercial building. C6-3X zoning district.

PREMISES AFFECTED – 124 West 23rd Street, south side of West 23rd Street, between Avenue of the Americas and 7th Avenue, Block 00798, Lot 7507, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to July 21, 2015, at 10 A.M., for continued hearing.

248-14-BZ

APPLICANT – Slater & Beckerman, P.C., for KIOP Forest Avenue L.P., owner; Fitness International LIC aka LA Fitness, lessee.

SUBJECT – Application October 24, 2014 – Special Permit (§73-36) to allow the operation of a new physical culture establishment (*LA Fitness*) in the existing building. C4-1 zoning district.

PREMISES AFFECTED – 1565 Forest Avenue, Forest Avenue, Between Barrett and Decker Avenues, Block 1053, Lot (s) 130, 133, 138, 189, 166, Borough of Staten Island.

COMMUNITY BOARD #1SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to June 16, 2015, at 10 A.M., for decision, hearing closed.

258-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Henry Atlantic Partners LLC, owner.

SUBJECT – Application October 16, 2014 – Variance (§72-21) to permit the construction of a 4-story mixed-use building of an existing with commercial use on the first floor in a (R6) zoning district located in Cobble Hill Historic District.

PREMISES AFFECTED – 112 Atlantic Avenue, southeast corner of the intersection formed by Atlantic Avenue and Henry Street, Block 285, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

BULLETIN

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May 6, 2015

DIRECTORY

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SUSAN M. HINKSON, *Vice-Chair*

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**MINUTES of Regular Meetings,
Tuesday, April 28, 2015**

Morning Calendar270

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619-73-BZ	2940 Cropsey Avenue, Brooklyn
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315-14-A	485 Seventh Avenue, Manhattan
128-14-A	47 East 3 rd Street, Manhattan
180-14-A	332 West 44 th Street, Manhattan
147-14-BZ	4167 Ocean Avenue, Brooklyn
153-11-BZ	27-11 30 th Avenue, Brooklyn
309-13-BZ	965 East 24 th Street, Brooklyn
8-14-BZ	1824 East 22 nd Street, Brooklyn
41-14-BZ	21-37 Waverly Avenue, aka 56-58 Washington Avenue, Brooklyn
59-14-BZ	114-122 Jackson Street, Brooklyn
64-14-BZ	1320 East 23 rd Street, Brooklyn
148-14-BZ	11 Avenue A, Manhattan
186-14-BZ	51-63 Bond Street, aka 252-270 Schermerhorn Street, Brooklyn
238-14-BZ	98-100 Franklin Street, Manhattan

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237-14-BZ	162-01 Jamaica Avenue, Queens
284-14-BZ	267 Pacific Street, Brooklyn
1-15-BZ	150 West 85 th Street, Manhattan

Correction279

Affecting Calendar Numbers:

964-87-BZ	786 Burke Avenue, aka 780-798 Burke Avenue, Bronx
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DOCKETS

New Case Filed Up to April 28, 2015

90-15-A

54 Industrial Loop, east side of Industrial Loop, approx. 483 ft. north of intersection with Arthur Kill Road, Block 07206, Lot(s) 0191, Borough of **Staten Island, Community Board: 3**. Proposed construction of a building located partially within the bed of mapped unbuilt street, pursuant Article 3 Section 35 of the General City Law. M3-1 (SRD) zoning district. M3-1 (SRD) district.

91-15-A

55 Englewood Avenue, 593.35 feet east of Arthur Kill Road, Block 07380, Lot(s) 0029, Borough of **Staten Island, Community Board: 3**. Proposed construction of a building located partially within the bed of mapped unbuilt street, pursuant Article 3 Section 35 of the General City Law. M1-1 zoning district. M1-1 district.

92-15-BZ

170 Buffalo Avenue, West side of Buffalo Avenue between St. Mark's Avenue and Prospect Place, Block 01362, Lot(s) 01, Borough of **Brooklyn, Community Board: 8**. Variance (§72-21) proposed redevelopment of existing Use group hospital with the use of USG3 nursing home and sky exposure plain located within an R6 zoning district. .. R6 district.

93-15-BZ

1011 Reads Lane, Located along Reads Lane between Cornage Court and Mobile road, Block 01555, Lot(s) 028, Borough of **Queens, Community Board: 14**. Variance (§72-21) to construct a new UG4 Synagogue at the premises to certain bulk and parking regulations and waiver o the floor area side yard , located within an R2X zoning district. R2X district.

94-15-BZ

16 Brighton 11 Street, Located on the west side of Brighton 11 Street and 59.75 South of Neptune Avenue, Block 08707, Lot(s) 0375, Borough of **Staten Island, Community Board: 3**. Special Permit (§73-36) to allow the construction of LA Fitness (PCE) on the first floor of this commercial building located within an C8-1 zoning district. C8-1 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

MAY 19, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, May 19, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

174-04-BZ

APPLICANT – Kramer Levin Naftalis & Franked LLP, for 124 West 24th Street Condominium, owner.

SUBJECT – Application October 31, 2014 – Amendment: to amend and the approval of the conveyance of unused development rights appurtenant to the subject site. The variance previously granted by the Board located within and M1-5 zoning district.

PREMISES AFFECTED – 124 West 24th Street, location on the south side of West 24th Street, between Sixth and Seventh Avenues. Block 799, Lots 1001, 1026. Borough of Manhattan.

COMMUNITY BOARD #4M

APPEALS CALENDAR

230-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Anthony and Linda Colletti, owners.

SUBJECT – Application May 19, 2015 – Proposed construction of a one-family residence located partially within the bed of a mapped street pursuant to Section 35 of the General City Law. R3x zoning district.

PREMISES AFFECTED – 20 Pelton Avenue, northwest corner of intersection of Pelton Avenue and Pelton Place, Block 00149, Lot 20, Borough of Staten Island

COMMUNITY BOARD #1SI

MAY 19, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, May 19, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

270-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Carnegie Park land Holding LLC c/o Related Cos., owner; Equinox-East 92nd LLC, lessee.

SUBJECT – Application November 3, 2014 – Special Permit 73-36 to allow the physical culture establishment (*Equinox*) within portions of a new mixed use building, located within an C4-6 zoning district.

PREMISES AFFECTED – 203 East 92nd Street, north side of East 92nd Street, 80 ft. east of intersection with 3rd Avenue, Block 01538, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #8M

Ryan Singer, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, APRIL 28, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

1203-65-BZ

APPLICANT – Warshaw Burstein, LLP, for NY Dealers Stations, LLC, owner.

SUBJECT – Application August 20, 2014 – Amendment of a previously approved Special Permit (§73-211) which permitted the operation of an Automotive Service Station (UG 16B) with accessory used. The amendment seeks to permit the conversion of existing services bays to an accessory convenient store. C2-2/R5 zoning district.

PREMISES AFFECTED – 1929 Bruckner Boulevard, northwest corner of the intersection formed by Virginia Avenue and Bruckner Boulevard, Block 3787, Lot 1, Borough of Bronx.

COMMUNITY BOARD #9BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a re-opening of a special permit authorizing the operation of an one-story automobile service station (Use Group 16) and an amendment to allow the conversion of existing automotive repair bays to an accessory convenience store; and

WHEREAS, a public hearing was held on this application on March 31, 2015, after due notice by publication in *The City Record*, and then to decision on April 28, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Ottley-Brown; and

WHEREAS, Community Board 9, Bronx, has no objection to this application; and

WHEREAS, the subject site is located on the northeast corner of the intersection of Virginia Avenue and Bruckner Boulevard, within an R5 (C2-1) zoning district; and

WHEREAS, the site has approximately 104 feet of frontage along Virginia Avenue, approximately 188 feet of frontage along Bruckner Boulevard, and 20,177 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story building used as an automotive service station with gasoline sales (Use Group 16), which contains 1,622 sq. ft. of floor area, three automotive service bays, four pump islands, and 16 accessory parking spaces; in addition, the site has four curb cuts (three

along Bruckner Boulevard and one along Virginia Avenue); and

WHEREAS, the Board has exercised jurisdiction over the site since May 14, 1957, when, under BSA Cal. No. 788-56-BZ, the Board granted a use variance to permit operation of an automobile sales establishment in a residence district, contrary to the use regulations of the 1916 Zoning Resolution, for a term of five years; this grant was subsequently amended and its term extended at various times; and

WHEREAS, on March 15, 1966, under the subject calendar number, the Board granted a special permit pursuant to ZR §§ 73-211 and 73-212 to permit, in an R5 (C2-1) zoning district, the construction of an automotive service station with projecting accessory signage; and

WHEREAS, the grant was subsequently amended at various times to permit certain changes to the site plan; in addition, on September 13, 1983, under BSA Cal. No. 299-83-A, the Board authorized the use of a self-service gasoline and oil selling station contrary to the Fire Code; and

WHEREAS, the applicant now seeks an amendment to allow the conversion of the automotive repair bays to an accessory convenience store; the applicant notes that the store will be a 7-11 franchise and will operate 24 hours per day, seven days per week; in addition, the applicant seeks to maintain the site's 16 accessory parking spaces and install new buffering along the northern lot line; and

WHEREAS, with respect to the proposed accessory convenience store, the applicant represents that the proposal complies with DOB Technical Policy and Procedure Notice No. 10/1999, which sets forth the requirements for convenience stores accessory to gasoline and automotive service stations; and

WHEREAS, at hearing, the Board directed the applicant to: (1) remove all graffiti from the site; (2) remove the clothing donation bins; (3) remove all non-complying signage from the site; (4) immediately install landscaping in accordance with the proposed drawings; and (5) revise the proposed drawings to reflect compliance with the signage requirements, the fence along the site's northern lot line, numbered spaces, and landscaping and buffering; and

WHEREAS, in response, the applicant provided: (1) photographs depicting the removal of the graffiti, clothing bins, and excessive signage, as well as the installation of landscaping in accordance with the submitted drawings; and (2) revised drawings; and

WHEREAS, based upon the above, the Board finds that the requested amendment to the special permit is appropriate, subject to certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated March 15, 1966, so that as amended the resolution reads: "to permit the conversion of automotive service bays to an accessory convenience store and other modifications to the site plan; *on condition* that all work will substantially conform to drawings, filed with this application marked 'Received April 24, 2015' – (6) sheets; and on further condition:

THAT the building shall have a maximum floor area of

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1,622 sq. ft.;

THAT the site shall be maintained free of debris and graffiti;

THAT the signage, landscaping, fencing, parking, and site circulation shall be in accordance with the BSA-approved drawings;

THAT lighting at the site shall be directed downward and away from adjoining residences;

THAT the above conditions shall be noted in the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by April 28, 2017;

THAT all conditions from prior resolutions not specifically waived by the Board shall remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s); and

THAT DOB shall ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Application No. 220384402)

Adopted by the Board of Standards and Appeals, April 28, 2015.

584-55-BZ

APPLICANT – Nasir J. Khanzada, PE, for Gurnam Singh, owner.

SUBJECT – Application June 11, 2014 – Amendment (§11-412) of a previously approved variance which permitted the alteration of an existing Automotive Service Station (UG 16B). The amendment seeks to permit the conversion of the accessory auto repair shop to a convenience store and alter the existing building. C2-4/R7-2 zoning district.

PREMISES AFFECTED – 699 Morris Avenue, southwest corner of East 155th Street and Park Avenue, Block 2422, Lot 65, Borough of Bronx.

COMMUNITY BOARD #2BX

ACTION OF THE BOARD – Laid over to June 16, 2015, at 10 A.M., for continued hearing.

619-73-BZ

APPLICANT – Sheldon Lobel, P.C., for CI Gateway LL, owner.

SUBJECT – Application October 23, 2014 – Reinstatement of a variance (§72-21) which permitted the operation of an eating and drinking establishment (UG 6) with an accessory drive thru which expired on February 26, 2004; Amendment to permit the redevelopment of the site; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 2940 Cropsey Avenue, front of Bay 52nd Street, Cropsey Avenue and 53rd Street, Block 6949, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #13BK

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

218-14-A

APPLICANT – Paul F. Bonfilio, R.A., for Bo Qian, owner.
SUBJECT – Application September 4, 2014 – Proposed construction of a four-story residential building for eleven units within the bed of 45th Avenue at its intersection within a bed of unmapped street, contrary to GCL 35. R5 zoning district.

PREMISES AFFECTED – 46-03 88th Street, 45th Avenue at intersection of 88th Street, Block 1584, Lot 16, Borough of Queens.

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated August 12, 2014, acting on DOB Application No. 420996630, reads in pertinent part:

The proposed development is contrary to General City Law #35, building in the bed of a mapped street, and requires approval and a Special Permit from the Board of Standards and Appeals...; and

WHEREAS, a public hearing was held on this application on April 14, 2015, after due notice by publication in *The City Record*, and then to decision on April 28, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Montanez performed inspections of the site and premises, as well as the surrounding neighborhood; and

WHEREAS, this is an application to allow the construction of a four-story residential building which will be partially located within the bed of a mapped but unbuilt portion of 45th Avenue, at the intersection of the 45th Avenue and 88th Street, in Queens; and

WHEREAS, the subject site is located within an R5 zoning district; and

WHEREAS, the site has a lot area of approximately 7,340 sq. ft.; and

WHEREAS, by letter dated September 29, 2014, the New York City Fire Department (“FDNY”) states that it has no objections to the proposed application; and

WHEREAS, by letter dated October 22, 2014, the New York City Department of Environmental Protection (“DEP”) states that it has no objections to the proposed application; and

WHEREAS, by letter dated February 6, 2015, the New York City Department of Transportation (“DOT”) states that the site is presently included in DOT’s Capital Improvement

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Program, but does not object to the proposed application provided that the applicant's site plan is reflected in its Builders Pavement Plan of 45th Avenue; and

WHEREAS, the Board notes that pursuant to GCL § 35, it may authorize construction within the bed of the mapped street subject to reasonable requirements; and

WHEREAS, the Board notes that pursuant to ZR § 72-01(g), the Board may waive bulk regulations where construction is proposed in part within the bed of a mapped street; such bulk waivers will be only as necessary to address non compliances resulting from the location of construction within and outside of the mapped street, and the zoning lot will comply to the maximum extent feasible with all applicable zoning regulations as if the street were not mapped; and

WHEREAS, therefore, consistent with GCL § 35 and ZR § 72-01(g), the Board finds that applying the bulk regulations across the portion of the subject lot within the mapped street and the portion of the subject lot outside the mapped street as if the lot were unencumbered by a mapped street is both reasonable and necessary to allow the proposed construction; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the Board modifies the decision of the DOB, dated August 12, 2014, acting on DOB Application No. 420996630, by the power vested in it by Section 35 of the General City Law, and also waives the bulk regulations associated with the presence of the mapped but unbuilt street pursuant to Section 72-01(g) of the Zoning Resolution to grant this appeal, limited to the decision noted above *on condition* that construction will substantially conform to the drawing filed with the application marked "Received April 16, 2015"-(1) sheet; and *on further condition*:

THAT DOB will review and approve plans associated with the Board's approval for compliance with the underlying zoning regulations as if the unbuilt portion of the street were not mapped;

THAT to the extent required by DOB and/or DOT, a Builder's Pavement Plan shall be filed and approved prior to the issuance of the C of O;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on April 28, 2015.

315-14-A

APPLICANT – Mitchel A. Korbey, Esq., for 485 Seventh Avenue Associates LLC, owner.

SUBJECT – Application November 21, 2014 – MDL (Multiple Dwelling Law (section 310(2)(a) for waivers to permit the conversion of and small addition to the building, located within an M1-6 Special Garment Center District.

PREMISES AFFECTED – 485 Seventh Avenue, northeast corner of West 36th Street and Seventh Avenue, Block 812, Lot 1 & 2, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Otley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), November 14, 2014, acting on DOB Application No. 121186509 reads, in pertinent part:

1. The proposed inner court does not comply with the requirements of NYS MDL Section 26.7
2. The proposed outer court fronting West 36th Street does not comply with the requirements of NYS MDL Section 26.7; and

WHEREAS, this is an application pursuant to Multiple Dwelling Law ("MDL") § 310, to vary court requirements in order to allow for the proposed conversion of the subject building from office use (Use Group 6) to a transient hotel (Use Group 5), contrary to the court requirements of MDL §§ 26(7); and

WHEREAS, a public hearing was held on this application on March 31, 2015, after due notice by publication in *The City Record*, and then to decision on April 28, 2015; and

WHEREAS, the site and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, the subject site is located on the northeast corner of the intersection Seventh Avenue and West 36th Street, within an M1-6 zoning district, within the Special Garment Center District, and partially within the Preservation Area P-1 subdistrict; and

WHEREAS, the site has 174.42 feet of frontage along West 36th Street and 96.75 feet of frontage along Seventh Avenue, and approximately 17,214 sq. ft. of lot area; and

WHEREAS, the applicant notes that, pursuant to ZR §121-12 the site, less than fifty percent of which is located within the Preservation Area P-1 subdistrict and which fronts on a wide street, is not subject to the preservation requirements generally applicable to zoning lots within the Special Garment Center District; and

WHEREAS, the site is occupied by a 16-story commercial office building, with commercial offices (Use Group 6) on floors two through 16 and commercial retail (Use

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Group 6) on the ground floor; and

WHEREAS, the applicant states that building was constructed in 1905 as a hotel and was converted to its current retail and office use in the 1980s; and

WHEREAS, the building was designated by the New York City Landmarks Preservation Commission (the "LPC") as an individual landmark on October 28, 2014; and

WHEREAS, the site includes four courts: (1) an outer court with frontage along West 36th Street with a width of 24.5 feet and a depth of 36 feet (the "Outer Court"); (2) an inner court on the west side of the building with a width of 26.10 feet and depth of 37.81 feet from the third story of the building to the seventh story of the building (the "West Court"); (3) an inner court on the east side of the building with a width of 26.14 feet and depth of 38.34 feet from the third story of the building to the seventh story of the building (the "East Court"); and (4) an inner court on the north side of the building with a width of 25.2 feet and a depth of 27.1 feet, beginning at the third story of the building and fronting along the side yard thereof (the "North Court"); and

WHEREAS, both the West Court and East Court act as atriums with skylights located on the roof, and both have been incrementally "filled in" with floor area starting at the eighth story of the building and increasing until the 16th story of the building, at which point the depth of both the West Court and East Court is approximately 20 feet; and

WHEREAS, the applicant proposes to enlarge the building, remove some of the infill of the West Court and the East Court, renovate the interior layout of the building and infill the North Court and renovate the ground and second floor retail space in its efforts to restore the building to its original transient hotel (Use Group 5) use with 618 hotel rooms on the third through 16th stories, with commercial, parking and accessory uses on the subcellar, cellar, ground floor and second floor; and

WHEREAS, the Board notes that pursuant to MDL § 4(9), transient hotels are considered Class B multiple dwellings; therefore, the proposed hotel use must comply with the relevant provisions of the MDL; and

WHEREAS, the Board further notes that pursuant to MDL § 30(2), every room in a multiple dwelling shall have at least one window opening directly upon a street or upon a lawful yard, court or space above a setback located on the same lot as that occupied by the multiple dwelling; and

WHEREAS, the applicant states that of the 618 rooms in the proposed hotel, 308 will have windows that open onto a street, 160 will have windows that open onto a legal side yard, 94 will have windows that open onto the East Court, and 56 will have windows that open onto the Outer Court; and

WHEREAS, pursuant to MDL § 4(32), the East Court is considered an "inner court" and the Outer Court is considered an "outer court"; and

WHEREAS, MDL § 26(7) states that, except as otherwise provided in the Zoning Resolution, (1) an inner court shall have a minimum width of four inches for each one foot of height of such court and (2) the area of such inner court shall be twice the square of the required width of the

court, but need not exceed 1,200 sq. ft. so long as there is a horizontal distance of at least 30 feet between any required living room window opening onto such court and any wall opposite such window; the applicant notes that the Zoning Resolution does not provide any standards for courts that serve transient hotels; and

WHEREAS, pursuant to MDL § 26(7), the East Court, which has a height of approximately 159 feet, is required to have a width of at least 53 feet; and

WHEREAS, the proposed East Court does not satisfy the minimum requirements of MDL § 26(7) in that neither the width nor depth of the proposed East Court equals 53 feet, nor is the area of the proposed East Court twice the square of the required width or at least 1,200 sq. ft. in area; and

WHEREAS, MDL § 26(7) states that, except as otherwise provided in the Zoning Resolution, (1) an outer court shall have a minimum width of twice the depth of said outer court if such court is less than 30 feet in width or (2) a width equal to its depth if such court is 30 feet or more in width, but need not exceed a width of 60 feet; the applicant notes that the Zoning Resolution does not provide any standards for courts that serve transient hotels; and

WHEREAS, the Outer Court, the dimensions of which are 24.83 feet in width and 35.63 feet in depth does not satisfy the minimum requirements of MDL § 26(7); and

WHEREAS, accordingly, the applicant requests that the Board invoke its authority under MDL § 310 to permit the proposed conversion contrary to MDL §§ 26(7); and

WHEREAS, pursuant to MDL § 310(2)(a), the Board has the authority to vary or modify certain provisions of the MDL for multiple dwellings that existed on July 1, 1948, provided that the Board determines that strict compliance with such provisions would cause practical difficulties or unnecessary hardships, and that the spirit and intent of the MDL are maintained, public health, safety and welfare are preserved, and substantial justice is done; and

WHEREAS, as noted above, the subject building was constructed in 1905; therefore the building is subject to MDL § 310(2)(a); and

WHEREAS, specifically, MDL § 310(2)(a) empowers the Board to vary or modify provisions or requirements related to: (1) height and bulk; (2) required open spaces; (3) minimum dimensions of yards or courts; (4) means of egress; and (5) basements and cellars in tenements converted to dwellings; and

WHEREAS, the Board notes that MDL § 26(7) specifically relates to the minimum dimensions of courts; therefore, the Board has the power to vary or modify the subject provisions pursuant to MDL § 310(2)(a)(3); and

WHEREAS, the Board also observes that to the extent it permits a court at variance with the requirements of MDL § 26(7), such court is a "lawful court" upon which legally-required windows can open in accordance with MDL § 30; and

WHEREAS, turning to the findings under MDL § 310(2)(a), the applicant asserts that practical difficulty and unnecessary hardship would result from strict compliance with

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the MDL; and

WHEREAS, in support of this assertion, the applicant submitted a comparison between the proposal and the conversion of the Building to a transient hotel with a court that satisfies the minimum requirements of MDL §§ 26(7); and

WHEREAS, the applicant states that in order to create a complying East Court and Outer Court, the following work would be required: (1) excavation to install new reinforced concrete footings at the lowest level of the aforesaid courts in order to permanently support the building loads above; (2) demolition of new openings through the existing slabs to provide access for permanent new steel columns; (3) installation of steel columns for the height of the building and atriums and the attendant bracing of each column into the existing floor slabs at each level; (4) temporary shoring of the existing beams on a floor-by-floor basis; (5) removal of the existing atrium façade and affected original steel columns on a floor-by-floor basis from the top of the building down; (6) cutting and shortening of the existing steel beams on a floor-by-floor basis to permit the installation of permanent new steel beams that connect directly to the new steel beam columns; and (7) repair to the slab edges with new infill and the reconstruction of the building's interior façade at all levels of the building atrium; and

WHEREAS, the applicant submitted a cost estimate to perform the foregoing work to the Board, which states that the cost of such work would be in excess of \$6,800,000; and

WHEREAS, the applicant states that in addition to causing the applicant to incur significant cost, the foregoing work would result in the loss of approximately 42 hotel rooms, reducing the number of the hotel rooms from 618 to 576, resulting in a loss of approximately \$5,000,000 in revenue annually; and

WHEREAS, the applicant notes that the foregoing work would jeopardize the structural integrity of the landmark structure; and

WHEREAS, based on the above, the Board agrees that the applicant has established a sufficient level of practical difficulty and unnecessary hardship in complying with the requirements of the MDL; and

WHEREAS, the applicant states that the requested variance of MDL §§ 26(7) is consistent with the spirit and intent of the MDL, and will preserve public health, safety and welfare, and substantial justice; and

WHEREAS, the applicant states that the proposed conversion will serve tourists, business travelers and other visitors to Midtown Manhattan and New York City; and

WHEREAS, the Board notes that the intent of MDL §§ 26(7) is to ensure that rooms within multiple dwellings have adequate light and ventilation; and

WHEREAS, the applicant states that although the dimensions of the East Court and Outer Court are deficient under the MDL, the building occupies a corner location, fronting upon Seventh Avenue and West 36th Street, with a majority of the proposed hotel rooms having windows that open onto those thoroughfares or the existing legal side yards; and

WHEREAS, the applicant states that the 94 hotel rooms with windows which open onto the East Court are benefitted by ample light and air in that (1) the East Court has an area that is approximately 82-percent of that which is required under the MDL; (2) such windows will be located approximately 26 feet from any opposite facing wall (the required distance is 30 feet); and

WHEREAS, the applicant state states that the 56 room with windows which open onto the Outer Court are benefitted by ample light and air in that (1) half of such affected rooms will have windows will be located approximately 25 feet from any opposite facing wall(the required distance is 30 feet); and

WHEREAS, the applicant further states that in order to mitigate any impacts on light and air to affected rooms, the Applicant proposed to install a glass curtain-wall system in order to maximize daylight and improve reflectivity within such rooms; and

WHEREAS, in addition, the applicant submitted, and the Board reviewed, a shadow study which assessed the potential effects of the enlargement of the East Court and Outer Court and which concludes that the proposed enlargement will have little or no effect on shadows throughout the year; and

WHEREAS, the Landmarks Preservation Commission has approved the proposed alterations of the building by Certificate of Appropriateness (Design Approval Only), dated April 16, 2015; and

WHEREAS, based on the above, the Board finds that the proposed modifications to the court requirements of MDL §§ 26(7) will maintain the spirit and intent of the MDL, preserve public health, safety and welfare, and ensure that substantial justice is done; and

WHEREAS, accordingly, the Board finds that the applicant has submitted adequate evidence in support of the findings required to be made under MDL § 310(2)(a) and that the requested modification of the court requirements of MDL §§ 26(7) is appropriate, with certain conditions set forth below.

Therefore it is Resolved, that the decision of the Department of Buildings, dated November 14, 2014, is modified and that this application is granted, limited to the decision noted above, on condition that construction will substantially conform to the plans filed with the application marked, "Received, April 27, 2015"- (23) sheets; and on further condition:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB objections related to the MDL;

THAT the applicant record with the City Register a restrictive declaration for light and air over the building prior to the issuance of the temporary Certificate of Occupancy for the building;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its

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jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 28, 2015.

128-14-A

APPLICANT – Bryan Cave LLP, for Alicat Family LLC & AEEE Family LLC, owner.

SUBJECT – Application June 6, 2014 – Appeal challenging DOB determination that the proposed off-street loading berth is not accessory to a medical office. C2-5/R7A zoning district.

PREMISES AFFECTED – 47 East 3rd Street, East 3rd Street between First and Second Avenues, Block 445, Lot 62, Borough of Manhattan.

COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

Affirmative: Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez3

Negative:.....0

Abstain: Chair Perlmutter.....1

ACTION OF THE BOARD – Laid over to May 12, 2015, at 10 A.M., for decision, hearing closed.

180-14-A

APPLICANT – Fried Frank Harris Shriver and Jacobson LLP, for EXG 332 W 44 LLC c/o Edison Properties, owner.

SUBJECT – Application August 1, 2014 – Appeal challenging the Department of Building's determination that the subject façade treatment located on the north wall is an impermissible accessory sign as defined under the ZR Section 12-10. C6-2SCD zoning district.

PREMISES AFFECTED – 332 West 44th Street, south side West 44th Street, 378 west of the corner formed by the intersection of West 44th Street and 8th Avenue and 250' east of the intersection of West 44th Street and 8th Avenue, Block 1034, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4

Negative:.....0

ACTION OF THE BOARD – Laid over to June 16, 2015, at 10 A.M., for decision, hearing closed.

ZONING CALENDAR

147-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Iris E. Shalam, owner.

SUBJECT – Application June 24, 2015 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area ZR 23-141; and less than the required rear yard ZR 23-47. R3-1 zoning district.

PREMISES AFFECTED – 4167 Ocean Avenue, east side of Ocean Avenue between Hampton Avenue and Oriental Boulevard, Block 8748, Lot 227, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez 4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated May 28, 2014, acting on DOB Application No. 320960359, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141 in that the proposed floor area ratio exceeds the maximum permitted.
2. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”) and rear yards, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on March 31, 2015, after due notice by publication in *The City Record*, and then to decision on April 28, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Ottley-Brown performed inspections of the site and premises, as well as the surrounding neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of Ocean Avenue, between Hampton Avenue and Oriental Boulevard, within an R3-1 zoning district; and

WHEREAS, the site has 60 feet of frontage along Ocean Avenue and 6,240 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with attic, single-family home with 3,120 sq. ft. of floor area (0.58 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

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WHEREAS, the applicant now seeks to enlarge the building, resulting in an increase in the floor area from 3,120 sq. ft. (0.58 FAR) to 4,128 sq. ft. (0.66 FAR); the maximum permitted floor area is 3,120 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to decrease its rear yard from 39'- 3 1/2" to 22'-3 3/4"; the requirement is a minimum depth of 30'-0"; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, at hearing, the Board expressed concern about the impact of the proposed FAR and 22'-3 3/4" rear yard; and

WHEREAS, the applicant asserts that the subject block contains 24 sites which are occupied by a residence and have a rear yard, eight of which have a smaller rear than that which is proposed by the applicant, and that such rear yards range in depth from 11'-0" to 20'-0"; and

WHEREAS, the applicant further asserts that 15 of the 24 sites have garages located in their rear yards; and

WHEREAS, the above-noted assertions are supported in a rear yard study submitted by the applicant; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR") and rear yards, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received April 14, 2015"– (12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,128 sq. ft. (0.66 FAR) and a rear yard with a minimum depth of 22'-3 3/4", as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be

signed off by DOB and all other relevant agencies by April 28, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 28, 2015.

153-11-BZ

APPLICANT – Eric Palatnik, P.C., for Theodoros Parais, owner.

SUBJECT – Application September 21, 2011 – Reinstatement (§§11-411 & 11-412) to permit the continued operation of an automotive repair use (UG 16B); amendment to enlarge the existing one story building; Waiver of the Board's Rules. C1-3 zoning district.

PREMISES AFFECTED – 27-11 30th Avenue, between 27th Street and 39th Street. Block 575, Lot 23. Borough of Brooklyn.

COMMUNITY BOARD #4BK

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for adjourned hearing.

309-13-BZ

APPLICANT – Law office of Lyra J. Altman, for Miriam Josefovic and Mark Josefovia, owners.

SUBJECT – Application November 22, 2013 – Special Permit (73-622) for the enlargement of an existing single family home, contrary to floor area and open space (23-141); side yards (23-461) and less than the required rear yard (23-47). R2 zoning district.

PREMISES AFFECTED – 965 East 24th Street, east side of East 24th Street between Avenue I and Avenue J, Block 7588, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for decision, hearing closed.

8-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Oleg Saitskiy, owner.

SUBJECT – Application January 16, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (23-141); side yards requirements (§23-461) and less than the rear yard requirement (23-47). R3-2 zoning district.

PREMISES AFFECTED – 1824 East 22nd Street, west side of East 22nd Street between Quentin Road and Avenue R,

MINUTES

Block 6804, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Off-Calendar.

41-14-BZ

APPLICANT – The Law Office of Jay Goldstein, for United Talmudical Academy, owner.

SUBJECT – Application March 7, 2014 – Special Permit (§73-19) to legalize an existing school/yeshiva (UG 3). M1-2 zoning district.

PREMISES AFFECTED – 21-37 Waverly Avenue aka 56-58 Washington Avenue, between Flushing Avenue and Park Avenue front both Washington and Waverly Avenues, Block 1874, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Laid over to June 16, 2015, at 10 A.M., for continued hearing.

59-14-BZ

APPLICANT – Caroline G. Harris, for School Settlement Association Ink., owner.

SUBJECT – Application April 10, 2014 – Variance (§72-21) to permit the construction of a four-story plus penthouse community facility (UG 4), contrary to (24-11). R6B zoning district.

PREMISES AFFECTED – 114-122 Jackson Street, located on the SW corner of the Intersection of Jackson Street and Manhattan Avenue. Block 2748, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for continued hearing.

64-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Moshe Dov Stern & Goldie Stern, owners.

SUBJECT – Application April 29, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1320 East 23rd Street, west side of East 23rd Street between Avenue M and Avenue N, Block 7658, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for continued hearing.

148-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 11 Avenue A Realty LLC, owner.

SUBJECT – Application June 24, 2014 – Variance (§72-21) to permit multi-family residential use at the premises. R8A/C2-5 zoning districts.

PREMISES AFFECTED – 11 Avenue A, west side of Avenue A between East 1st Street and East 2nd Street, Block 429, Lot 39, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to June 16, 2015, at 10 A.M., for continued hearing.

186-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Bond Street Owner, LLC, owners.

SUBJECT – Application August 15, 2014 – Variance (§72-21) to permit the construction of a new hotel building with ground floor retail contrary to allowable commercial floor area (ZR 33-122) located within C6-1/R6B District in the Downtown Brooklyn Special District.

PREMISES AFFECTED – 51-63 Bond Street aka 252-270 Schermerhorn Street, southeast corner of Bond Street and Schermerhorn Street, Block 172, Lot(s) 5, 7, 10, 13, 14, 15, 109, Borough of Brooklyn.

COMMUNITY BOARD #2BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for decision, hearing closed.

238-14-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for DDG 100 Franklin, LLC., owner.

SUBJECT – Application October 1, 2014 – Variance (§72-21) to permit the construction of two mixed residential and commercial buildings on a single zoning lot contrary to §§35-21 & 23-145 (Lot Coverage), 35-24c (Height and setback), 35-52 and 33-23 (minimum width of open area along a side lot line and permitted obstruction regulations), 35-24b (Street wall location). C6-2A Zoning District, Historic District.

PREMISES AFFECTED – 98-100 Franklin Street, Bounded by Avenue of the Americas, Franklin and White Streets, West Broadway, Block 00178, Lot 0029, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to June 16, 2015, at 10 A.M., for continued hearing.

MINUTES

**REGULAR MEETING
TUESDAY AFTERNOON, APRIL 28, 2015
1:00 P.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

237-14-BZ

APPLICANT – Jeffrey A. Chester/GSHLLP, for 162nd Street Realty, LLC, owner; SPE Jamaica Avenue, LLC, lessee.

SUBJECT – Application October 1, 2014 – Special Permit (§73-36) to allow for the operation of a physical culture establishment (*Lucille Roberts*). C6-3 zoning district.

PREMISES AFFECTED – 162-01 Jamaica Avenue, corner of Jamaica Avenue and 162nd Street, Block 09761, Lot 0001, Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

284-14-BZ

APPLICANT – Jay Goldstein, Esq., for 257-267 Pacific Street, LLC, owner; 718 Bar LLC d/b/a The Bar Method, lessee.

SUBJECT – Application November 6, 2014 – Special Permit (§73-36) to allow for the operation of a physical culture establishment (*The Bar Method*) on the first floor of the existing building. R6-2 with an C2-4 Overlay zoning district.

PREMISES AFFECTED – 267 Pacific Street, between Smith Street and Boerum Place on the north side of Pacific Street, Block 181, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #2BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to May 12, 2015, at 10 A.M., for decision, hearing closed.

1-15-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Manhattan Country School (contract vendee).

SUBJECT – Application January 2, 2015 – Variance (§72-21) proposed enlargement of an existing school structure to be used by the Manhattan Country School which will exceed permitted floor area and exceeds the maximum height. R8B zoning district.

PREMISES AFFECTED – 150 West 85th Street, southerly side of West 85th Street between Columbus Avenue and Amsterdam Avenue, Block 1215, Lot 53, Borough of

Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

MINUTES

CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 964-87-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

964-87-BZ

APPLICANT – Eric Palatnik, P.C., for Leemilt Petroleum, Ink., owner; Lotus Management Group II, LLC, lessee.

SUBJECT – Application April 21, 2014 – Amendment to a previously approved Variance for the operation of an Automotive Service Station (UG 16B), with accessory uses.

The Amendment seeks to convert a portion of a service bay to an accessory convenience store; Extension of Time to obtain a Certificate of Occupancy which expired on May 10, 2012; Waiver of the Rules. C1-3/R6 zoning district.

PREMISES AFFECTED – 786 Burke Avenue, aka 780-798 Burke Avenue, Block 4571, Lot 28, Borough of Bronx.

COMMUNITY BOARD #12BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, an extension of time to obtain a certificate of occupancy for the continued operation of a gasoline service station (Use Group 16), which expired on May 10, 2012, and an amendment to permit the conversion of a portion of the station to an accessory convenience store; and

WHEREAS, a public hearing was held on this application on October 7, 2014 after due notice by publication in *The City Record*, with a continued hearing on November 18, 2014, and then to decision on December 16, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Ottley-Brown; and

WHEREAS, Community Board 12, Bronx, recommends approval of this application; and

WHEREAS, the site is located on the southwest corner of the intersection of Burke Avenue and Barnes Avenue, partially within a C1-3 (R6) zoning district and partially within an R6 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since October 22, 1957 when, under BSA Cal. No. 52-57-BZ, the Board granted a variance to permit the construction of a gasoline service station with accessory uses for a term of 15 years; and

WHEREAS, subsequently, the grant was amended and the term extended by the Board at various times, until its expiration on October 22, 1982; and

WHEREAS, on February 6, 1990, under the subject calendar number, the Board re-established the variance pursuant to ZR § 11-411 to legalize the existing gasoline service station with accessory uses and parking for more than five automobiles, for a term of ten years; and

WHEREAS, on January 15, 2002, the Board granted a ten-year extension of the term of the variance, which expired on February 6, 2010, and on May 10, 2011, the Board granted a further extension of term, a one-year extension of time to obtain a certificate of occupancy, and an amendment to permit a change in the hours of operation of the service station and to legalize public parking (Use Group 8) at the site; and

WHEREAS, the applicant states that a certificate of occupancy was not obtained by May 10, 2012; as such, the applicant now seeks an extension of time to obtain a certificate of occupancy; and

WHEREAS, in addition, the applicant seeks an amendment to permit the conversion of a portion of the gasoline service station currently used as accessory office and storage space to an accessory convenience store; and

WHEREAS, the applicant notes that the one-story gasoline service station building has approximately 2,580 sq. ft. of floor area (0.15 FAR); and

WHEREAS, the applicant represents that the accessory convenience store will occupy approximately 663 sq. ft. of the existing floor area of the building; the applicant notes that the proposal reflects the preservation of three service bays; and

WHEREAS, the applicant also states that the proposal complies with DOB Technical Policy and Procedure Notice No. 10/1999, which sets forth the requirements for convenience stores accessory to gasoline and automotive service stations; and

WHEREAS, at hearing, the Board directed the applicant to: (1) provide landscaping in accordance with the approved plans, including replacement of evergreen trees, as appropriate; (2) replace fence slats in disrepair; (3) remove excessive signage; and (4) remove all debris from the site, including abandoned gasoline pumps, junked automobiles, and weeds; and

WHEREAS, in response, the applicant provided: (1) a revised site plan indicating that landscaping and fence slats would be replaced and maintained, as necessary; and (2) photographs showing the removal of excessive signage (including banners) and debris from the site; and

WHEREAS, based on its review of the record, the Board finds that the requested extension of term and amendment are appropriate, with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated February 6, 1990, so that as amended the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy to December 16, 2016 and to permit the conversion of a portion of the building to an accessory convenience store; *on condition* that the use

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and operation of the site shall substantially conform to the approved drawings, filed with this application and marked 'December 12, 2014' - (7) sheets; and *on further condition:*

THAT the accessory convenience store shall be limited to a maximum of 663 sq. ft. of floor area;

THAT a maximum of twelve parking spaces on the site shall be made available for rent, and such parking spaces shall be rented on a monthly basis only;

THAT the hours of operation for gasoline sales on the site shall be 24 hours per day, seven days per week, and the hours of operation for the repair use on the site shall be Monday through Friday, from 8:00 a.m. to 6:00 p.m., Saturday, from 8:00 a.m. to 3:00 p.m., and closed on Sundays;

THAT all signage shall comply with C1 zoning district sign regulations;

THAT all landscaping and fencing shall be maintained;

THAT all lighting shall be directed downward and away from adjacent residential uses;

THAT the site shall be maintained free of debris and graffiti;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by December 16, 2016;

THAT all conditions from the prior resolutions not specifically waived by the Board remain in effect; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Application No. 220077976)

Adopted by the Board of Standards and Appeals, December 16, 2014.

The resolution has been amended to correct the number of approved parking spaces which read “ten parking spaces”... now reads: ... “twelve parking spaces”.... Corrected in Bulletin No. 19, Vol. 100, dated May 6, 2015.

BULLETIN

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May 20, 2015

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217-14-BZ 245 West 17th Street, Manhattan

DOCKETS

New Case Filed Up to May 12, 2015

95-15-BZ

1203 Jerome Avenue, Jerome Avenue bordering Edward L. Grant Highway, Block 02506, Lot(s) 062, Borough of **Bronx, Community Board: 4**. Special Permit (§73-36) to a physical culture establishment(PCE) Retro Fitness, within two-story masonry building within an C8-3 Div. By R7-1 W/C2-4 zoning district. C8-3 Div./R7-1W district.

96-15-A

18 Colon Street, Westside 384.35 feet North of Billiou Street, Block 06569, Lot(s) 040, Borough of **Staten Island, Community Board: 3**. GCL 36 proposed construction of two new family dwelling on a lot not fronting a legally mapped street contrary to Section 36 of the General City Law. R3-XwithinSSRD district.

97-15-A

221 Douglas road, Southeast corner of intersection of Douglas road and Briggins Lane, Block 0830, Lot(s) 035, Borough of **Staten Island, Community Board: 2**. GCL36: proposed construction of building that does not front on a legally mapped street, pursuant Article 3 Section 36 of the General city Law. R1-1(N-1) district.

98-15-BZ

240 East 54th Street, South side of East 54th Street, 100 feet west of intersection of East 54th Street and Second Avenue, Block 01327, Lot(s) 029, Borough of **Manhattan, Community Board: 6**. Special Permit (§73-36) to allow a physical culture establishment (PC within the existing building for a one family , three-story residence for accessory parking spaces, located within the C1-9 zoning district. C1-9 district.

99-15-BZ

240 East 54th Street, South side of East 54th Street, 1100 feet west of intersection of East 54th Str. And 2nd Avenue, Block 01327, Lot(s) 029, Borough of **Manhattan, Community Board: 6**. Special Permit (§73-36) to allow for a physical culture establishment(PCE) operation as Blink in an existing commercial building located within an C1-9 zoning district. C1-9 district.

100-15-BZ

24 East 39th Street, 39th Street between Park Avenue and Madison Avenue, Block 0868, Lot(s) 051, Borough of **Manhattan, Community Board: 6**. Variance (§72-21) to propose a change of use in the existing building on the premises from a use group 2 apartment hotel to a use group 5 transient hotel which is located within an R8B zoning district. R8B district.

101-15-BZ

830 Hicksville Road, through lot between Hicksville Road and Frisco Avenue parallel to Beach 9th Street, Block 15583, Lot(s) 0011, Borough of **Queens, Community Board: 14**. Variance (§72-21) to permit construction of a two-story use group 4 synagogue contrary to underlying bulk requirements. R2X zoning district R2X district.

102-15-A

1088 Rossville Avenue, Rossville Avenue at the corner of Poplar Avenue, Block 07067, Lot(s) 0001, Borough of **Staten Island, Community Board: 3**. Proposed construction of a building located partially within the bed of mapped unbuilt street, pursuant Article 3 Section 35 of the General City Law. R3-2/SRD zoning district. R3-2/SRD district.

103-15-BZ

21-51 Shore Boulevard, east side of Shore Boulevard on the corner of Shore Boulevard and 21st Drive, Block 00896, Lot(s) 0206, Borough of **Queens, Community Board: 1**. Variance (§72-21) to permit the vertical enlargement of an existing one family residence and conversion from one dwelling unit to two dwelling units contrary to Z.R. §23-141 (FAR) and Z.R. §23-45 (Front Yard). R5B zoning district. R5B district.

104-15-BZ

4452 Broadway, southeast corner of Broadway and Fairview Avenue, Block 02170, Lot(s) 0062, Borough of **Manhattan, Community Board: 12**. Variance (§72-21) to permit the development of a mixed-use residential building with ground floor retail use contrary to underlying bulk regulations. C2-4 & R7-2 zoning district. C2-4, R7-2 district.

DOCKETS

105-15-BZ

2102-2124 Avenue Z, south side of Avenue Z between East 21st Street and East 22nd Street, Block 07441, Lot(s) 0371, Borough of **Brooklyn, Community Board: 15**. Variance (§72-21) to permit the development of a four (4) story building consisting of Use Group 6 commercial offices on the first and second floor and community facility uses on the third and fourth floors. R4 zoning district. R4 district.

106-15-A

42-29 149th Street, parallel with Sanford Avenue on mapped buty unbuilt portion of Ash Avenue, Block 05380, Lot(s) 0013, Borough of **Queens, Community Board: 7**. Proposed construction of a building located partially within the bed of mapped unbuilt street, pursuant Article 3 Section 36 of the General City Law. R4-1 zoning district. R4-1 district.

107-15-A

42-31 149th Street, parallel with Sanford Avenue on mapped buty unbuilt portion of Ash Avenue, Block 05380, Lot(s) 0012, Borough of **Queens, Community Board: 7**. Proposed construction of a building located partially within the bed of mapped unbuilt street, pursuant Article 3 Section 36 of the General City Law. R4-1 zoning district. R4-1 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

JUNE 2, 2015, 10:00 A.M.

APPEALS CALENDAR

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, June 2, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

173-92-BZ

APPLICANT – Simons & Wright LLC, for Bremen House, Inc., owner.

SUBJECT – Application January 17, 2014 – Extension of Term of a previously approved Special Permit (§73-36) permitting the operation of martial arts studio which expires on January 24, 2014; Amendment to permit the relocation of the facility from the 2nd floor to the cellar. C2-8A zoning district.

PREMISES AFFECTED – 220 East 86th Street, 86th Street between 2nd and 3rd Avenues, Block 01531, Lot 38, Borough of Manhattan

COMMUNITY BOARD #8M

268-03-BZ

APPLICANT – Eric Palatnik, P.C., for Park Circle Realty Associates, owner.

SUBJECT – Application October 9, 2014 – Extension of Term (§11-411) for the continued operation of an automotive service station which expired on January 27, 2014; Waiver of the Rules. C1-3/R3-2 zoning district.

PREMISES AFFECTED – 145-55 Guy Brewer Boulevard, south corner of Farmers Boulevard and Guy Brewer Boulevard, Block 13313, Lot 40 Borough of Queens.

COMMUNITY BOARD #13Q

3-15-A

APPLICANT – Edward Lauria, for Jeff Schaffer, owner.

SUBJECT – Application January 7, 2015 – Proposed construction does not front on a legally mapped street contrary Section 36, of the General City Law, and 502.1 2008, building Code. M1-1SRD zoning district.

PREMISES AFFECTED – 47 Trioka Way, west side of Trioka Way, 124.11' north of Winant Avenue, Block 7400, Lot 85, Borough of Queens.

COMMUNITY BOARD #3Q

7-15-BZY & 8-15-A

APPLICANT – Duval & Stackenfeld, for 180 Orchard LLC c/o Brack Capital Real Estate, owner.

SUBJECT – Application January 14, 2015 – BZY Minor Development (§11-332) to extend the time of construction for a minor development for a period of six months; Determination of common law vested rights. Building permit was obtained in 2005 and development was vested at date of Lower East Side rezoning in 2008. C4-4A zoning district.

PREMISES AFFECTED – 180 Orchard Street, bounded by Orchard, East Houston, Ludlow and Stanton Streets, approx. 220' of East Houston, Block 00412, Lot 5, Borough of Manhattan.

COMMUNITY BOARD #3M

26-15-A & 27-15-A

APPLICANT – Law Office of Steven Simicich, for PeteRock, Inc., owner.

SUBJECT – Application February 17, 2015 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3A zoning district.

PREMISES AFFECTED – 57 & 61 Alberta Avenue, north side of Alberta Avenue between Victory Boulevard and Wild Avenue, Block 02637, Lot(s) 0019, 0020, Borough of Staten Island.

COMMUNITY BOARD #2SI

CALENDAR

JUNE 2, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, June 2, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

264-14-BZ

APPLICANT – Eric Palatnik, P.C., for GS 149 LLC, owner; Crunch LLC, lessee.

SUBJECT – Application October 24, 2014 – Special Permit (§73-36) to permit a physical culture establishment (*Crunch Fitness*) within portions of the existing commercial building. C4-4 zoning district.

PREMISES AFFECTED – 436 East 149th Street, south side of East 149th Street, approximately 215’ west of intersection with Brook Avenue, Block 02293, Lot 46, Borough of Bronx.

COMMUNITY BOARD #1BX

319-14-BZ

APPLICANT – Eric Palatnik, P.C., for Shore Plaza LLC, owner; Staten Island MMA1, Inc., lessee.

SUBJECT – Application December 5, 2014 – Special Permit (§73-36) to permit the legalization of a physical culture establishment (*UFC Gym*). C43 zoning district.

PREMISES AFFECTED – 1781 South Avenue, within West Shore Plaza 1745-1801 South Avenue, Block 02800, Lot 37, Borough of Staten Island.

COMMUNITY BOARD #2SI

335-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Trizc Hahn, owner; Soul Cycle Bryant Park LLC, lessee.

SUBJECT – Application December 31, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Soulcycle*) within portions of an existing commercial building. C5-3(MID)(T) zoning district.

PREMISES AFFECTED – 1065 Avenue of the Americas aka 5 Bryant Park, 101 West 40th Street, northwest corner of Avenue of the Americas and West 40th Street, Block 00993, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #5M

Ryan Singer, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, MAY 12, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

150-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Shun K. and Oi-Yee Fung, owners.

SUBJECT – Application May 2, 2014 – Amendment of a previously approved variance to permit the construction of a four-story building with retail space and one-car garage. C6-2G zoning district.

PREMISES AFFECTED – 129 Elizabeth Street, west side of Elizabeth Street between Broome and Grand Street, Block 470, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

131-11-A thru 133-11-A

159-14-A thru 161-14-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Dalip Karpuzzi, Luizime Karpuzzi, owners.

SUBJECT – Application September 6, 2011 & July 7, 2014 – Proposed construction of three two story dwellings with parking garages located within the bed of a mapped street, contrary to General City Law Section 35. R3-1 zoning district.

PREMISES AFFECTED – 464, 468 Arthur Kill Road, 120 Pemberton Avenue, intersection of Arthur Kill Road and Giffords Lane, Block 5450, Lot 35, 36, 37, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated June 6, 2014, acting on DOB Application Nos. 520055216, 520059463, 520055225, 520194888, 520194904, and 520194897, reads in pertinent

part:

Proposed construction located within the bed of a mapped street is contrary to Section 35 of the General City Law; and

WHEREAS, a public hearing was held on this application on January 27, 2015, after due notice by publication in *The City Record*, with continued hearings on March 10, 2015 and April 21, 2015 and then to decision on May 12, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Montanez performed inspections of the site and premises, as well as the surrounding neighborhood; and

WHEREAS, this is an application to allow the construction of a three two-story, two-family homes and three accessory parking garages that will be partially or entirely located within the bed of a mapped but unbuilt portion of Pemberton Avenue, south of Arthur Kill Road, between Elverton Avenue and Giffords Lane; and

WHEREAS, the subject site is located within an R3-1 zoning district; and

WHEREAS, the site comprises Tax Lots 35, 36, and 37; it has approximately 16,082 sq. ft. of lot area; and

WHEREAS, by letter dated April 15, 2015, the New York City Fire Department (“FDNY”) states that it has no objections to the proposed application; and

WHEREAS, by letter dated March 10, 2015, the New York City Department of Environmental Protection (“DEP”) states that it has no objections to the proposed application; and

WHEREAS, by letter dated March 11, 2015, the New York City Department of Transportation (“DOT”) states that Pemberton Avenue is not presently included in DOT’s Capital Improvement Program; and

WHEREAS, the Board notes that pursuant to GCL § 35, it may authorize construction within the bed of the mapped street subject to reasonable requirements; and

WHEREAS, the Board notes that pursuant to ZR § 72-01(g), the Board may waive bulk regulations where construction is proposed in part within the bed of a mapped street; such bulk waivers will be only as necessary to address non-compliances resulting from the location of construction within and outside of the mapped street, and the zoning lot will comply to the maximum extent feasible with all applicable zoning regulations as if the street were not mapped; and

WHEREAS, therefore, consistent with GCL § 35 and ZR § 72-01(g), the Board finds that applying the bulk regulations across the portion of the subject lot within the mapped street and the portion of the subject lot outside the mapped street as if the lot were unencumbered by a mapped street is both reasonable and necessary to allow the proposed construction; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the Board modifies the decisions of the DOB, dated June 6, 2014, acting on DOB Application Nos. 520055216, 520059463, 520055225,

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520194888, 520194904, and 520194897, by the power vested in it by Section 35 of the General City Law, and also waives the bulk regulations associated with the presence of the mapped but unbuilt street pursuant to Section 72-01(g) of the Zoning Resolution to grant this appeal, limited to the decision noted above *on condition* that construction will substantially conform to the drawing filed with the application marked "Received May 7, 2015"- (1) sheet; and *on further condition*:

THAT DOB shall review and approve plans associated with the Board's approval for compliance with the underlying zoning regulations as if the unbuilt portion of the street were not mapped;

THAT the drainage plan for the site shall be submitted to DEP prior to the issuance of any DOB permit(s);

THAT DEP approval of the drainage plan shall be obtained prior to the issuance of the temporary certificate(s) of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on May 12, 2015.

128-14-A

APPLICANT – Bryan Cave LLP, for Alicat Family LLC & AEEE Family LLC, owner.

SUBJECT – Application June 6, 2014 – Appeal challenging DOB determination that the proposed off-street loading berth is not accessory to a medical office. C2-5/R7A zoning district.

PREMISES AFFECTED – 47 East 3rd Street, East 3rd Street between First and Second Avenues, Block 445, Lot 62, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Appeal Denied.

THE VOTE TO GRANT –

Affirmative:0

Negative: Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez3

Recused: Chair Perlmutter.....1

THE RESOLUTION –

WHEREAS, the subject appeal comes before the Board in response to a Final Determination, dated May 9, 2014, by Department of Buildings ("DOB") First Deputy Commissioner Thomas J. Fariello (the "Final Determination"); and

WHEREAS, the Final Determination was issued in response to the applicant's submission of a Zoning Resolution Determination Form (the "ZRD1"), in which the applicant

sought review of DOB's conclusion that the subject

[l]oading berth is not clearly incidental to, and not customarily found in connection with ambulatory diagnostic facilities (ZR 12-10) [and, therefore] is not permitted as accessory use to ambulatory diagnostic facility (ZR 36-61); and

WHEREAS, the Final Determination states, in pertinent part, that:

...the applicant has not demonstrated that off-street loading berths are customarily found in connection with medical offices, per the ZR 12-10 definition for "accessory uses." Since the off-street loading berth within the subject medical office is not a use which is clearly incidental to, and customarily found in connection with, the principal medical office use, the loading berth is not accessory to the medical office. Therefore, the above stated request is hereby denied and the off-street loading berth within the medical office, including any curb cuts providing access to the loading berth, must be removed; and

WHEREAS, a public hearing was held on this appeal on December 16, 2014, after due notice by publication in *The City Record*, with continued hearings on February 24, 2015, and April 28, 2015, and then to decision on May 12, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, this appeal is filed on behalf of Alistair and Catherine Economakis (collectively, the "Appellants"), the occupants of the building known as and located at 47 East 3rd Street, in Manhattan (the "Building," which is owned by Alicat Family LLC and AEE Family LLC); the Appellant contends that DOB's issuance of the Final Determination was erroneous; and

WHEREAS, DOB and the Appellants have been represented by counsel throughout this appeal; and

WHEREAS, the subject site is located on the north side of East Third Street, between Second Avenue and First Avenue, partially within an R7A (C2-5) zoning district and partially within an R8B zoning district, within the East Village / Lower East Side Historic District; and

WHEREAS, the site has 40 feet of frontage along East 3rd Street and approximately 3,080 sq. ft. of lot area; and

WHEREAS, the site is occupied by the six-story (with basement) Building; and

BACKGROUND AND PROCEDURAL HISTORY

WHEREAS, in May, 2008, the Appellants pre-filed an Alteration Type 1 application to convert one of the Building's two basement-level commercial spaces into a residential one-car garage; and

WHEREAS, after DOB rejected the proposed plans, the Appellants withdrew their application for a residential garage on December 9, 2008; and

WHEREAS, on December 12, 2008, the Appellants pre-

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filed an Alteration Type 1 application to convert the then-existing multiple dwelling into a single-family residence; and

WHEREAS, the Appellants' December 12, 2008 application did not include a change in use of the Building's basement-level stores and the plans filed therewith, dated December 5, 2008, do not depict a medical office or loading berth; and

WHEREAS, on June 15, 2009, the Appellants submitted a BC-1 Pre-Consideration and Reconsideration Application form related to the December 12, 2008 Alteration Type 1 application, in which the Appellants requested DOB's pre-consideration of an accessory loading berth with a 12 foot curb cut located in the basement of the Building; and

WHEREAS, in response to the June 15, 2009 BC-1, on July 14, 2009, DOB's Manhattan Borough Commissioner issued a determination that "no loading berth is required for doctor's office as per ZR 25-75"; and

WHEREAS, on October 20, 2009, DOB's Manhattan Borough Office issued a pre-consideration approval stating that it was "OK to accept accessory off-street loading berth since it is permitted for community facility use (Use Group 4)" and further noting that the subject "[l]oading berth shall not be used for accessory off-street parking"; and

WHEREAS, on February 19, 2010, the Appellants pre-filed a post approval amendment to the December 12, 2008 application to change the cellar from two stores, storage and a boiler room to a community facility, ambulatory loading berth, and boiler room, and submitted revised construction plans dated February 10, 2010 showing a loading berth of 442 sq. ft. and a medical office of 580 sq. ft.; and

WHEREAS, on May 27, 2011, the Appellants filed a subsequent post approval amendment to the December 12, 2009 application, increasing the size of the medical office to 640 square feet; and

WHEREAS, on September 9, 2011, DOB rescinded the October 20, 2009 pre-consideration approval, stating, in pertinent part, that, "the proposed loading berth fails to meet the definition of 'accessory' per ZR 12-10" in that, because of the relative size of the loading berth to the proposed medical facility, the proposed loading berth "is not 'clearly incidental' to the facility"; and

WHEREAS, on September 23, 2011, the Appellants filed a revised ZRD1 to increase the size of the medical office to 850 square feet and reduce the size of the loading berth to 429 square feet; and

WHEREAS, on October 14, 2011, DOB denied the September 23, 2011 ZRD1; and

WHEREAS, on May 31, 2012, the Appellants pre-filed an additional post approval amendment to the December 12, 2008 application, pursuant to which the area of the medical office was increased to 1,450 square feet and the loading berth was reduced to 396 square feet, together with a report, commissioned by the Appellants and prepared by Urban Cartographics, dated November 2, 2012 (the "UC Report") in support of the Appellants' contention that it is customary for medical offices to have accessory loading berths or off-street parking; and

WHEREAS, on February 28, 2013, DOB denied the Appellants' May 31, 2012 post approval amendment; and

WHEREAS, on October 11, 2013, the Appellants responded to DOB's denial of the May 31, 2012 post approval amendment and revised the plans submitted therewith to reflect a reduction in the area of the medical office, to 1,250 square feet (the "Medical Office"); and

WHEREAS, DOB denied the Appellants' October 11, 2013 submission on May 9, 2014 and ordered the removal of the subject loading berth (the "Loading Berth") which, as constructed, spans 396 square feet and is two stories tall; and

WHEREAS, on June 6, 2014, the Appellants brought the instant appeal; and

PROVISIONS OF THE ZONING RESOLUTION

WHEREAS, the Appellants and DOB agree that the Zoning Resolution provision at issue is the definition of "accessory use" set forth in ZR § 12-10, which provides in pertinent part:

Accessory use, or accessory

An "accessory use":

- (a) is a *use* conducted on the same *zoning lot* as the principal *use* to which it is related (whether located within the same or an *accessory building or other structure*, or as an *accessory use* of the land), and
- (b) is a *use* which is clearly incidental to, and customarily found in connection with, such principal *use*, and
- (c) is either in the same ownership as such principal *use*, or is operated and maintained on the same *zoning lot* substantially for the benefit or convenience of the owners, occupants, employees, customers, or visitors of the principal *use*.¹

WHEREAS, the Board notes that it is the Appellants' burden to demonstrate, based on evidence in the record, that a proposed accessory use meets the foregoing criteria (*see e.g.*, BSA Ca. No. 45-96-A (July 23, 1996)); and

DISCUSSION

A. THE APPELLANTS' POSITION

WHEREAS, the Appellants assert that the Loading Berth is an accessory use to the Medical Office in that it is located on the same zoning lot as the Medical Office and Building, is in the same ownership as the Medical Office and Building and is clearly incidental to, and customarily found in connection with the medical office use of the Premises; and

WHEREAS, the Appellants submit that the Medical Office will be occupied by an orthopedic spinal surgeon whose work involves surgery, rehabilitation, and out-patient treatment of non-surgical spinal disorder; and

¹ Neither party disputes that the Loading Berth is located on the same zoning lot as the Medical Office, or that the Loading Berth is in the same ownership as the Medical Office and Building. As such, subsections (a) and (c) of the definition of Accessory Use are not at issue in the instant appeal.

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WHEREAS, the Appellants submit that the surgeon who will occupy the Medical Office intends to use the Loading Berth for patient services, including ambulances and deliveries, and

WHEREAS, the Appellants submit that approximately 20% of the surgeon's patients will arrive at the Medical Office by ambulette; and

WHEREAS, the Appellants have submitted letters from the surgeon who plans to occupy the Medical Office in support of the foregoing claims; and

WHEREAS, the Appellants offer the following arguments in support of their position: (1) that the Loading Berth is clearly incidental to the Medical Office notwithstanding DOB's argument that the Loading Berth is too large relative to the Medical Office to constitute an accessory use; (2) that loading berths are customarily found in connection with medical offices of the type at issue in this appeal and that in assessing this point DOB should consider the functionality of loading berths, rather than the term as used in the Zoning Resolution, such that off-street parking spaces used in connection with medical offices should support the Appellants' contention that loading berths are a customary accessory use to small medical offices; and (3) that the instant case presents the first instance in which a loading berth is claimed as accessory to a spinal surgeon's office to facilitate non-ambulatory patients and, as such, DOB must consider whether this new use is similar in function or type to other well-established accessory uses; and

WHEREAS, in support of their argument, the Appellants have submitted and referred the Board to the UC Report, which was initially submitted by the Appellants to DOB in response to the agency's request for examples of loading berths which are accessory to medical offices, and which the Appellants contend shows "8 locations where medical offices are accompanied by accessory off-street loading berths and parking spaces used for loading purposes"; and

WHEREAS, the Appellants have also submitted two letters from transportation companies Sinai Van Service and Medi Trans (the "Ambulette Service Letters") in support of their argument that off-street parking services serve similar purposes to those served by off-street loading berths; and

1. The Appellants argue that the Loading Berth is "clearly incidental" to the Medical Office.

WHEREAS, the Appellants argue that the Loading Berth is clearly incidental to the Medical Office and that DOB's rejection of their application is based on an allegedly erroneous insertion into the Zoning Resolution of a size limitation upon accessory loading berths; and

WHEREAS, as to their argument that the relative size of the Loading Berth to the Medical Office evidences that the former is clearly incidental to the latter, the Appellants submit that the square footage of the Loading Berth and Medical Office are 396 square feet and 1,250 square feet, respectively, thereby establishing that the Loading Berth is incidental to the Medical Office; and

WHEREAS, the Appellants argue that the "relative proportion of allowable accessory to principal uses runs a

spectrum" and note that the Board has allowed accessory uses that occupied as little as two percent and as much as 69 percent of the square footage of the lot; and

WHEREAS, specifically, the Appellants cite *2294 Forest Avenue*, BSA Cal. No. 14-09-BZ (August 24, 2010), in which the Board allowed for an automotive laundry totaling two percent of the lot area of the lot area of the site as an accessory to an automobile service station with an accessory convenience store; and

WHEREAS, the Appellants also cite *11-11 131st Street*, BSA Cal. No. 202-05-BZ (July 18, 2006), in which the Board granted a Special Permit to operate a Physical Culture Establishment with a proposed accessory therapeutic and relaxation service space totaling 8,058 square feet, in excess of the primary massage, exercise and aerobics square footage, of 3,548 square feet; and

WHEREAS, the Appellants maintain that the Loading Berth comprises 24 percent of the square footage of the lot and, therefore, is within the range of acceptable accessory use to principal use ratio previously accepted by this Board, and states that the Board "has ... recognized that there is no limitation on the amount of square footage an accessory use may occupy compared to the primary use"; and

WHEREAS, the Appellants further argue that notwithstanding that foregoing, DOB was in error when it held as dispositive the relative size of the Loading Berth to the Medical Office, and maintain that while the relative size of a proposed accessory use to its principal use is an appropriate consideration, it cannot be the sole consideration in the absence of a legislative mandate limiting the size of such proposed accessory use; and

WHEREAS, the Appellants maintain that DOB "was required to assess the propriety of the loading berth based on an 'individualized assessment of need' [quoting *New York Botanical Garden v Board of Standards and Appeals*, 91 NY2d 413 (1998)] reflecting its functional characteristic," an analysis, the Appellants argue, by which the proposed Loading Berth was clearly incidental to the principal Medical Office use; and

WHEREAS, the Appellants note that the *New York Botanical Garden* Court refused to create a restriction on accessory uses based on size and concluded, with respect to the use and tower at issue in that case, that "[t]he fact that the definition of accessory radio towers contains no ... size restriction supports the conclusion that the size and scope of these structures must be based upon an individualized assessment of need," *New York Botanical Garden*, 91 NY2d at 423; and

WHEREAS, in further support of their argument that relative size of the Loading Berth to the Medical Office cannot be dispositive to whether the Loading Berth is clearly incidental to the Medical Office, the Appellants cite *Mamaroneck Beach & Yacht Club v Zoning Board of Appeals of Village of Mamaroneck*, 52 AD3d 494 (2d Dept), *leave denied*, 11 NY3d 712 (2008), in which the Appellate Division, Second Department, held that a zoning board was not permitted to insert into the accessory use definition of a local

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zoning ordinance an area requirement based upon the relative size of the proposed accessory use to other buildings on the property at issue; and

WHEREAS, the Appellants also cite *231 East 11th Street*, BSA Cal. No. 151-12-A (Nov. 20, 2012) to support their claim that DOB, in determining whether the Loading Berth is clearly incidental to the Medical Office, should have taken into account the peculiarities of the occupant, i.e., the proposed lessee's statement that some of his patients will arrive in a wheelchair or on a gurney, via ambulette, and that other ambulatory patients, many of whom are elderly and infirmed, would benefit from the use of the Loading Berth ramp to access the basement-level Medical Office; and

WHEREAS, the Appellants conclude that, in light of the foregoing proposed use of the Loading Berth, such use is "intrinsically related in function and entirely subordinate to" the Medical Office and, therefore, is clearly incidental to such principal use; and

2. The Appellants argue that loading berths are customarily found in connection with medical offices.

WHEREAS, the Appellants maintain that (1) loading berths are customarily found in connection with medical offices and (2) to the extent that loading berths are not customarily found in connection with medical offices, off-street parking spaces, which are the functional equivalent of loading berths, are customarily found in connection with medical offices and, as such, the Loading Berth should be deemed an accessory to the Medical Office; and

WHEREAS, the Appellants concede that a customary use is one that is usual to maintain in conjunction with a primary use, but argue, with reference to *231 East 11th Street*, BSA Cal. No. 151-12-A (Nov. 20, 2012), that "a use can be customary even though it is not very common"; and

WHEREAS, the Appellants argue that the Court's assessment in *New York Botanical Garden* was fact-based and turned "upon functional rather than structural specifics," *New York Botanical Garden*, 91 NY2d at 421 and, as such, the functional analysis for which they advocate, which equates accessory loading berths and accessory parking spaces, is appropriate; and

WHEREAS, specifically, the Appellants maintain that that loading berths are customarily found in connection with medical offices by virtue of their functional equivalence to off-street parking spaces, and that "it is appropriate to look for evidence of 'customary' use at both accessory loading and parking notwithstanding the fact that the Zoning Resolution distinguishes the two" (emphasis in the original); and

WHEREAS, the Appellants further state that:

... the function that loading berths serve – patient pick up and drop off and medical deliveries – is customarily found in connection with medical offices whether in the form of loading berths or parking spaces used for loading and regardless of the formalities attending the occupancy's filing in Department records; and

WHEREAS, in support of their argument that off-street

parking spaces and off-street loading berths are functionally equivalent, the Appellants referred the Board to the Ambulette Service Letters which, the Appellants argue, establish that "off-street parking spaces serve similar purposes to those served by off-street loading berths – they function as places for vehicles and ambulettes to stop briefly to discharge or pick up patients"; and

WHEREAS, in support of their argument that such uses are usually maintained in conjunction with medical offices, the Appellants referred the Board to the UC Report which purportedly "reflects 8 locations where medical offices are accompanied by accessory off-street loading berths and parking spaces used for loading purposes" and to certificates of occupancy showing multiple locations within a mile of the zip code (10003) in which the subject site is located which purportedly shows loading berths or parking uses accessory to medical offices; and

WHEREAS, in response to objections raised by DOB that the UC Report is not constrained, geographically, to an appropriate radius of the subject site, the Appellants argue that the Board has rejected an outright geographic limitation when considering whether a proposed accessory use is customarily found in connection with a principal use and is required to "tak[e] into consideration the over-all character of the particular area in question," *New York Botanical Garden*, 91 NY2d at 420; and

WHEREAS, the Appellants further argue that such "particular area" should not be, and has not been, constrained to the immediate area of the proposed accessory use, that so restricting an inquiry is bad public policy, and that medical offices and loading berth and off-street parking uses accessory thereto do not vary by neighborhood; and

WHEREAS, based on the foregoing, the Appellants conclude that "[t]he broader purpose of parking spaces includes their use for the more limited purpose of loading and unloading," that their reliance on evidence of accessory parking at medical offices, coupled with purported evidence that such parking is "often used for loading and unloading" is consistent with the functional analysis prescribed by the Court in *New York Botanical Garden* and, finally, that taken in the aggregate, the off-street parking spaces and loading berths cited by the Appellants are sufficient to demonstrate that the loading berths are customarily found in connection with medical offices; and

3. The Appellants argue, in the alternative to a finding that loading berths are customarily found in connection with small medical offices, that the subject Loading Berth is a novel accessory use to the Medical Office and should be permitted even if loading berths are not customarily found in connection with medical offices

WHEREAS, the Appellants note the well-established law that in order to be customarily found in connection with a principal use, a proposed accessory use must "be 'commonly, habitually and by long practice ... established as reasonably associated with the primary use,'" (citing *Gray v Ward*, 74

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Misc2d 50, 55-56 (Sup. Ct., Nassau Co. 1973), *aff'd* 44 Ad2d 597 (2d Dept 1974) [internal citations omitted]; and

WHEREAS, the Appellants argue, however, that where there is no such longstanding use, this Board can and should recognize novel accessory uses where appropriate, “lest accessory uses be frozen in time and thus limited to those that existed when zoning was first enacted”; and

WHEREAS, thus, the Appellants urge this Board to find that the Loading Berth is a novel accessory use to the Medical Office;

WHEREAS, the Appellants support this position by arguing, in the first instance, that the Zoning Resolution recognizes the relationship between loading berths and medical offices by requiring loading berths at hospitals and related facilities with a floor area in excess of 10,000 square feet, and not prohibiting off-street loading berths for smaller facilities, and, thus, that “[t]he refusal to recognize a customary connection between medical office and loading functions effectively eviscerates the provisions governing permitted accessory off-street loading berths” in that, had the drafters of the Zoning Resolution intended to prohibit loading berths for medical offices of a certain size, they would have done so explicitly; and

WHEREAS, the Appellants further support this position by arguing, in the second instance, that New York courts have developed an analysis by which they determine whether a proposed use constitutes a novel accessory use, and that employing that analysis in the instant matter compels a reversal of the Final Determination; and

WHEREAS, specifically, the Appellants cite *Dellwood Dairy Co. v City of New Rochelle*, 7 NY2d 374, 375-376 (1960), in which the Court of Appeals ruled that a coin-operated milk vending machine located in the basement of an apartment building in a residential zoning district constituted an accessory use thereto, reasoning that “[t]he use of a milk vending machine is but a different method of doing a traditional service for a householder. It is a common experience that new times bring not only new problems but new ways and means of dealing with old ones” and further reasoning that “[t]he presence of a milk vending machine ... in the basement of an apartment building which is not accessible to the general public, can have little, if any, adverse application to the character of the residential neighborhood”; and

WHEREAS, the Appellants maintain that because the Loading Berth, like the vending machine at issue in *Dellwood Dairy Co.*, will not adversely affect the character of the Building’s residential district, and because it functions similarly to accessory parking, which is not permitted at the site, it should be recognized as a novel accessory use to the Medical Office; and

WHEREAS, the Appellants maintain that the foregoing application of *Dellwood Dairy Co.* is consistent with *New York Botanical Garden* in that it recognizes function, as opposed to structure or form, to determine the propriety of the proposed accessory use; and

B. DOB’S POSITION

WHEREAS, DOB maintains that the Final Determination was properly issued because, *inter alia*, the Loading Berth does not satisfy the definition of an “accessory use” in that it is neither (1) “clearly incidental to” nor (2) “customarily found in connection with” the Medical Office; and

WHEREAS, DOB also argues that the Appellants’ function-based argument is inapplicable to the instant matter; and

1. DOB argues that the Loading Berth is not “clearly incidental” to the Medical Office.

WHEREAS, DOB cites *Gray v Ward* for the proposition that in order for a proposed accessory use to be “incidental” it must be “subordinate and minor in significance” as well as “attendant or concomitant,” *Gray v Ward* 74 Misc2d at 54; and

WHEREAS, DOB maintains that the Loading Berth is too large and too prominent to meet the foregoing requirement and, as such, it is not “clearly incidental” to the Medical Office; and

WHEREAS, in support of this argument, DOB cites the following resolutions of the Board: *1221 East 22nd Street*, BSA Cal. No. 14-11-A (Oct. 18, 2011), in which the Board found that “... DOB may place a quantitative measure to ensure that the accessory use remains incidental to the primary use”; *11-11 131st Street*, BSA Cal. No. 202-05-BZ (July 18, 2006), in which the Board noted that “square footage may be a relevant consideration in some cases involving ... primary uses [other than Physical Culture Establishments]”; and

WHEREAS, DOB notes *246 Spring Street*, BSA Cal. No. 315-08-A (Oct. 5, 2010) for the proposition that “what constitutes a loading berth for purposes of calculating floor area inherently goes beyond the floor space devoted to the loading berth itself, and may include some ancillary spaces as well”; and

WHEREAS, DOB notes that the two-story Loading Berth contains 396 square feet of floor area and is larger on the first floor of the Building than at the basement level, so that the “loading berth’s upper part seems to span 627 square feet” and “takes up 47% as much as space as the medical office ... [and, on the first floor of the Building] the loading berth appears to take up 157% more space than the medical office” and concludes that, accordingly, the Loading Berth is “simply too large and too significant to have a reasonable incidental relationship to the [Medical Office]”; and

2. DOB argues that the Loading Berth cannot be accessory to the Medical Offices because the Loading Berth structure was proposed before the Medical Office was proposed.

WHEREAS, DOB argues that, because the Loading Berth was initially proposed as an off-street residential garage in a pre-filing submitted in May, 2008, and, as such, the proposed use of the subject structure predates its purported principal use, the Medical Office, the Loading Berth cannot be an accessory use thereto; and

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WHEREAS, in support of this argument, DOB cites 2368 12th Avenue, BSA Cal. Nos. 24-12-A and 1470120A (Aug. 7, 2012) for the proposition that “in order to determine whether a use satisfies the Zoning Resolution’s §12-10 definition of ‘accessory use,’ the principal use, upon which the accessory use depends, must first be identified”; and

3. DOB argues that the Loading Berth is not “customarily found in connection with” the Medical Office.

A. DOB maintains that loading berths are not customarily found in connection with medical offices in the East Village, the Manhattan Core or the City of New York.

WHEREAS, DOB maintains that “loading berths are not ‘customarily found in connection with’ medical offices of this size, and that the Appellants have presented no evidence showing otherwise”; and

WHEREAS, DOB maintains that New York courts look to the immediate neighborhood to determine whether a proposed accessory use is customarily found in connection with a principal use, and notes that the UC Report does not show any examples of loading berths associated with medical offices in the East Village, the immediate neighborhood of the Building; and

WHEREAS, DOB argues, in support of its position that the loading berths must be customarily found in connection with medical offices in the immediate neighborhood of the Building, that neighboring property owners within the East Village / Lower East Side historic district have different expectations with respect to off-street loading berths than property owners in other areas of the New York City; and

WHEREAS, specifically, DOB notes that the designation report for the East Village / Lower East Side historic district contains only one reference to a loading berth, thus, it would be reasonable for the Building’s neighbors not to expect a loading berth at the Building; and

WHEREAS, DOB asserts, based on a WebMD physician directory, that there are 44 orthopedic surgeons and 1,527 physicians in the East Village area within a mile from the 10003 zip code in which the Building is located and, within a three mile radius of that zip code, 280 orthopedic surgeons and 7,535 physicians, and argues that if, notwithstanding the large number of such offices located in and around the East Village, the UC Report does not show any examples of loading berths associated with medical offices in the neighborhood, then such uses cannot be said to be “customarily found in connection with” medical offices; and

WHEREAS, DOB further notes that the UC Report does not show any examples of loading berths associated with medical offices in the Manhattan Core; and

WHEREAS, DOB argues that those sites identified in the UC Report which show off-street parking associated with medical offices are not probative because such medical offices are located miles from the Building in neighborhoods

which differ in character from the East Village; and

WHEREAS, with respect to the Appellants’ reliance on 231 East 11th Street, BSA Cal. No. 151-12-A (Nov. 20, 2012) for the proposition that “a use can be customary even though it is not very common,” DOB notes that in that case, the Board’s reasoning turned on the fact that ham-radio towers are uncommon and maintains that the Appellants have not, and cannot, assert that small medical offices are similarly uncommon; and

B. DOB rejects the Appellants’ function-based argument that accessory off-street parking can support a determination that loading berths are customarily found in connection with medical offices.

WHEREAS, DOB notes that the Appellants’ stated need to accommodate the drop-off and pick-up of patients is not a purpose for which loading berths are customarily used and argues that the Appellants’ argument - that off-street parking spaces are the functional equivalent of loading berths for the purpose of establishing that a loading berths are customarily found in connection with medical offices - is erroneous in that loading berths are used for goods, not people, and that, as such, a loading berth cannot be accessory to a medical office in order to facilitate the discharge of patients thereat; and

WHEREAS, DOB states that by listing “off-street parking” and “off-street loading berths” as separate categories, Zoning Resolution §12-10 (accessory use) indicates that “off-street parking spaces” function differently than “off-street loading berths,” and argues that the Appellants rely on an out-context phrase from *New York Botanical Garden* to suggest the Board ignore these functional distinctions...

WHEREAS, DOB argues that the distinction between loading berths and off-street parking spaces is significant and is evidenced by reports issued by the New York City Planning Commission and the Zoning Resolution itself; and

WHEREAS, specifically, DOB cites various reports issued by the City Planning Commission which the agency purports to demonstrate that “the Zoning Resolution permits accessory off-street loading berths where the proposed primary use needs to load and unload goods, but not ‘load’ and ‘unload’ people”; and

WHEREAS, in further support of its argument that loading berths contemplate a transfer of goods, rather than people, DOB notes that ZR §§ 25-72 and 36-62, which require accessory off-street loading berths for hospitals and related facilities with more than 10,000 square feet of floor area but, in the attendant tables entitled Required Off-Street Loading Berths for New Construction or Enlargements, state that “[r]equirements in this table are in addition to area utilized for ambulance parking,” thereby suggesting a distinction in the Zoning Resolution between loading berths and ambulance parking; and

WHEREAS, DOB further notes that ZR §12-10 (street) clarifies that “vehicles ... take on or discharge passengers” in support of its argument that loading is

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distinct from parking; and

WHEREAS, DOB concludes that the Zoning Resolution “states that ambulances use parking, not loading”; and

WHEREAS, DOB further argues that the Appellants have failed to provide sufficient evidence of the functional equivalency of loading berths and off-street parking spaces, i.e., that loading berths are customarily used for loading or unloading people; and

WHEREAS, DOB notes that the Ambulette Service Letters belie the Appellants contention that loading berths and off-street parking spaces are functionally equivalent, nothing that the use described in the Ambulette Service Letters is more akin to temporary parking than to using a loading berth to facilitate the drop-off and pick-up of patients; and

C. DOB offers a framework for determining whether a loading berth constitutes an accessory use.

WHEREAS, DOB offers the following thirteen-factor analysis to determine whether an off-street loading berth is an accessory use to a medical office; and

WHEREAS, specifically, DOB contends that the following factors should be used to determine whether such use is “clearly incidental”: (1) Frequency of deliveries; (2) Size and amount of goods typically delivered; (3) Hours of operation; (4) Size and volume (i.e., proportionality) of loading berth in relation to primary use’s loading needs; and

WHEREAS, DOB contends that the following factors should be used to determine whether an off-street loading berth addresses the needs of a small medical office: (5) Route for goods to travel from loading berth to primary use; (6) Access to the loading berth as service entrance; (7) Ingress and egress; (8) Effects on traffic, parking, pedestrians, and safety; (9) Site-specific characteristics (such as geography and building layout); (10) Inadequacy of alternatives to address the primary use’s loading needs; and

WHEREAS, DOB contends that the following factors should be used to determine whether an off-street loading berth is customarily found in connection with a small medical office: (11) Character of the particular area; (12) Specific examples of loading berths found in connection with the primary use; (13) Details about how those examples use the loading berth; and

WHEREAS, the Appellants reject DOB’s proposed framework on the basis that it is premised on the assumption that loading berths function solely to accommodate the delivery of goods, a position which the Appellants dispute; and

4. DOB maintains that *New York Botanical Garden* is inapplicable to the instant appeal, but also maintains that the case supports the distinction between parking and loading.

WHEREAS, DOB notes that in *New York Botanical Garden*, all parties agreed that radio towers were accessory to universities, and that the issue before the Court was “whether the *proposed* tower [was] ‘incidental to’ and ‘customarily found’ in connection with the University,” and not, as is the case in the instant appeal, whether, the

proposed accessory use at issue, generally, could be accessory to its purported principal use; and

WHEREAS, DOB argues that the decision in *New York Botanical Garden* does not support the Appellants’ argument that evidence of the customary character of off-street parking spaces evidences the customary character of loading berths, based on their purported functional equivalency, and contends that the language from that case on which the Appellants rely, that “the Zoning Resolution classification of accessory uses is based upon functional rather than structural specifics,” *New York Botanical Garden*, 91 NY2d at 421-22, is taken out of context; and

WHEREAS, DOB further argues that the Court’s reasoning, that “the Zoning Resolution classification of accessory uses is based upon functional rather than structural specifics,” supports the agency’s position that “parking” and “loading” are distinct uses, and notes that by listing them as separate categories, Zoning Resolution § 12-10 (accessory use) indicates that “off-street parking spaces” function differently than “off-street loading berths”; and

WHEREAS, DOB also argues that the record presented to the Board and Court in *New York Botanical Garden* was significantly more developed with respect to the number of accessory radio towers than the instant record, which, DOB argues, is devoid of evidence that loading berths are customarily used in connection with small medical offices; and

WHEREAS, DOB urges the Board to infer from this lack of evidence that loading berths are not customarily found in connection with small medical offices, and cites *Toys R Us v. Silva*, 89 NY2d 411 (1996) for the proposition that the Board can consider lack of standard evidence in reaching a determination as to whether loading berths are customarily found in connection with small medical offices; and

WHEREAS, accordingly, DOB requests that the Board uphold the Final Determination; and

CONCLUSION

WHEREAS, the Board finds that the Loading Berth is not an accessory to the Medical Office because it does not satisfy subsection (b) of the ZR § 12-10 definition of “accessory use”; as such, the Final Determination is upheld and the appeal is denied; and

A. The Loading Berth is not “clearly incidental” to the Medical Office.

WHEREAS, the Board acknowledges *Gray v. Ward*, 74 Misc2d 50, 55-56 (Sup. Ct., Nassau Co. 1973), *aff’d* 44 Ad2d 597 (2d Dept 1974) for the principle that incidental, in the context of accessory uses, means (1) that the contemplated use is not the principal use of the property and is, to the contrary, a use which is subordinate to and minor in significance when compared to the principal use; and (2) that the relationship of the of the proposed accessory use to the alleged principal use is attendant or concomitant; and

WHEREAS, the Board finds further support for this principle in *Matter of 7-11 Tours Inc. v. Board of Zoning Appeals of the Town of Smithtown*, 90 AD2d 486 (2d Dept

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1982) (citing *Lawrence v. Zoning Bd. of Appeals of Town of North Branford*, 158 Conn. 509, 512-513 (1969)); and

WHEREAS, the Board credits the Appellants' argument that there is no strict limitation on the amount of square footage an accessory use may occupy relative to its principal use, but notes, as DOB has argued and as the Board has recognized in the past, that DOB may take into consideration, with respect to a purported accessory use, the relative size of such use to its stated principal use where the size of the purported accessory use is indicative of its status as subordinate and minor in significance to said principal use; and

WHEREAS, the Board reiterates that the issue of whether a purported accessory use is minor in significance relative to its stated principal use requires a fact-specific analysis, thus the range of relative sizes acknowledged by the Board in prior appeals to be incidental is varied and of insignificant precedential weight; and

WHEREAS, the Board does not accept the Appellants' reading of *New York Botanical Garden* as applicable to whether the Medical Office is incidental to the Loading Berth because, as noted by the Court in that case, there was no dispute that the accessory use at issue – radio stations and their related towers – were clearly incidental to and customarily found in connection with college campuses; and

WHEREAS, based on the foregoing, and accepting the Appellants' calculus regarding the size of the Loading Berth, the Board finds that the former is not 'clearly incidental' to the latter, as is required under subsection (b) of the ZR § 12-10 definition of "accessory use" because it is not minor in significance relative to the small Medical Office; and

B. Loading berths are not "customarily found in connection with" small medical offices.

WHEREAS, the Board notes that in order to qualify as a use which is customarily found in connection with its principal use, a purported accessory use must, as a general rule, be commonly, habitually and by long practice established as associated with such principal use (*see e.g., Gray v Ward*, 74 Misc2d 50 (Sup. Ct., Nassau Co. 1973), *aff'd* 44 Ad2d 597 (2d Dept 1974)); and

WHEREAS, the Board further notes that a purported accessory use need not be common where the principal use to which it is accessory is uncommon, but maintains that in order to meet the "customarily found in connection with" requirement, a purported accessory use must have a well-established and relatively frequent association with the principal use; and

WHEREAS, the Board notes that it is the Appellants' burden to demonstrate that a purported accessory use is "customarily found in connection" with its stated principal use; and

WHEREAS, the Board notes that the Appellants have failed to establish that loading berths are customarily found in connection with small medical offices; and

WHEREAS, the Board makes the foregoing finding without regard to the geographic denominator of the inquiry, and does not advance any position as to whether an analysis of

a purported accessory use is customarily found in connection with its stated principal use must be performed on a neighborhood, borough or city-wide basis; and

WHEREAS, the Board notes that, for the purposes of this discussion, it accepts the findings advanced by the Appellants in the UC Report and finds that relatively insignificant number of loading berths presented as accessory uses to small medical offices (a single "loading space"), in light of the significant number of such medical offices, is an insufficient basis on which to determine that loading berths are customarily found in connection with small medical offices, and the Board notes further that it infers from such lack of evidence that indeed loading berths are not customarily found in connection with small medical offices; and

WHEREAS, the Board rejects the Appellants' function-based argument that for the purpose of determining whether loading berths are customarily found in connection with small medical offices the Board should accept off-street parking spaces as the functional equivalent of loading berths in support of the position that loading berths are commonly, habitually and by long practice established as associated with small medical offices; and

WHEREAS, indeed, the Board finds that the Appellants' argument would divest "loading berth," a defined term, of any meaning and declines to conflate loading berths, parking spaces and any other "pick-up and drop-off" points (all of which, the Appellants argue, are "customarily associated with medical offices") in favor of an analysis which would vitiate the plain meaning of the Zoning Resolution; and

WHEREAS, contrastingly, the Board credits DOB's argument that by listing them as separate categories, Zoning Resolution §12-10 (accessory use) indicates that "off-street parking spaces" function differently than "off-street loading berths"; and

WHEREAS, the Board credits DOB's clarification of *231 East 11th Street*, BSA Cal. No. 151-12-A (Nov. 20, 2012) and notes that in that case, the Board reasoned that ham-radio towers, while not commonly found throughout the city, *are* well-established uses with a long history of association with principal residential uses, such that, to the extent that they exist, they are customarily found in connection with residential buildings; and

WHEREAS, the Board finds that its reasoning in *231 East 11th Street* applies to the instant case to the extent that Appellants' failure to establish that loading berths and small medical offices, neither of which are uncommon, have no such history of association with each other; and

WHEREAS, likewise, the Board rejects the Appellants' reading of *New York Botanical Garden* as supporting an analysis that would permit off-street parking, which the Appellants contend is the functional equivalent of a loading berth, to evidence the customary association of accessory loading berths to small medical offices; and

C. The Board declines to recognize a new category of accessory use to small medical offices

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WHEREAS, the Board accepts that, in certain instances, it is appropriate to recognize novel accessory uses, even where such use is not customarily found in connection with its stated principal use, but declines the Appellants' request that the Board do so in this instance; and

WHEREAS, the Board notes that it need not consider the instant purportedly novel accessory use in lieu of finding that such use is customarily found in connection with its stated principal use where, as here, the Board finds that the subject purported accessory use is not clearly incidental to its stated principal use; and

WHEREAS, for the reasons set forth above, the Board finds that the Loading Beth is not accessory to the Medical Office; and

Therefore it is Resolved, that the subject appeal, seeking a reversal of the Final Determination dated May 9, 2014, is hereby *denied*.

Adopted by the Board of Standards and Appeals, May 12, 2015.

245-12-A

APPLICANT – Law Offices of Marvin B. Mitzner LLC, for 515 East 5th Street, LLC, owner.

SUBJECT – Application August 9, 2012 – Appeal pursuant to Section 310(2) of the Multiple Dwelling Law, requesting that the Board vary several requirements of the MDL. R7B Zoning District

PREMISES AFFECTED – 515 East 5th Street, north side of East 5th Street, between Avenue A and Avenue B, Block 401, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to August 8, 2015, at 10 A.M., for continued hearing.

95-14-A

APPLICANT – Bernard Marson, for BBD & D Ink., owner.

SUBJECT – Application May 5, 2014 – MDL 171 & 4.35 to allow for a partial one-story vertical enlargement (*Penthouse*) of the existing 3 story and basement building located on the site. Pursuant to the 310 MDL. R8 zoning district.

PREMISES AFFECTED – 237 East 72nd Street, north Side of East 72nd Street 192.6' West of 2nd Avenue, Block 1427, Lot 116, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for decision, hearing closed.

167-14-A

APPLICANT – Eric Palatnik, P.C., for 250 Manhattan LLC, owner.

SUBJECT – Application July 11, 2014 – Appeal seeking a determination that the owner has obtained a vested right to complete construction commenced under the prior C4-3(R6) zoning district. R6B zoning district.

PREMISES AFFECTED – 250 Manhattan Avenue, between Powers Avenue and Grand Street, Block 2782, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #1M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for decision, hearing closed.

250-14-A thru 257-14-A

APPLICANT – Sheldon Lobel, P.C., for Villanova Heights, Inc., owner.

SUBJECT – Application October 15, 2014 – Extension of time to complete construction of eight (8) homes and obtain a Certificate of Occupancy under the common law and Vested Rights. (R1-2) zoning district.

PREMISES AFFECTED – 5401, 5031, 5021, 5310, 5300, 5041, 5030, 5040 Grosvenor Avenue, Goodridge Avenue to the East of Iselin Avenue and West 250th Street, Borough of Bronx.

250-14-A thru 252-14-A, Block 05831, Lot(s) 50, 60, 70
253-14-A and 254-14-A, Block 05839, Lot, 4025, 4018
255-14-A, Block 05830, Lot 3940
256-14-A and 257-14-A, Block 05829, Lot 3630, 3635

COMMUNITY BOARD #8BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for decision, hearing closed.

ZONING CALENDAR

248-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Moshe Benefeld, owner.

SUBJECT – Application August 23, 2014 – Special Permit (§73-622) for the enlargement of an existing single-family home, contrary to floor area and open space (23-141a); side yards (23-461). R2 zoning district.

PREMISES AFFECTED – 1179 East 28th Street, east side of East 28th Street, approximately 127' north of Avenue L, Block 7628, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #14BK

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ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated July 26, 2013, acting on DOB Application No. 301411363, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141(a) in that the proposed floor area ratio exceeds the permitted 50 percent;
2. Proposed plans are contrary to ZR 23-141(a) in that the proposed open space ratio is less than the required 150 percent;
3. Plans are contrary to ZR 23-461(a) in that the existing minimum side yards is less than the required minimum 5’-0”;
4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than 30’-0” and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, and side and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on January 6, 2015, after due notice by publication in *The City Record*, with continued hearings on February 10, 2015, March 10, 2015, and April 14, 2015 and then to decision on May 12, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed inspections of the site and premises, as well as the surrounding neighborhood; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of East 28th Street, between Avenue K and Avenue L, within an R2 zoning district; and

WHEREAS, the site has 26.67 feet of frontage along East 28th Street and approximately 2,667 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story, single-family home with approximately 2,306 sq. ft. of floor area (0.86 FAR); and

WHEREAS, the applicant notes that the existing home was constructed pursuant to a BSA special permit (ZR § 73-622) issued under BSA Cal. No. 29-03-BZ; and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the building, resulting in an increase in the floor area from 2,306

sq. ft. (0.86 FAR) to 2,686 sq. ft. (1.01 FAR); the maximum permitted floor area is 1,333 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to reduce the non-complying open space ratio of the site from 65 percent to 58 percent; the minimum open space ratio is 150 percent; and

WHEREAS, the applicant seeks to maintain and extend its non-complying side yards, which have widths of 3’-11” and 4’-5”;

the requirement is two side yards with a minimum total width of 13’-0” and a minimum width of 5’-0” each; and

WHEREAS, the applicant seeks to increase its non-complying rear yard from 19’-6” to 20’-0”;

the requirement is a minimum depth of 30’-0”;

the applicant notes that the prior special permit authorized a 20’-0” rear yard but a construction error resulted in a 0’-6” deficiency in the rear yard; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, the applicant contends that the proposed FAR is entirely consistent with the neighborhood and submitted a land use study in support of that contention; and

WHEREAS, at hearing, the Board expressed concerns regarding the compatibility of the proposed home’s massing with the prevailing character of the streetscape; the Board also directed the applicant to amend its plans to include complete and accurate floor area calculations and proposed plantings; and

WHEREAS, in response, the applicant made changes to the roofline to reduce the apparent mass of the streetwall and roof; the applicant also amended its plans, as directed; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, and side and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received April 30, 2015”–(11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 2,686 sq. ft. (1.01 FAR), a minimum open space ratio of 58 percent, side yards

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with minimum widths of 3'-11" and 4'-5", and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by May 12, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 12, 2015.

284-14-BZ

CEQR #15-BSA-098K

APPLICANT – Jay Goldstein, Esq., for 257-267 Pacific Street, LLC, owner; 718 Bar LLC d/b/a The Bar Method, lessee.

SUBJECT – Application November 6, 2014 – Special Permit (§73-36) to allow for the operation of a physical culture establishment (*The Bar Method*) on the first floor of the existing building. R6-2 with an C2-4 Overlay zoning district.

PREMISES AFFECTED – 267 Pacific Street, between Smith Street and Boerum Place on the north side of Pacific Street, Block 181, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated October 24, 2014, acting on DOB Application No. 320627032, reads, in pertinent part:

Proposed use as a physical culture established is not permitted in R6A (C2-4) district, per ZR 22-10 and ZR 33-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a R6A (C2-4) zoning district, a physical culture establishment (“PCE”) operating in a portion of the first story of a seven-story mixed residential and commercial building, contrary to ZR §§ 22-10 and 32-10; and

WHEREAS, a public hearing was held on this application on April 28, 2015, after due notice by publication

in the *City Record*, and then to decision on May 12, 2015; and
WHEREAS, Vice-Chair Hinkson and Commissioner Montanez performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 2, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the north side of Pacific Street, between Boerum Place and Smith Street, within an R6A (C2-4) zoning district; and

WHEREAS, the site has approximately 125 feet of frontage along Pacific Street and approximately 22,680 sq. ft. of lot area; and

WHEREAS, the site is occupied by a seven-story mixed residential and commercial building with approximately 49,997 sq. ft. of floor area (2.20 FAR); and

WHEREAS, the PCE occupies 2, 728 sq. ft. of floor space on the first floor of the building; and

WHEREAS, the PCE operates as The Bar Method; it is a dance studio specializing in ballet; and

WHEREAS, the applicant represents that the hours of operation for the PCE are daily, from 5:30 a.m. to 9:30 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, at hearing, the Board directed the applicant to provide proof that the fire alarm and sprinkler systems have been installed and tested; and

WHEREAS, in response, the applicant provided proof that the systems have been installed and tested, and are fully operational; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist

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No. 15-BSA-098K, dated October 28, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site within a R6A (C2-4) zoning district, a PCE operating in a portion of the first story of a seven-story mixed residential and commercial building, contrary to ZR §§ 22-10 and 32-10; *on condition* that all work shall substantially conform to 1. drawings filed with this application marked “May 1, 2015,” Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on December 1, 2024; 2.

THAT the hours of operation shall be limited to daily, from 5:30 a.m. to 9:30 p.m.;

THAT any massages at the PCE shall be performed by New York State licensed massage therapists; 3.

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by May 12, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 12, 2015.

124-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Yuriy Teyf, owner.
SUBJECT – Application June 2, 2014 – Special Permit (§73-622) for the enlargement of a single-family detached residence to be converted into a two-family home contrary to floor area, lot coverage and open space (ZR §23-141); side yards (ZR §23-461) and less than the required rear yard (ZR §23-47). R4 zoning district.

PREMISES AFFECTED – 1112 Gilmore Court, southern side of Gilmore Court between East 11th Street and East

12th Street, Block 7455, Lot 74, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 2, 2014, acting on DOB Application No. 320819021, reads in pertinent part:

1. Proposed enlargement increases the degree of non-compliance of an existing building with respect to floor area ratio, which is contrary to ZR Section 23-141.
2. Proposed enlargement increases the degree of non-compliance of an existing building with respect to open space and coverage which is contrary to ZR Section 23-141.
3. Proposed enlargement results in two side yards less than 5 feet and the total of both side yards less than 13 feet, which is contrary to ZR Section 23-461; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R4 zoning district, the proposed enlargement and conversion of a single-family home to a two-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, and side and rear yards, contrary to ZR §§ 23-141, 23-461; and

WHEREAS, a public hearing was held on this application on November 25, 2014, after due notice by publication in *The City Record*, with continued hearings on February 3, 2015, and March 3, 2015, and March 31, 2015 and then to decision on May 12, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioners Montanez and Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the south side of Gilmore Court, between East 11th Street and East 12th Street, within an R4 zoning district; and

WHEREAS, the site has 20 feet of frontage along Gilmore Court and a depth of 117’-5” and approximately 2,350 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story single-family home with approximately 876 sq. ft. of floor area (0.37 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the building and convert it into a two-family residence, resulting in an increase in the floor area from 876 sq. ft. (0.37 FAR)

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to 3,052 sq. ft. (1.29 FAR); the maximum permitted floor area is 2,115 sq. ft. (0.9 FAR); and

WHEREAS, the applicant seeks to increase the lot coverage of the site from 37.32 percent to 54.13 percent; the maximum permitted lot coverage is 45 percent; and

WHEREAS, the applicant seeks to maintain and extend its non-complying side yards of 3'-0" and 0'-7"; the requirement is two side yards with a minimum total width of 13'-0" and a minimum width of 5'-0" each; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, at hearing the Board directed the applicant to increase the size of its proposed rear yard to a complying 32'-11", reduce the proposed floor area of the building and amend its design for the proposed building to incorporate features from adjacent buildings so as to contextualize the proposed enlargement; and

WHEREAS, the applicant modified the proposal in accordance with the Board's direction; and

WHEREAS, the applicant notes that the building and cellar are being raised in accordance with applicable flood regulations; and

WHEREAS, the applicant notes that, pursuant to ZR § 25-211, one off-street parking space must be provided on the subject lot for each dwelling unit created by the subject enlargement, and states that the existing site does not contain any off-street parking; and

WHEREAS, as such, and as shown on the BSA-approved plans, the applicant has provided a single off-street parking space for the dwelling unit that is being created pursuant to the instant enlargement and conversion but the pre-existing non-compliance (i.e., the lack of off-street parking for the existing dwelling unit) shall be maintained; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R4 zoning district, the proposed enlargement and conversion of a single-family home to a two-family home, which does not comply with the zoning requirements for FAR, lot coverage, and side yards, contrary to ZR §§ 23-141 and 23-461; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and

marked "April 22, 2015"– (13) sheets; and *on further condition:*

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,052.95 sq. ft. (1.29 FAR), a maximum lot coverage of 54.13 percent, a front yard with a minimum depth of 10'-0", side yards with minimum widths of 3'-0" and 0'-7", and a rear yard with a minimum depth of 32'-11" as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

THAT DOB shall review and ensure compliance with applicable flood regulations;

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by May 12, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 12, 2015.

264-13-BZ

APPLICANT – Francis R. Angelino, Esq., for David Lowenfeld, owner; BB Fitness dba Brick Crossfit NYC, lessee.

SUBJECT – Application September 6, 2013 – Special Permit (§73-36) to legalize a physical culture establishment (*Brick CrossFit*) on the ground floor and cellar of an existing 10-story building. C6-2A zoning district.

PREMISES AFFECTED – 257 West 17th Street, north side, West 17th Street, between 7th & 8th Avenues, Block 767, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Off-Calendar.

266-13-BZ

APPLICANT – Law Offices of Marvin B. Mitzner, LLC, for 515 East 5th Street LLC, owner.

SUBJECT – Application September 6, 2013 – Variance (§72-21) to legalize the enlargement of a six-story, multi-unit residential building, contrary to maximum floor area (§23-145). R7B zoning district.

PREMISES AFFECTED – 515 East 5th Street, north side of East 5th Street between Avenue A and B, Block 401, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to August

MINUTES

18, 2015, at 10 A.M., for deferred decision.

51-14-BZ

APPLICANT – Lewis E. Garfinkel, for David Freier, owner.
SUBJECT – Application April 2, 2014 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area and open space ZR §23-141; side yards ZR §23-461 and rear yard ZR §23-47. R2 zoning district.

PREMISES AFFECTED – 1369 East 28th Street, East side of East 28th Street, 220’ north from Avenue N, Block 7664, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Off-Calendar.

204-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Wythe Berry LLC, owner.

SUBJECT – Application August 25, 2014 – Special Permit (§73-44) for reduction of required off-street parking spaces for proposed ambulatory diagnostic or treatment health care facilities (UG 4A) and commercial office use (UG 6B listed in Use Group 4 and PRC-B1. M1-2 Zoning District.

PREMISES AFFECTED –55 Wythe Avenue, between North 12th Street and North 13th Street, Block 2283, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for adjourned hearing.

324-14-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for Kulwanty Pittam, owner.

SUBJECT – Application December 15, 2014 – Reinstatement (§11-411) for an automotive repair facility (UG 16B) granted under Cal. No. 909-52-BZ, expiring January 29, 2000; Amendment to permit the sale of used cars; Wavier of the Rules. C2-2/R5 zoning district.

PREMISES AFFECTED – 198-30 Jamaica Avenue, Southwest corner of Jamaica Avenue. Block 10829, Lot 56. Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for adjourned hearing.

REGULAR MEETING TUESDAY AFTERNOON, MAY 12, 2015 1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

233-14-BZ

APPLICANT – Law Office of Fredrick A. Becker, for TF Cornerstone, Inc., owner; LOC Kickboxing LLC dba ilovekickboxing LIC, lessee.

SUBJECT – Application September 29, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (“iLovekickboxing”) within a portion of an existing commercial building. M3-1 zoning district.

PREMISES AFFECTED – 4545 Center Boulevard, east side of Center Boulevard between north Basin Road and 46th Avenue, Block 00021, Lot 0020, Borough of Queens.

COMMUNITY BOARD #2Q

ACTION OF THE BOARD – Laid over without date for postponed hearing.

260-14-BZ

APPLICANT – Goldman Harris LLC, for The Chapin School, Ltd., owner.

SUBJECT – Application October 17, 2014 – Variance (§72-21) to permit the construction of a three-story enlargement to the existing school, contrary to floor area, rear yard, height and setback requirements. (R8B/R10A) zoning districts.

PREMISES AFFECTED – 100 East End Avenue aka 106 East End Avenue, Block 1581, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

MINUTES

CORRECTION

This resolution adopted on February 3, 2015, under Calendar No. 217-14-BZ and printed in Volume 100, Bulletin No. 7, is hereby corrected to read as follows:

217-14-BZ

CEQR #15-BSA-061M

APPLICANT – Law Office of Stuart Klein, for NY REIT, Inc., owner; Flywheel Sports Inc., lessee.

SUBJECT – Application September 4, 2014 – Special Permit (§73-36) to allow for the legalization of a physical culture establishment (*Flywheel*) on a portion of the first floor of the building. C6-2A zoning district.

PREMISES AFFECTED – 245 West 17th Street, north side of W. 17th Street, 325' east of 8th Avenue, between 7th and 8th Avenue, Block 767, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez3

Negative:.....0

Absent: Chair Perlmutter.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated August 14, 2014, acting on DOB Application No. 122062230, reads, in pertinent part:

The proposed Physical Culture Establishment in zoning district C6-2A is not a permitted use as of right...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize the operation, on a site within a C6-2A zoning district, of a physical culture establishment (“PCE”) on the first floor of a 12-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 30, 2015, after due notice by publication in the *City Record*, and then to decision on February 3, 2015; and

WHEREAS, Community Board 4, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on a through lot with approximately 50 feet of frontage along West 18th Street and 50 feet of frontage along West 17th Street, between Eighth Avenue, to the west, and Seventh Avenue, to the east, in Manhattan, within a C6-2A zoning district; and

WHEREAS, the site has approximately 9,200 sq. ft. of lot area and is occupied by a 12-story commercial building; and

WHEREAS, the PCE operates as Flywheel Sports Inc. d/b/a Flywheel, and occupies 3,395 sq. ft. of floor area on the first floor of the subject building; and

WHEREAS, the PCE’s hours of operation are 5:00 a.m. to 9:00 p.m., seven days a week; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither: (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15-BSA061M, dated August 28, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-2A zoning district, the operation of a PCE on the first floor a 12-story commercial building, contrary to ZR §32-10; *on condition* that all work will substantially conform to drawings filed with this application marked “January 7, 2015”- Three (3) sheets; *on further condition*:

THAT the term of the PCE grant will expire on August 1, 2024;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT all DOB and related agency application(s) filed

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in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 3, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 3, 2015.

The resolution has been amended to correct the SUBJECT. Corrected in Bulletin Nos. 20-21, Vol. 100, dated May 20, 2015.

BULLETIN

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May 27, 2015

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Tuesday, May 19, 2015**

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DOCKETS

New Case Filed Up to May 19, 2015

108-15-A

2317 Glebe Avenue, western corner of intersection of Glebe Avenue and Parker Street, Block 03971, Lot(s) 0167, Borough of **Bronx, Community Board: 10**. Appeal seeking determination that property owner has acquired common law vested right to complete construction of three, three-family residential buildings R6A district.

109-15-A

2319 Glebe Avenue, western corner of intersection of Glebe Avenue and Parker Street, Block 03971, Lot(s) 0166, Borough of **Bronx, Community Board: 10**. Appeal seeking determination that property owner has acquired common law vested right to complete construction of three, three-family residential buildings R6A district.

110-15-A

2321 Glebe Avenue, western corner of intersection of Glebe Avenue and Parker Street, Block 03971, Lot(s) 0165, Borough of **Bronx, Community Board: 10**. Appeal seeking determination that property owner has acquired common law vested right to complete construction of three, three-family residential buildings R6A district.

111-15-BZ

98 Third Avenue, southwest corner of Third Avenue and Bergen Street, Block 00388, Lot(s) 0031, Borough of **Brooklyn, Community Board: 2**. Variance (§72-21) to permit of a six-story mixed use building M1-2 zoning district. M1-2 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

JUNE 16, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, June 16, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

705-81-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Fraydun Enterprises, LLC, owner; Fraydun Enterprises, LLC, lessee.

SUBJECT – Application November 10, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the operation of a physical culture establishment which expired on May 10, 2013; Extension of Time to obtain a Certificate of Occupancy; Waiver of the Rules. R10 zoning district.

PREMISES AFFECTED – 1433 York Avenue, northeast corner of intersection of York Avenue and East 76th Street, Block 01471, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #8M

169-91-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP., for New York University, owner.

SUBJECT – Application November 15, 2015 – Extension of Term of a previously approved Special Permit (§73-36) permitting the operation of a physical culture establishment which expired on May 18, 2013; Amendment to reflect a change in the operator and to permit a new interior layout; Waiver of the Rules. M1-5B zoning district.

PREMISES AFFECTED – 404 Lafayette Street aka 708 Broadway, Lafayette Street and East 4th Street, Block 00545, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEALS CALENDAR

37-15-A

APPLICANT – Jeffrey Geary, for Louis Devivo, owner.
SUBJECT – Application February 26, 2015 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-2 zoning district.
PREMISES AFFECTED – 2020 Demerest Road, Van Brunt Road and Demerest Road, Block 15485, Lot 0007, Borough of Queens.

COMMUNITY BOARD #14Q

JUNE 16, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, June 16, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

243-14-BZ

APPLICANT – Eric Palatnik, PC, for Victorystar, LTD, owner.

SUBJECT – Application October 9, 2014 – Special Permit (§73-243) to permit the legalization and continued use of an existing eating and drinking establishment (UG 6) with an accessory drive-through. C1-2/R3X zoning district.

PREMISES AFFECTED – 1660 Richmond Avenue, Richmond Avenue between Victory Boulevard and Merrill Avenue. Block 02236, Lot 133. Borough of Staten Island.

COMMUNITY BOARD #2SI

244-14-BZ

APPLICANT – Eric Palatnik, PC, for Chong Duk Chung, owner.

SUBJECT – Application October 9, 2014 – Special Permit (§73-36) to operate a physical culture establishment (*K-Town Sauna*) within an existing building. C6-4 zoning district.

PREMISES AFFECTED – 22 West 32nd Street, 32nd Street between Fifth and Sixth Avenues, Block 00833, Lot 57, Borough of Manhattan.

COMMUNITY BOARD #5M

CALENDAR

314-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Maurice Realty Inc., owner.

SUBJECT – Application November 20, 2014 – Special Permit (§73-125) to allow construction of an UG4 health care facility that exceed the maximum permitted floor area of 1,500 sf. R4A zoning district.

PREMISES AFFECTED – 1604 Williamsbridge Road, northwest corner of the intersection formed by Williamsbridge Road and Pierce Avenue, Block 04111, Lot 43, Borough of Bronx.

COMMUNITY BOARD #11BX

2-15-BZ

APPLICANT – Jay Goldstein, Esq., for Panasia Estate Inc., owner; Chelsea Fhitting Room LLC, lessee.

SUBJECT – Application January 7, 2015 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*The Fhitting Room*) in the portions of the cellar and first floor of the premises. C6-4A zoning district.

PREMISES AFFECTED – 31 West 19th Street, 5th Avenue and 6th Avenue on the north side of 19th Street, Block 00821, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #5M

Ryan Singer, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, MAY 19, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

172-79-BZ

APPLICANT – Alfonso Duarte, for Luciano Utopia LLC.,
owner.

SUBJECT – Application July 16, 2014 – Extension of Term
of a previously approved variance permitting the operation
of a Real Estate office and accessory parking which will
expire on July 24, 2014. R2 zoning district.

PREMISES AFFECTED – 167-04 Northern Boulevard,
southeast corner of 16th Street, Block 5398, Lot 11,
Borough of Queens

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Application granted on
condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a re-opening, an
extension of term for a variance permitting an office (Use
Group 6) within an R2 zoning district, which expired on July
24, 2014, and an amendment to eliminate the condition
requiring Board approval for any change in the owners or
operator of the site; and

WHEREAS, a public hearing was held on this
application on January 13, 2015, after due notice by
publication in *The City Record*, with continued a hearing on
March 24, 2015, and then to decision on May 19, 2015; and

WHEREAS, the premises and surrounding area had site
and neighborhood examinations by Vice-Chair Hinkson and
Commissioner Montanez; and

WHEREAS, Community Board 7, Queens, recommends
approval of the application, on condition that the grant retain
the condition requiring Board approval for a change in
operator or owner; and

WHEREAS, Assemblyman Edward Braunstein,
Councilman Paul Vallone, and Queens Borough President
Melinda Katz, and certain members of the surrounding
community, including the Auburndale Improvement
Association, recommend approval of the application, on
condition that the grant retain the condition requiring Board
approval for a change in operator or owner; and

WHEREAS, the subject site is located at the southeast
corner of the intersection of Northern Boulevard and 167th
Street, within an R2 zoning district; and

WHEREAS, the site, approximately 64 feet of frontage
along Northern Boulevard, approximately 89 feet of frontage

along 167th Street, and approximately 5,694 sq. ft. of lot area;
and

WHEREAS, the site has is occupied by a one-story
office building (Use Group 6) with approximately 1,300 sq. ft.
of floor area (0.23 FAR) and six accessory parking spaces;
and

WHEREAS, the Board has exercised jurisdiction over
the site since July 24, 1979, when, under the subject calendar
number, it granted, pursuant to ZR § 72-21, an application to
permit, on a site within an R2 zoning district, the enlargement
of an existing one-story building to be operated as a real estate
office (Use Group 6) with four accessory parking spaces,
contrary to use regulations, for term of 10 years, to expire on
July 24, 1989; and

WHEREAS, the grant included several conditions,
including the following: “that this variance shall lapse with
any change in ownership or control”; and

WHEREAS, the term of the grant was extended on April
18, 1990 (to expire on July 24, 1999) and again on July 13,
1999, for a term of 15 years, to expire on July 24, 2014; the
1999 grant included an amendment allowing the addition of
two parking spaces, bringing the number of spaces at the site
to its current six; and

WHEREAS, accordingly, the applicant now seeks an
extension of the term of the variance; in addition, the applicant
seeks an amendment removing the condition requiring Board
approval for a change in the owner or operator of the site; and

WHEREAS, the Board notes that, initially, the applicant
sought to increase the number of parking spaces at the site to
seven; however, in response to the Board concern about the
provision of a parking space for a person with certain physical
disabilities, the applicant revised its proposal to provide only
six parking spaces, including an ADA-compliant space; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the
Board may, in appropriate cases, modify the conditions of a
variance; and

WHEREAS, the applicant asserts that the condition
requiring Board approval for a change in the owner or
operator creates an unnecessary hardship for the owner, who
cannot sell or lease the building without prior Board approval;
further, the applicant contends that the condition has no land
use regulation purpose that cannot be accomplished with a
limitation on the permitted use; and

WHEREAS, the applicant also notes that changes from
one professional office to another are permitted as-of-right
under the Zoning Resolution; and

WHEREAS, at hearing, the Board directed the applicant
to: (1) verify that the signage complies with the prior grant;
(2) install and maintain landscaping at the rear of the site; and
(3) replace the existing chain enclosure for the curb cut along
167th Street with a more robust enclosure; and

WHEREAS, in response, the applicant demonstrated
that the signage was in compliance with the prior grant; in
addition, the applicant revised its plans to include notes
regarding the required landscaping and enclosure for 167th
Street curb cut; and

WHEREAS, as to the removal of the condition regarding

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the identity of the owner/operator, the Board observes that while such a condition is necessary for a non-profit entity receiving a variance—because such grants are directly related to the non-profit’s demonstrated programmatic needs—it is not necessary in this case, because the land use purpose of ensuring that the commercial use operates harmoniously within in the residence district can be accomplished with: (1) a term; and (2) a condition permitting professional office use only; and

WHEREAS, based on the foregoing, the Board has determined that the evidence in the record supports the findings required to be made for an extension of term under ZR §§ 72-01 and 72-22.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated July 24, 1979, so that as amended the resolution reads: “to permit an extension of the term of the variance for an additional ten years from the prior expiration, to expire on July 24, 2024 and to permit the elimination of the condition requiring Board approval for a change in the owner or operator of the site; *on condition on condition* that all work shall substantially conform to drawings, filed with this application marked ‘Received April 30, 2015’ –(4) sheets; and on further condition:

THAT the term of the variance shall expire on July 24, 2024;

THAT the use of the site shall be limited to professional offices (Use Group 6B);

THAT all site conditions, including parking, signage, and landscaping, shall comply with the BSA-approved plans;

THAT the site shall be maintained free of graffiti and debris;

THAT the above conditions shall be noted on the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by May 19, 2016;

THAT DOB shall verify that the signage complies with the applicable regulations;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s); and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, May 19, 2015.

174-04-BZ

APPLICANT – Kramer Levin Naftalis & Franked LLP, for 124 West 24th Street Condominium, owner.

SUBJECT – Application October 31, 2014 – Amendment: to amend and the approval of the e conveyance of unused development rights appurtenant to the subject site. The variance previously granted by the Board located within and

M1-5 zoning district.

PREMISES AFFECTED – 124 West 24th Street, location on the south side of West 24th Street, between Sixth and Seventh Avenues. Block 799, Lots 1001, 1026. Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for postponed hearing.

APPEALS CALENDAR

95-14-A

APPLICANT – Bernard Marson, for BBD & D Ink., owner.
SUBJECT – Application May 5, 2014 – MDL 171 & 4.35 to allow for a partial one-story vertical enlargement (*Penthouse*) of the existing 3 story and basement building located on the site. Pursuant to the 310 MDL. R8 zoning district.

PREMISES AFFECTED – 237 East 72nd Street, north Side of East 72nd Street 192.6’ West of 2nd Avenue, Block 1427, Lot 116, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), April 8, 2014, acting on DOB Application No. 121931320 reads, in pertinent part:

Hereafter converted dwelling cannot be increased in height or stories, per MDL 171(2)(a); and

WHEREAS, this is an application pursuant to Multiple Dwelling Law (“MDL”) § 310, to permit, on a site within R10A zoning district, a one-story vertical enlargement of four-story residential building, contrary to MDL §§ 4.35 and 171; and

WHEREAS, a public hearing was held on this application on September 23, 2014, after due notice by publication in *The City Record*, with continued hearings on November 18, 2014, January 27, 2015 and April 21, 2015, and then to decision on May 19, 2015; and

WHEREAS, the site and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, the subject site is the north side of East 72nd Street, between Second Avenue and Third Avenue, within an R10A zoning district; and

WHEREAS, the site has 17’-6” of frontage along East 72nd Street and approximately 1,788 sq. ft. of lot area; and

WHEREAS, the site is occupied by a four-story residential building classified under the MDL as a Hereafter

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Converted Class A multiple dwelling; and

WHEREAS, the applicant states that the building has approximately 3,630 sq. ft. of floor area (2.03 FAR) and a building height of 49'-10"; and

WHEREAS, the applicant states that the building is Class 3, non-fireproof building, which was constructed in approximately 1922, and has four dwelling units, one on each of the existing stories); and

WHEREAS, the applicant proposes to construct a fifth story, which will result in an enlargement of approximately 351 sq. ft. and a total building floor area of 3,981 sq. ft. (2.23 FAR); further, the height of the building will increase to approximately 64'-3"; and

WHEREAS, MDL § 171(2)(a) states that it is unlawful to "increase the height or number of stories of any converted dwelling or to increase the height or number of stories of any building in converting it to a multiple dwelling"; and

WHEREAS, because any increase in height or number stories of a converted multiple dwelling is prohibited, and the proposed increase of the existing building is from four stories to five stories and from 49'-10" to 64'-3", the proposal does not comply with the requirements of MDL § 171(2)(a); and

WHEREAS, accordingly, the applicant seeks a waiver of MDL § 171(2)(a); and

WHEREAS, the Board notes that, pursuant to MDL § 310(2)(a), it has the authority to vary or modify certain provisions of the MDL for multiple dwellings that existed on July 1, 1948, provided that the Board determines that strict compliance with such provisions would cause practical difficulties or unnecessary hardships, and that the spirit and intent of the MDL are maintained, public health, safety and welfare are preserved, and substantial justice is done; and

WHEREAS, as noted above, the subject building was constructed in approximately 1922; therefore the building is subject to MDL § 310(2)(a); and

WHEREAS, specifically, MDL § 310(2)(a) empowers the Board to vary or modify provisions or requirements related to: (1) height and bulk; (2) required open spaces; (3) minimum dimensions of yards or courts; (4) means of egress; and (5) basements and cellars in tenements converted to dwellings; and

WHEREAS, the Board notes that MDL § 171 specifically relates to building height; therefore, the Board has the power to vary or modify the subject provisions pursuant to MDL § 310(2)(a)(3); and

WHEREAS, the applicant represents that practical difficulty and unnecessary hardship would result from strict compliance with the MDL; and

WHEREAS, the applicant states that MDL §§ 171(2)(a) prohibits a vertical enlargement of the subject building; and

WHEREAS, in addition, the applicant states that it is impractical to horizontally enlarge the building due to the existing configuration of the building on the lot and the rear yard requirements of the Zoning Resolution; and

WHEREAS, the applicant also notes that the existing building, including the greenhouse at the basement level, has a depth of approximately 67 feet, the lot depth is approximately

102 feet, the lot width is approximately 17 feet and a rear yard with a minimum depth of 30 feet is required under ZR § 23-47; as such, at the first two stories of the building, a horizontal enlargement would yield approximately five additional feet of building depth yet require substantial structural modifications, at significant cost (though the upper stories would be enlarged by approximately 20 feet); and

WHEREAS, accordingly, the applicant asserts that although a horizontal enlargement is technically feasible, it is impractical for half the units in the occupied building because the additional living space would not justify the costs or inconvenience of construction; and

WHEREAS, the applicant represents that because neither a vertical enlargement nor a horizontal enlargement is permitted, the MDL restrictions create a practical difficulty and an unnecessary hardship in that they prevent the site from utilizing the development potential afforded by the subject zoning district; and

WHEREAS, specifically, the applicant notes that the subject district permits an FAR of 3.14, and the proposed enlargement would increase the FAR of the building from 2.03 to 2.23; and

WHEREAS, based on the above, the Board agrees that there is a practical difficulty and an unnecessary hardship in complying with the requirements of the MDL; and

WHEREAS, the applicant states that the requested variance of MDL §§ 171(2)(a) is consistent with the spirit and intent of the MDL, and will preserve public health, safety and welfare, and substantial justice; and

WHEREAS, the applicant states that the proposal includes numerous fire safety improvements to mitigate the existing fire infirmities inherent in the pre-1929 building; and

WHEREAS, the applicant notes that MDL § 2 ("Legislative Finding") provides that the intent of the law is to protect against dangers such as "overcrowding of multiple dwelling rooms, inadequate provision for light and air, and insufficient protection against the defective provision for escape from fire . . ."; and

WHEREAS, accordingly, the applicant represents that the proposed construction promotes the intent of the law because: (1) the new unit will cause minimal impact, as it will not increase the number of dwelling units (the fifth story will be part of a duplex with the fourth story); (2) it will be modest in size and set back from the front and rear facades, thereby providing sufficient light and ventilation to any occupants therein with minimal impacts on light and ventilation of neighboring residents; and (3) it will provide a number of significant fire safety improvements; and

WHEREAS, specifically, the applicant proposes to provide the following fire safety improvements: (1) a new stair bulkhead to the roof will be built to replace the existing scuttle; (2) a new skylight in the bulkhead roof will provide natural light and ventilation for the stairway; (3) additional sprinkler heads will be provided within the existing fourth story and the fifth story will be fully-sprinklered; (4) new stairway sprinkler heads will be added to the ceiling of the new bulkhead; (5) the new doors to the fourth story and fifth

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story will be fireproof, self-closing doors; (6) the entire stairway from cellar to fifth story will be enclosed with two-hour fire-rated walls; (7) access to the fifth floor roof will be provided via a stair; (8) a stair landing with a minimum width of 3'-0" will be constructed in front of the fourth story entrance; (9) four existing stair winders will be eliminated; (10) firestopping will be provided in accordance with the 2014 Building Code; (11) the cellar ceiling and third story ceiling will have a two-hour fire rating; and (12) the cellar will be fully-sprinklered; and

WHEREAS, the applicant represents that the proposed fire safety measures will result in a substantial increase to the public health, safety, and welfare, which far outweighs any impact from the proposed enlargement; and

WHEREAS, based on the above, the Board finds that the proposed variance to the height requirements of MDL §§ 171(2)(a) will maintain the spirit and intent of the MDL, preserve public health, safety and welfare, and ensure that substantial justice is done; and

WHEREAS, accordingly, the Board finds that the applicant has submitted adequate evidence in support of the findings required to be made under MDL § 310(2)(a) and that the requested variance of the height requirements of MDL §171(2)(a) is appropriate, with certain conditions set forth below.

Therefore it is Resolved, that the decision of the Department of Buildings, dated April 8, 2014, is *modified* and that this application is *granted*, limited to the decision noted above, on condition that construction will substantially conform to the plans filed with the application marked, "Received, May 19, 2015"-(4) sheets; and on further condition:

THAT this approval is limited to the relief granted by the Board in response to specifically filed DOB objections related to the MDL;

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; specifically, no relief has been granted with respect to any provision of the Building Code; and

THAT DOB shall verify compliance with the applicable provisions of the Building Code, Zoning Resolution, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 19, 2015.

300-08-A

APPLICANT – Law office of Marvin B. Mitzner LLC, for Steven Baharestani, owner.

SUBJECT – Application April 24, 2014 – Extension of time to complete construction and obtain a Certificate of Occupancy for the construction of a hotel under common law vested rights. M1-2 /R5-B zoning district.

PREMISES AFFECTED – 39-35 27th Street, east side of 27th Street between 39th and 40th Avenues, Block 397, Lot 2, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for continued hearing.

278-13-A

APPLICANT – Slater & Beckerman, P.C., for 121 Varick St. Corp., owner.

SUBJECT – Application September 27, 2013 – Appeal of Department of Buildings' determination that the advertising sign was not established as a lawful non-conforming use. M1-6 zoning district/SHSD.

PREMISES AFFECTED – 121 Varick Street, southwest corner of Varick Street and Dominick Street, Block 578, Lot 67, Borough of Manhattan.

COMMUNITY BOARD #2M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 21, 2015, at 10 A.M., for decision, hearing closed.

11-14-A thru 14-14-A

APPLICANT – Sheldon Lobel, P.C., for Trimountain LLC, owner.

SUBJECT – Application January 22, 2014 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development under the prior R3-2 zoning district.

PREMISES AFFECTED – 47-04, 47-06, 47-08 198th Street, south side of 47th Avenue between 197th Street and 198th Street, Block 5617, Lot 34, 35, 36, Borough of Queens.

COMMUNITY BOARD #11Q

ACTION OF THE BOARD – Off-Calendar.

230-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Anthony and Linda Colletti, owners.

SUBJECT – Application May 19, 2015 – Proposed construction of a one-family residence located partially within the bed of a mapped street pursuant to Section 35 of the General City Law. R3x zoning district.

PREMISES AFFECTED – 20 Pelton Avenue, northwest corner of intersection of Pelton Avenue and Pelton Place, Block 00149, Lot 20, Borough of Staten Island

COMMUNITY BOARD #1SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to June 16, 2015, at 10 A.M., for decision, hearing closed.

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ZONING CALENDAR

309-13-BZ

APPLICANT – Law office of Lyra J. Altman, for Miriam Josefovica and Mark Josefovica, owners.

SUBJECT – Application November 22, 2013 – Special Permit (73-622) for the enlargement of an existing single family home, contrary to floor area and open space (23-141); side yards (23-461) and less than the required rear yard (23-47). R2 zoning district.

PREMISES AFFECTED – 965 East 24th Street, east side of East 24th Street between Avenue I and Avenue J, Block 7588, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated October 23, 2013, acting on DOB Application No. 320551568, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-14 in that the proposed floor area ratio exceeds the maximum permitted;
2. Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required;
3. Plans are contrary to ZR 23-461 in that the proposed side yard is less than the minimum required;
4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, and side and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on February 3, 2015, after due notice by publication in *The City Record*, with continued hearings on March 3, 2015, March 24, 2015, and April 28, 2015, and then to decision on May 19, 2015; and

WHEREAS, Commissioner Montanez performed an inspection of the site and premises, as well as the surrounding neighborhood; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of East 24th Street, between Avenue I and Avenue J, within an R2 zoning district; and

WHEREAS, the site has 40 feet of frontage along East 24th Street and approximately 4,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story (with attic), single-family home with approximately 2,193 sq. ft. of floor area (0.55 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the building, resulting in an increase in the non-complying floor area from 2,193 sq. ft. (0.55 FAR) to 4,013 sq. ft. (1.0 FAR); the maximum permitted floor area is 2,000 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to reduce the non-complying open space ratio of the site from 128 percent to 60 percent; the minimum open space ratio is 150 percent; and

WHEREAS, the applicant seeks to maintain and extend its non-complying side yard and reduce the width of its complying side yard so that the existing widths of 4’-0” and 11’-0” respectively shall be reduced to 4’-0” and 9’-0”; the requirement is two side yards with a minimum total width of 13’-0” and a minimum width of 5’-0” each; and

WHEREAS, the applicant seeks to reduce its non-complying rear yard from 25’-0” to 23’-0”; the requirement is a minimum depth of 30’-0”; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, the applicant contends that the proposed FAR and rear yard are consistent with the neighborhood and submitted a land use study, photographic streetscapes and rear yard study in support of that contention; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, and side and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “May 7, 2015”– (11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,013 sq. ft. (1.0 FAR), a minimum open space ratio of 60 percent, side yards

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with minimum widths of 4'-0" and 9'-0", and a rear yard with a minimum depth of 23'-0", as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by May 19, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 19, 2015.

44-14-BZ

CEQR #14-BSA-126M

APPLICANT – Sheldon Lobel, P.C., for AA Olympic LLC., owner;

The Live Well Company LLC., lessee.

SUBJECT – Application March 17, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Live Well*) on the first floor of the existing building, located within C6-3A & C6-2A zoning districts in a historic district.

PREMISES AFFECTED – 92 Laight Street, aka 256 West Street, 416 Washington Street, block bounded by Washington Street, West Street, and Vestry Street, Block 218, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated February 13, 2014, acting on DOB Application No. 121909505, reads, in pertinent part:

Proposed Physical Culture Establishment in C5-5 zoning district is not permitted as-of-right as per section ZR 32-31...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site partially within a C6-3A zoning district and partially within a C6-2A zoning district, within the Tribeca Mixed Use District, within the Tribeca North Historic District, a physical culture establishment (“PCE”) operating on the first floor of a 13-story mixed-use commercial and residential condominium building, contrary to

ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 30, 2015, after due notice by publication in the *City Record*, with continued hearings on March 3, 2015, and then to decision on May 19, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioners Montanez and Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is an irregularly shaped through lot and corner lot, with frontages on West Street, Laight Street, Washington Street and Vestry Street, within a C6-3A zoning district and partially within a C6-2A zoning district, within the Tribeca Mixed Use District, within the Tribeca North Historic District; and

WHEREAS, the site has approximately 100 feet of frontage along West Street, 80 feet of frontage along Laight Street, 125 feet of frontage along Washington Street and 118 feet of frontage along Vestry Street and contains approximately 24,197 sq. ft. of lot area; and

WHEREAS, the site is occupied by a mixed-use commercial and residential condominium building; and

WHEREAS, on November 14, 2000, the Board granted a variance for the site under BSA Cal. No. 180-95-BZ (the “Variance”), legalizing residential use thereof and authorizing the erection of a 14-story residential building with below-ground public parking; and

WHEREAS, on July 23, 2002, the Board approved an amendment to the Variance to modify entrances to the building and reduce the size of the corridor connection the West Street and Washington Street portions of the building; and

WHEREAS, the PCE occupies 3,857 sq. ft. of floor area on the first floor of the building and is accessed by a stairway with an entrance on Grand Street; and

WHEREAS, the PCE operates as The Live Well Company; and

WHEREAS, the applicant represents that the hours of operation for the PCE are Monday – Friday, from 6:00 a.m. to 9:00 p.m., and on weekends from 8:00 a.m. to 3:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, at hearing, the Board expressed concern that the PCE would interrupt the through block connection referenced in the Variance; and

WHEREAS, in response, the applicant provided the Board with a letter of substantial compliance and BSA-approved plans dated June 3, 2003, which permitted minor

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modifications to the Board’s previously approved drawings, including, *inter alia*, the elimination of the through block connection that was originally located on the first floor of the subject building; and

WHEREAS, thus, the Board’s concern that the PCE would interrupt the through block connection on the first floor of the subject building was adequately addressed; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Landmarks Preservation Commission has approved the proposed alterations of the building by Certificate of No Effect No. 13-8018, dated November 19, 2012 and expiring on November 21, 2016; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type 11 action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 14-BSA-126M, dated January 14, 2015 ; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type 11 determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site within a C6-3A zoning district and partially within a C6-2A zoning district, within the Tribeca Mixed Use District, within the Tribeca North Historic District, a PCE operating in on the first floor of a 13-story mixed-use commercial and residential condominium building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “November 20, 2014,” (4) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on March 1, 2024;

THAT any massages at the PCE shall be performed by New York State licensed massage therapists;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance shall be as reviewed and approved by DOB;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by May 19, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 19, 2015.

146-14-BZ

CEQR #14-BSA-184M

APPLICANT – Sheldon Lobel, P.C., for Fair Only Real Estate Corps., owner; LES Fitness LLC., lessee.

SUBJECT – Application June 23, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Bowery CrossFit*) in the cellar of an existing building. C6-1G zoning district.

PREMISES AFFECTED – 285 Grand Street, south side of Grand Street approximately 25’ west of the intersection formed by Grand Street and Eldridge Street, Block 306, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 22, 2014, acting on DOB Application No. 121908347, reads, in pertinent part:

Proposed Physical Culture Establishment at zoning

C6-1G is not permitted as of right...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C6-1G zoning district, a physical culture establishment (“PCE”) operating in the cellar of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 6, 2015, after due notice by publication in the *City Record*, with continued hearings on February 24, 2015, March 24, 2015 and April 14, 2015, and then to

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decision on May 19, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioners Montanez and Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 3, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the south side of Grand Street, between Forsyth Street and Eldridge Street, within a C6-1G zoning district; and

WHEREAS, the site has approximately 50 feet of frontage along Grand Street and a depth of approximately 100 feet, with a lot area of approximately 4,980 sq. ft.; and

WHEREAS, the site is occupied by a two-story commercial building with approximately 11,046 sq. ft. of floor area (2.22 FAR); and

WHEREAS, the PCE occupies 2,967 sq. ft. of floor space in the cellar of the building and is accessed by a stairway with an entrance on Grand Street; and

WHEREAS, the PCE operates as Bowery Cross Fit; and

WHEREAS, the applicant represents that the hours of operation for the PCE are Monday – Friday, from 5:00 a.m. to 9:00 p.m., and on weekends from 9:00 a.m. to 1:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, at a hearing, the Board asked the applicant to prepare a noise and vibration study for the subject premises to quantify the impact of the PCE on other tenants located within the subject building and on adjacent property, including the property located at 87 Eldridge Street; and

WHEREAS, in response, the applicant submitted a noise and vibration study which demonstrates that the conduct and music within the PCE does not generate noise in excess of ambient levels and are not perceivable at other premises within the building or adjacent building; and

WHEREAS, the applicant stated that it would utilize foam padding and platforms to mitigate the impact of weight drops at the subject premises, as recommended by and in consultation with a noise and vibration consultant; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No.14-BSA-184M, dated June 23, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site within a C6-1G zoning district, a PCE operating in the cellar of a two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “May 19, 2015” - Seven (7) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on March 1, 2017;

THAT any massages at the PCE shall be performed by New York State licensed massage therapists;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT weight lifting shall be performed on weight platforms with the specifications as shown on the Board-approved plans;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by May 19, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 19, 2015.

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186-14-BZ

CEQR #15-BSA-043K

APPLICANT – Law Office of Lyra J. Altman, for Bond Street Owner, LLC, owners.

SUBJECT – Application August 15, 2014 – Variance (§72-21) to permit the construction of a new hotel building with ground floor retail contrary to allowable commercial floor area (ZR 33-122) located within C6-1/R6B District in the Downtown Brooklyn Special District.

PREMISES AFFECTED – 51-63 Bond Street, aka 252-270 Schermerhorn Street, southeast corner of Bond Street and Schermerhorn Street, Block 172, Lot(s) 5, 7, 10, 13, 14, 15, 109, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated August 7, 2014, acting on DOB Application No. 320914221, reads in pertinent part:

Commercial Floor Area in proposed building exceeds the maximum permitted 6.0, contrary to ZR 33-122; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within a C6-1 zoning district, and partially within an R6B zoning district, within the Special Downtown Brooklyn District, the construction of a 13-story hotel (Use Group 5) that does not comply with the zoning requirements for floor area ratio (“FAR”), contrary to ZR § 33-122; and

WHEREAS, a public hearing was held on this application on February 10, 2015, after due notice by publication in the *City Record*, with continued hearings on March 24, 2015 and April 28, 2015, and then to decision on May 19, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 2, Brooklyn, recommends disapproval of this application, citing concerns regarding the extent of the floor area waiver, the number of hotel rooms, and the impact of the proposal on vehicular traffic; and

WHEREAS, certain members of the surrounding community testified in opposition to the application (the “Opposition”), citing the following concerns: (1) an increase in pedestrian and vehicular traffic, refuse, and noise; (2) the proposed hotel entrance on Bond Street; (3) the proposed outdoor space on the south side of the building adjacent to the residential buildings; (4) the additional floor area for the hotel and number of hotel rooms, which are inconsistent with the low-rise, residential character of many surrounding streets; (5)

the uniqueness of the subway tunnel below the site, which is common in the neighborhood; and (6) the depth of excavation adjacent to the residential buildings south of the site; and

WHEREAS, certain members of the surrounding community, including the Brooklyn Academy of Music, the Brooklyn Ballet, Urban Glass, and the Downtown Brooklyn Partnership, testified in support of the application; and

WHEREAS, the subject site is an irregular lot located on the southeast corner of the intersection of Bond Street and Schermerhorn Street, partially within a C6-1 zoning district, and partially within an R6B zoning district, within the Special Downtown Brooklyn District; the irregular shape of the site is due to its varying depths, which step down at right angles (corresponding in some cases to historic tax lot lines) and range from 51 feet (measured from the northeast corner of the site) to 105 feet (measured from the northwest corner of the site); and

WHEREAS, the site comprises Tax Lots 5, 7, 10, 13, 14, 15, and 109, has 105 feet of frontage along Bond Street and 210 feet of frontage along Schermerhorn Street, and has 17,960 sq. ft. of lot area; and

WHEREAS, the applicant notes that, per ZR § 77-11, the use and bulk regulations applicable in the C6-1 portion of the site are applicable within the R6B portion of the site, because: (1) the site existed as a zoning lot prior to the amendment that created the split-lot condition; and (2) the R6B portion of the site is both less than 50 percent of area of the entire site and less than 25 feet from the district boundary; thus, Use Group 5 is permitted as-of-right throughout the site; and

WHEREAS, the site is vacant; the applicant represents that it has been used for parking since at least 1968; and

WHEREAS, the applicant proposes to construct a 13-story hotel (Use Group 5) with 154,947 sq. ft. of floor area (8.63 FAR), a building height of 186'-1¾" (excluding bulkheads and parapets), 287 hotel rooms, a large event space (“Ballroom”), a restaurant and bar, and an accessory fitness center; and

WHEREAS, in order to construct the building as proposed, the applicant seeks a waiver of ZR § 33-122, which limits commercial floor area at the site to 6.0 FAR; and

WHEREAS, the applicant states that, in accordance with ZR § 72-21(a), the presence of an MTA subway tunnel and access mezzanine directly below approximately 70 percent of the site is a unique physical conditions that creates practical difficulties and unnecessary hardships in developing the site in compliance with the floor area regulations; and

WHEREAS, the applicant states that an MTA subway tunnel and an access mezzanine (“MTA Encumbrances”) are located directly below 70 percent of the site; and

WHEREAS, the applicant submitted a diagram illustrating that the MTA Encumbrances occupy a trapezoidal portion of the site, with the trapezoid’s parallels running parallel to Bond Street, forming right angles with the northern lot line (along Schermerhorn Street) and the trapezoid’s diagonal beginning approximately 66 feet south of the intersection of Bond and Schermerhorn and terminating

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approximately 50 feet south of the northeast corner of the site; thus, the MTA Encumbrances occupy the entire regular (rectangular) portion of the irregularly-shaped site; and

WHEREAS, in addition, the applicant states that the MTA Encumbrances occur at various depths; at the northwest corner of the site, the top of the mezzanine is seven feet below grade; the tunnel occupies the balance of the site and its top is located 14 feet below grade (except for a small triangular portion along Schermerhorn Street, where the top of the tunnel is 16 feet below grade); and

WHEREAS, the applicant asserts that the extent and nature of the MTA Encumbrances is unique; in support of this assertion, the applicant submitted a land use study of nine development sites (along Schermerhorn Street between Jay Street-Smith Street and Flatbush Avenue) that encumbered by MTA tunnels and related facilities; and

WHEREAS, the study reflects that none of the nine has the site's substantial encumbrance at such shallow depths; and

WHEREAS, the applicant states that the MTA Encumbrances create practical difficulties and unnecessary hardship, because a traditional foundation system with a cellar and sub-cellars for the hotel cannot be constructed; as such, back-of-house hotel functions that would typically occupy the below-grade levels (hotel administration space, kitchen, and fitness center) must be provided above grade, thereby reducing the amount of floor area available for hotel rooms; and

WHEREAS, in addition, preserving and protecting the MTA property results in premium construction costs; and

WHEREAS, the applicant states that, according to its engineering consultants, the diagonal location and depth of the subway tunnel and mezzanine significantly increases the complexity of the subgrade construction, including the type of foundation system, how the loads are distributed, the depth of excavation, the volume of excavation, the pile type, and the quantity of piles, concrete and reinforcing bar; due to the diagonal orientation of the tunnel, major foundation structure can only be placed on one side of the tunnel and separate systems are required to transfer gravity loads and deliver lateral loads to the portion of the foundation adjacent to the tunnel; and

WHEREAS, the applicant's consultant opines that the proposed foundation system is unique to the site and not found in any other building in the city; and

WHEREAS, in addition, the applicant states that the MTA: (1) prohibits driven piles in the vicinity of the tunnel; instead, drilled piles (which are more expensive) must be utilized; (2) requires extensive monitoring for noise and vibration during construction; and (3) requires elastomeric pads beneath all vertical load carrying element that rest on the tunnel (to isolate the lateral loads from the tunnel structure); and

WHEREAS, the applicant estimates its premium construction costs related to the MTA Encumbrances to be \$20,522,000; and

WHEREAS, to illustrate the effect of the site's unique hardship, the applicant studied the feasibility of: (1) a

complying development at the site with the MTA Encumbrances; and (2) a complying development at the site without the MTA Encumbrances; and

WHEREAS, the applicant concluded that developing the site with the MTA Encumbrances and without the floor area waiver resulted in a nine-story building with 107,196 sq. ft. of floor area (6.0 FAR), a building height of 147'-5¾" (excluding bulkheads and parapets), and 169 hotel rooms; in contrast, developing the site without the MTA Encumbrances and without the floor area waiver resulted in a nine-story building with 107,196 sq. ft. of floor area (6.0), a building height of 147'-5¾" (excluding bulkheads and parapets), and 178 hotel rooms; thus, the unencumbered site would yield nine more hotel rooms, because back-of-house functions could be placed in the cellar, and the additional space above grade could be devoted to hotel rooms; and

WHEREAS, at hearing, the Board questioned whether locating the Ballroom on the second story contributed significantly to the premium construction costs and directed the applicant to explore a design that located the Ballroom on the 12th story and a design that omitted the Ballroom entirely; in addition, the Board requested additional information regarding the back-of-house operations; and

WHEREAS, in response, the applicant provided plans showing the relocation of the Ballroom; such plans reflect that two additional elevators would be required, resulting in a loss of 36 hotel rooms; as for the no-Ballroom scheme, the applicant contends (and supports with financial analysis) that the hotel rooms would, on average, rent for substantially less without the Ballroom; as such, the applicant asserts and the Board agrees that neither relocating the Ballroom, nor eliminating it completely yields a feasible development;

WHEREAS, the applicant also provided the programming for the back-of-house spaces within the hotel; and

WHEREAS, based upon the above, the Board finds that the MTA Encumbrances are a unique physical condition that create unnecessary hardship in developing the site in compliance with the floor area regulations; and

WHEREAS, the applicant contends that, per ZR § 72-21(b), there is no reasonable possibility of development of the site in compliance with the Zoning Resolution; and

WHEREAS, as noted above, the applicant studied the feasibility of: (1) a complying hotel at the site; (2) a complying hotel at the site without the MTA Encumbrances; (3) the proposal with the Ballroom on the 12th story instead of the second story; (4) a 12-story hotel with 143,281 sq. ft. of floor area (7.98 FAR) and no Ballroom; and (5) the proposal; and

WHEREAS, the applicant states that only the proposal would realize a reasonable rate of return on investment; and

WHEREAS, based upon its review of the applicant's economic analysis, the Board has determined that because of the site's unique physical conditions, there is no reasonable possibility that development in compliance with the floor area regulations would provide a reasonable return; and

WHEREAS, the applicant represents that the proposed

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building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by two general typologies; along Schermerhorn Street and other wide streets, medium- to high-density mixed commercial, residential, and community facility buildings predominate; along Bond Street south of the site and other narrow streets (e.g., State Street) the prevailing character is low-density residential (townhouses) and community facility buildings; and

WHEREAS, as to adjacent uses, the applicant states that directly west of the site (across Bond Street) is a six-story office buildings, directly north of the site (across Schermerhorn Street) is a five-story parking garage; a playground abuts the site to the east and a series of four-story residential buildings abut the site to the south; and

WHEREAS, the applicant notes that the proposed hotel use is as-of-right in the subject C6-1 district and contends that the building has been designed to be sensitive to adjacent residential uses; and

WHEREAS, specifically, and in response to the Opposition's and the Board's concerns, the hotel entrance was relocated from Bond Street to Schermerhorn Street and the outdoor terrace connected to the Ballroom and adjacent to the residences to the south was removed; and

WHEREAS, turning to bulk, the applicant states that within 400 feet of the site, the buildings range in height from one to 14 stories; beyond 400 feet but within two blocks of the site, Schermerhorn Street includes two buildings with 25 or more stories and 333 Schermerhorn, which, upon completion, will rise to 577 feet (44 stories), making it one of the tallest buildings in the borough; and

WHEREAS, at hearing, the Board directed the applicant to provide additional information demonstrating that the proposed height is contextual; and

WHEREAS, in response, the applicant provided a height study and a photomontage of the streetscape (including buildings under construction and proposed), which, together, demonstrate that the building height is in keeping with the bulk of the surrounding neighborhood; and

WHEREAS, the applicant also notes that, aside from the requested floor area waiver, the proposal complies in all respects with the applicable bulk regulations, including building height, yards, and setbacks; and

WHEREAS, as to the Opposition's concerns regarding vehicular traffic and refuse collection, the applicant has agreed to: (1) limit all deliveries to the Schermerhorn Street loading dock; (2) limit food deliveries to Monday through Friday, from 8:00 a.m. to 4:00 p.m.; (3) coordinate and monitor all other delivery traffic (e.g., laundry) so as to mitigate traffic impacts; and (4) store refuse in a refrigerated room within the building until immediately prior to collection; and

WHEREAS, as to the Opposition's remaining concerns,

the Board observes that: (1) hotel use is as-of-right at the subject site; therefore City Planning has determined that it is an appropriate use at the site, notwithstanding the proximity of residence districts; (2) the requested floor area waiver is necessary for the owner to realize a reasonable return on investment, as extensively analyzed above; and (3) ensuring that safe construction measures are undertaken (including protecting adjacent, occupied residential buildings during excavation) is primarily within the purview of DOB; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is due to the peculiarities of the site; and

WHEREAS, the Board also finds that this proposal is the minimum necessary to afford the owner relief, in accordance with ZR § 72-21(e); and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the EAS CEQR 15-BSA-043K, dated March 10, 2015; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the New York City Landmarks Preservation Commission ("LPC") reviewed the project for potential archaeological impacts and requested that an archaeological documentary study be submitted for review and approval; and

WHEREAS, a Restrictive Declaration for an archaeological study was executed and filed for recording on May 12, 2015; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6

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NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 to permit, on a site partially within a C6-1 zoning district, and partially within an R6B zoning district, within the Special Downtown Brooklyn District, the construction of a 13-story hotel (Use Group 5) that does not comply with the zoning requirements for FAR, contrary to ZR § 33-122; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 14, 2015"– seventeen (17) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed building: a maximum of 13 stories, a maximum floor area of 154,947 sq. ft. (8.63 FAR), a maximum building height of 186'-1¾" (excluding bulkheads and parapets), and a maximum of 287 hotel rooms, as reflected on the BSA-approved drawings;

THAT the building façade abutting sites with residential buildings shall be consistent with the character and appearance of such buildings;

THAT all service pickups and deliveries to the site shall occur on the Schermerhorn Street frontage;

THAT refuse shall be stored within the building until immediately prior to collection;

THAT the above conditions shall be noted on the certificate of occupancy;

THAT a permit shall not be issued for any grading, excavation, foundation or other permit which involves soil disturbance until, pursuant to the Restrictive Declaration, the LPC has issued to DOB, as applicable, either a Notice of No Objection, Notice to Proceed, Notice of Satisfaction, or Final Notice of Satisfaction;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by May 19, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 19, 2015.

289-14-BZ

CEQR #15-BSA-103Q

APPLICANT – Sheldon Lobel, P.C., 22-32 31st Street LLC, owner.

SUBJECT – Application November 6, 2015 – Special Permit (§73-42) to extend the conforming Use Group 6 restaurant use located partially within a C4-2A zoning district into the adjacent R5B zoning district.

PREMISES AFFECTED – 22-32/36 31st Street, located on the west side of 31st Street. Block 844, Lot 49, 119, 149. Borough of Queens.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated May 19, 2014, acting on DOB Application No. 420949978, reads in pertinent part:

Proposed outdoor dining area requires BSA approval; and

WHEREAS, this is an application under ZR §§ 73-42 and 73-03, to permit the extension of an existing eating and drinking establishment (Use Group 6) within a C4-2A zoning district into the adjacent R5B zoning district, contrary to ZR § 22-00; and

WHEREAS, a public hearing was held on this application on March 3, 2015, after due notice by publication in *The City Record*, with a continued hearing on April 14, 2015, and then to decision on May 19, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 1, Queens, recommends approval of this application, subject to the following conditions: (1) that the use be limited to a term of five years; (2) that outdoor use not exceed 18 tables and 74 seats; (3) that outdoor use be prohibited during the winter; (4) that noise attenuation be provided and (5) that future applications be filed in a timely manner; and

WHEREAS, the subject site the site is an irregular parcel comprised of Tax Lots 49, 149, and 119; it has frontages along 29th Street (9.75 feet) and 31st Street (75 feet) between 23rd Avenue and Ditmars Boulevard and is located partially within a C2-4A zoning district and partially within an R5B zoning district; and

WHEREAS, the site has 17,165 sq. ft. of lot area, with 11,065 sq. ft. of lot area in the C2-4A portion of the site and 6,100 sq. ft. of lot area in the R5B portion of the site; and

WHEREAS the site is occupied by a one-story building with approximately 11,065 sq. ft. of floor area (0.64 FAR); the applicant represents that the building is entirely within the C2-4A portion of the site; the remainder of the site is used for accessory outdoor dining; and

WHEREAS, the site has been subject to the Board's jurisdiction since 1969, when, under BSA Cal. No. 941-68-A, the Board granted an application permitting a non-automatic sprinkler system in the cellar, contrary to the Fire Department's requirement for an automatic sprinkler system; and

WHEREAS, subsequently, on February 15, 2011, the Board, under BSA Cal. No. 29-10-BZ, granted a special permit pursuant ZR § 73-52, to permit, on a site partially

MINUTES

within a C1-2 (R5) zoning district and partially within an R5 zoning district, the extension of the C1-2 district regulations 25 feet into the R5 portion of the site to allow outdoor dining accessory to the existing eating and drinking establishment (Use Group 6), contrary to ZR § 22-00; the Board included a term on the special permit—three years—to expire on February 15, 2014; and

WHEREAS, the Board observes that the 2011 grant was in error, in that, on March 25, 2010, the Astoria Rezoning became effective, which rezoned the site from C1-2 (R5)/R5 to its current C2-4A/R5B; further, whereas as the prior C1-2 portion of the site extended to a depth of 150 feet from 31st Street, the C2-4 portion only extends to a depth of 125 feet from 31st Street; and

WHEREAS, the applicant represents that extending the district boundary for the C2-4A district 25 feet into the R5B portion of the site pursuant to ZR § 73-52 would not create enough outdoor accessory dining space for the eating and drinking establishment; and

WHEREAS, accordingly, the applicant now seeks a special permit pursuant to ZR § 73-42 to extend the Use Group 6 use across the zoning district boundary line between the C2-4A zoning district and the R5B zoning district, for a depth of 47.5 feet, which will allow outdoor accessory dining in the R5B portion of the site; and

WHEREAS, pursuant to ZR § 73-42, the Board may permit the expansion of a conforming use into a district where such use is not permitted, provided that (1) the enlarged use is contained within a single block; (2) the expansion of either the depth or the width of the conforming use is no greater than 50 percent of either the depth or width of that portion of the zoning lot located in the district where such use is a conforming use; and that (3) the area of the expansion cannot exceed 50 percent of the area of the zoning lot located in the district where such use is a conforming use, and provided further that the required findings are made; and

WHEREAS, the findings are as follows: (a) there is no reasonable possibility of expanding the use within the existing district where it is conforming; (b) the conforming use existed prior to January 6, 1965, or the date of any applicable subsequent amendment to the zoning maps; and (c) the expanded use is not so situated or of such character or size as to impair the essential character or the future use or development of the surrounding area; and

WHEREAS, as to the threshold condition that the use is contained on a single block, the applicant states that the existing establishment and the proposed enlarged accessory outdoor dining area are contained within Block 844; and

WHEREAS, the applicant also states that the portion of the site occupied by the existing conforming use is 75 feet wide by 125 feet deep, with a lot area of 9,375 sq. ft., and the expansion area (within the R5B portion of the site) is 22.5 feet wide by 75 feet deep, with a lot area of 1,687.5 sq. ft. of floor area; as such, the expansion area is less than 50 percent of the width, depth and lot area within the C2-4A zoning district; and

WHEREAS, accordingly, the Board finds that the use and proposed expansion site are located within the same

block and that the expansion does not exceed size restrictions; and

WHEREAS, as to the finding under ZR § 73-42(a), the applicant represents that there is not any reasonable possibility of expanding the use within the existing C2-4A zoning district because the use already occupies all portions of the C2-4A portion of the site and the adjacent buildings are occupied by other business; hence, the use cannot extend east or west within the commercial district; and

WHEREAS, as to the finding under ZR § 73-42(b), the applicant represents that the Use Group 6 use was in existence prior to the Astoria Rezoning on March 25, 2010; and

WHEREAS, in support of this assertion, the applicant submitted a Certificate of Occupancy from 1970, which references Tax Lots 49, 149, and 119 and authorizes a Use Group 6 use within the building at the site; and

WHEREAS, as to the finding under ZR § 73-42(c), the applicant asserts that the proposed use is not situated or of such character or size as to impair the essential character or future use of the surrounding area; and

WHEREAS, specifically, the applicant states that the Board recognized the commercial character of the area in its 2011 grant and the applicant notes that it will include the following buffering measures to protect adjacent residential uses: (1) a solid fence with a height of seven feet and sound attenuation construction; (2) landscaping along the perimeter of the outdoor area; (3) a retractable awning capable of entirely covering the dining area; (4) limited hours (Sunday through Thursday, from 11:00 a.m. to 10:00 p.m., and Friday and Saturday, from 11:00 a.m. to 11:00 p.m.) and seasonal use (spring through fall); (5) lighting directed down and away from residential uses; (6) enforcing a strict no smoking policy; and (7) prohibiting outdoor music; and

WHEREAS, at hearing, the Board directed the applicant to provide additional information on the sound attenuation measures; and

WHEREAS, in response, the applicant provided detailed specifications on the proposed materials for the sound attenuation construction and included such specifications on the proposed plans; and

WHEREAS, finally, the applicant represents and the Board agrees that the proposal complies with the bulk requirements of ZR § 73-42; and

WHEREAS, based on the foregoing, the Board finds that the proposed expansion of the Use Group 6 use from the C2-4A zoning district into the R5B zoning district will not cause impairment of the essential character or the future use or development of the surrounding area, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the proposed action will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions

MINUTES

and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-42 and 73-03; and

WHEREAS, the project is classified as a Unlisted action pursuant to 6 NYCRR Part 617.4 and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 15-BSA-103Q, dated October 29, 2014; and

WHEREAS, the EAS documents that the operation of the bank would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-52 and 73-03, to permit the extension of an existing eating and drinking establishment (Use Group 6) within a C4-2A zoning district into the adjacent R5B zoning district, contrary to ZR § 22-00; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received April 22, 2015" – (7) sheets; and *on further condition*:

THAT the term of the grant shall be limited to five years, to expire on May 19, 2020;

THAT arrangement and permitted occupant load of the outdoor area shall be as reviewed and approved by DOB;

THAT landscaping and trees shall be installed and maintained in accordance with the BSA-approved plans;

THAT the hours of operation for the outdoor dining area shall be limited to Sunday through Thursday, from 11:00 a.m. to 10:00 p.m.; and Friday and Saturday, from 11:00 a.m. to 11:00 p.m.;

THAT the outdoor dining area shall be closed during winter;

THAT all lighting shall be directed down and away

from adjacent residential uses;

THAT there shall be no outdoor music at the site;

THAT there shall be no smoking permitted in the outdoor dining area;

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

THAT a certificate of occupancy shall be obtained by May 19, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 19, 2015.

343-12-BZ

APPLICANT – Akerman Senterfitt, LLP., for Ocean Ave Education Support, Inc., owner.

SUBJECT – Application December 19, 2012 – Variance (§72-21) to permit the construction of a Use Group 3 school (*Brooklyn School for Medically Frail Children*) with dormitory facilities in a split zoning lot, contrary to lot coverage(§24-11), yard requirements (§24-382, §24-393, §24-33) and use regulations (§22-13). R1-2/R7A zoning district.

PREMISES AFFECTED – 570 East 21st Street, between Dorchester Road and Ditmas Avenue, Block 5184, Lot(s) 39, 62, 66, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Otteley-Brown and Commissioner Montanez... 4

Negative:.....0

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for decision, hearing closed.

350-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Overcoming Love Ministries, owner.

SUBJECT – Application December 31, 2012 – Variance (§72-21) to permit the construction of an 11-story community facility/residential building, contrary to use regulations (§42-00). M3-1 zoning district.

PREMISES AFFECTED – 5 32nd Street, southeast corner of 2nd Avenue and 32nd Street, Block 675, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

ACTION OF THE BOARD – Off-Calendar.

MINUTES

ACTION OF THE BOARD – Laid over to August 18, 2015, at 10 A.M., for continued hearing.

155-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Cong Kozover Zichron Chaim Shloime, owners.

SUBJECT – Application May 15, 2013 – Variance (§72-21) to permit the enlargement of an existing synagogue (*Congregation Kozover Sichron Chaim Shloime*) and rabbi's residence (UG 4) and the legalization of a Mikvah, contrary to floor area (§24-11), lot coverage (§24-11), wall height and setbacks (§24-521), front yard (§24-34), side yard (§24-35), rear yard (§24-36), and parking (§25-18, 25-31) requirements. R3-2 zoning district.

PREMISES AFFECTED – 1782-1784 East 28th Street, west side of East 28th Street between Quentin road and Avenue R, Block 06810, Lots 40 & 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for decision, hearing closed.

301-13-BZ

APPLICANT – Eric Palatnik, P.C., for Rabbi Mordechai Jofen, owner.

SUBJECT – Application November 12, 2013 – Variance (72-21) to add three floors to an existing one story and basement UG 4 synagogue for a religious-based college and post graduate (UG 3) with 10 dormitory rooms, contrary to sections 24-11, 24-521, 24-52,24-34(a),24-06. R5B zoning district.

PREMISES AFFECTED – 1502 Avenue N, southeast Corner of East 15th Street and Avenue N, Block 6753, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to June 16, 2015, at 10 A.M., for decision, hearing closed.

60-14-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for Sephardic Congregation of Kew Gardens Hills, owners.

SUBJECT – Application April 11, 2014 – Variance (§72-21) to enlarge a community facility (*Sephardic Congregation*), contrary to floor lot coverage rear yard, height and setback (24-00). R4-1 zoning district.

PREMISES AFFECTED – 141-41 72nd Avenue, 72nd Avenue between Main Street and 141st Street, Block 6620, Lot 41, Borough of Queens.

COMMUNITY BOARD #8Q

64-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Moshe Dov Stern & Goldie Stern, owners.

SUBJECT – Application April 29, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1320 East 23rd Street, west side of East 23rd Street between Avenue M and Avenue N, Block 7658, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to July 14, 2015, at 10 A.M., for continued hearing.

**REGULAR MEETING
TUESDAY AFTERNOON, MAY 19, 2015
1:00 P.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

270-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Carnegie Park land Holding LLC c/o Related Cos., owner; Equinox-East 92nd LLC, lessee.

SUBJECT – Application November 3, 2014 – Special Permit 73-36 to allow the physical culture establishment (*Equinox*) within portions of a new mixed use building, located within an C4-6 zoning district.

PREMISES AFFECTED – 203 East 92nd Street, north side of East 92nd Street, 80 ft. east of intersection with 3rd Avenue, Block 01538, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director

BULLETIN

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Volume 100, Nos. 23-24

June 10, 2015

DIRECTORY

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DOCKETS

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112-15-BZ

235 East 11th Street, northerly side of East 11th Street between Third Avenue and Second Avenue, Block 00467, Lot(s) 7501, Borough of **Manhattan, Community Board: 3**. Variance (§72-21) to permit the enlargement of an existing building contrary to Z.R. §54-31. R8B zoning district. R8B district.

113-15-A

90 & 94 Fulton Steet, corner of fulton and Gold Streets, with a through lot portion from Gold Street to William Streets, Block 00077, Lot(s) 21 & 23, Borough of **Manhattan, Community Board: 1**. Proposed construction of a building located partially within the bed of mapped unbuilt street, pursuant Article 3 Section 35 of the General City Law. C6-4 zoning district. C6-1 (SLMD) district.

114-15-A

9 Jade Court, west side of Bloomingdale Road, approx. 346 ft. south of intersection with Clay Pit Road, Block 07267, Lot(s) 0299, Borough of **Staten Island, Community Board: 3**. Appeal from decision of the Borough Commissioner denying permission for proposed construction of a building that does not front on a legally mapped street. R3-1 (SRD) district.

115-15-A

11 Jade Court, west side of Bloomingdale Road, approx. 346 ft. south of intersection with Clay Pit Road, Block 07267, Lot(s) 0298, Borough of **Staten Island, Community Board: 3**. Appeal from decision of the Borough Commissioner denying permission for proposed construction of a building that does not front on a legally mapped street. R3-1 (SRD) district.

116-15-A

15 Jade Court, west side of Bloomingdale Road, approx. 346 ft. south of intersection with Clay Pit Road, Block 07267, Lot(s) 0297, Borough of **Staten Island, Community Board: 3**. Appeal from decision of the Borough Commissioner denying permission for proposed construction of a building that does not front on a legally mapped street. R3-1 (SRD) district.

117-15-A

17 Jade Court, west side of Bloomingdale Road, approx. 346 ft. south of intersection with Clay Pit Road, Block 07267, Lot(s) 0296, Borough of **Staten Island, Community Board: 3**. Appeal from decision of the Borough Commissioner denying permission for proposed construction of a building that does not front on a legally mapped street. R3-1 (SRD) district.

118-15-A

21 Jade Court, west side of Bloomingdale Road, approx. 346 ft. south of intersection with Clay Pit Road, Block 07267, Lot(s) 0295, Borough of **Staten Island, Community Board: 3**. Appeal from decision of the Borough Commissioner denying permission for proposed construction of a building that does not front on a legally mapped street. R3-1 (SRD) district.

119-15-A

23 Jade Court, west side of Bloomingdale Road, approx. 346 ft. south of intersection with Clay Pit Road, Block 07267, Lot(s) 0094, Borough of **Staten Island, Community Board: 3**. Appeal from decision of the Borough Commissioner denying permission for proposed construction of a building that does not front on a legally mapped street. R3-1 (SRD) district.

120-15-A

27 Jade Court, west side of Bloomingdale Road, approx. 346 ft. south of intersection with Clay Pit Road, Block 07267, Lot(s) 0094, Borough of **Staten Island, Community Board: 3**. Appeal from decision of the Borough Commissioner denying permission for proposed construction of a building that does not front on a legally mapped street. R3-1 (SRD) district.

121-15-A

29 Jade Court, west side of Bloomingdale Road, approx. 346 ft. south of intersection with Clay Pit Road, Block 07267, Lot(s) 0293, Borough of **Staten Island, Community Board: 3**. Appeal from decision of the Borough Commissioner denying permission for proposed construction of a building that does not front on a legally mapped street. R3-1 (SRD) district.

DOCKETS

122-15-A

33 Jade Court, west side of Bloomingdale Road, approx. 346 ft. south of intersection with Clay Pit Road, Block 07267, Lot(s) 0292, Borough of **Staten Island, Community Board: 3**. Appeal from decision of the Borough Commissioner denying permission for proposed construction of a building that does not front on a legally mapped street. R3-1 (SRD) district.

123-15-A

35 Jade Court, west side of Bloomingdale Road, approx. 346 ft. south of intersection with Clay Pit Road, Block 07267, Lot(s) 0092, Borough of **Staten Island, Community Board: 3**. Appeal from decision of the Borough Commissioner denying permission for proposed construction of a building that does not front on a legally mapped street. R3-1 (SRD) district.

124-15-A

41 Jade Court, west side of Bloomingdale Road, approx. 346 ft. south of intersection with Clay Pit Road, Block 07267, Lot(s) 0289, Borough of **Staten Island, Community Board: 3**. Appeal from decision of the Borough Commissioner denying permission for proposed construction of a building that does not front on a legally mapped street. R3-1 (SRD) district.

125-15-A

43 Jade Court, west side of Bloomingdale Road, approx. 346 ft. south of intersection with Clay Pit Road, Block 07267, Lot(s) 0089, Borough of **Staten Island, Community Board: 3**. Appeal from decision of the Borough Commissioner denying permission for proposed construction of a building that does not front on a legally mapped street. R3-1 (SRD) district.

126-15-BZ

1782 East 27th Street, western side of East 27th Street between Quentin Road and Avenue R, Block 06809, Lot(s) 0044, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to permit the enlargement of a single family home. R3-2 zoning district. R3-2 district.

127-15-BZ

135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard., Block 04958, Lot(s) 48,38, Borough of **Queens, Community Board: 7**. Special Permit (§73-66) to permit the construction of building in excess of the height limits established pursuant Z.R. 61-211 & 61-22. The proposed building was approved by the Board pursuant to BSA Calendar Number 156-03-BZ. C2-2/R6 zoning district R6/C2-2 district.

128-15-BZ

680 Van Duzer Street, Corner of Van duzer Street and Broad Street., Block 0615, Lot(s) 095, Borough of **Staten Island, Community Board: 1**. Variance (72-21) to allow for the construction on a three family attached residential building, Use Group 2, located in an R2/SHPD zoning district. R2/SHPD district.

129-15-BZ

682 Van Duzer Street, Coroner of Van Duzer Street and Broad Street, Block 0615, Lot(s) 096, Borough of **Staten Island, Community Board: 1**. Variance (72-21) to allow the construction of a three family attached residential building, Use Group 2, located within an R2/SHPD district. R2/R2/SHPD district.

130-15-BZ

684 Van Duzer Street, Corner of Van Duzer Street and Broad Street, Block 0615, Lot(s) 97, Borough of **Staten Island, Community Board: 1**. Variance (72-21) to allow the construction of a three family attached residential building, Use Group 2, located within an R2/SHPD zoning district. R2/SHPD district.

131-15-BZ

650 Broadway, Broadway between Bleecker Street and Bond Street, Block 0529, Lot(s) 04, Borough of **Manhattan, Community Board: 2**. Special Permit (73-36) to allow the legalization of Physical Culture Establishment(PCE) Clockwork Jiu Jitsu, on the second floor of a five-story plus cellar building within M1-5B zoning district. M1-5B district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

JUNE 23, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, June 23, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

101-14-BZ

APPLICANT – Moshe M. Friedman PE, for Bais Yaakov D. Chassidei Gur, owner.

SUBJECT – Application May 8, 2015 – Variance (§72-21) to permit the vertical extension of an existing not for profit religious school. R5 zoning district.

PREMISES AFFECTED – 1975 51st Street, northwest corner of 20th Avenue and 51st Street, Block 05462, Lot 45, Borough of Brooklyn.

COMMUNITY BOARD #12BK

316-14-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for United Talmudical Academy, owner.

SUBJECT – Application November 25, 2014 – Variance (§72-21) to permit the enlargement of an existing Yeshiva building (*Talmudical Academy*) for lot coverage (§24-11) and rear yard (§24-36. R6 zoning district.

PREMISES AFFECTED – 115 Heyward Street, northern side of Heyward Street between Lee Avenue and Bedford Avenue, Block 02225, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #1BK

9-15-BZ

APPLICANT – Francis R. Angelino, Esq., for West 62nd Street LLC, owner; Bod Fitness NYC LLC, lessee.

SUBJECT – Application January 15, 2015 – Special Permit (§73-36) to allow for a physical culture establishment (*Bod Fitness*) at the building on a portion of the ground floor and cellar of a new 54-story mixed use residential building. C4-7 Special Lincoln Square District.

PREMISES AFFECTED – 55 Amsterdam Avenue, southeast corner of Amsterdam Avenue and West 62nd Street, Block 1132, Lot 35, Borough of Manhattan.

COMMUNITY BOARD #7M

Ryan Singer, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, JUNE 2, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

619-73-BZ

APPLICANT – Sheldon Lobel, P.C., for CI Gateway LL,
owner.

SUBJECT – Application October 23, 2014 – Re-instatement
of a variance (§72-21) which permitted the operation of an
eating and drinking establishment (UG 6) with an accessory
drive thru which expired on February 26, 2004; Amendment
to permit the redevelopment of the site; Waiver of the Rules.
R4 zoning district.

PREMISES AFFECTED – 2940 Cropsey Avenue, front of
Bay 52nd Street, Cropsey Avenue and 53rd Street, Block
6949, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #13BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to June 16,
2015, at 10 A.M., for decision, hearing closed.

173-92-BZ

APPLICANT – Simons & Wright LLC, for Bremen House,
Inc., owner.

SUBJECT – Application January 17, 2014 – Extension of
Term of a previously approved Special Permit (§73-36)
permitting the operation of martial arts studio which expires
on January 24, 2014; Amendment to permit the relocation of
the facility from the 2nd floor to the cellar. C2-8A zoning
district.

PREMISES AFFECTED – 220 East 86th Street, 86th Street
between 2nd and 3rd Avenues, Block 01531, Lot 38, Borough
of Manhattan

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to July 14,
2015, at 10 A.M., for continued hearing.

268-03-BZ

APPLICANT – Eric Palatnik, P.C., for Park Circle Realty
Associates, owner.

SUBJECT – Application October 9, 2014 – Extension of
Term (§11-411) for the continued operation of an
automotive service station which expired on January 27,
2014; Waiver of the Rules. C1-3/R3-2 zoning district.

PREMISES AFFECTED –145-55 Guy Brewer Boulevard,
south corner of Farmers Boulevard and Guy Brewer
Boulevard, Block 13313, Lot 40 Borough of Queens.

COMMUNITY BOARD #13Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 14,
2015, at 10 A.M., for decision, hearing closed.

51-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Rivoli Realty
Corp., owner; American Dance & Drama, lessee.

SUBJECT – Application July 10, 2014 – Amendment of a
variance (§72-21) which permitted a Physical Culture
Establishment and a dance studio (Use Group 9), contrary to
use regulations. The amendment seeks to enlarge the floor
area utilized by the dance studio on the first floor of the
existing one-story and cellar building. C1-2/R2A zoning
district.

PREMISES AFFECTED – 188-02 Union Turnpike aka 22
Union Turnpike, south side of Union Turnpike between
188th Street and 189th Street, Block 7266, Lot 1, Borough
of Queens.

COMMUNITY BOARD #8Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to June 23,
2015, at 10 A.M., for decision, hearing closed.

35-10-BZ

APPLICANT –Sheldon Lobel, P.C., for Torath Haim Ohel
Sara, owner.

SUBJECT – Application September 24, 2014 – Extension of
Time to Obtain a Certificate of Occupancy of a previously
approved Variance (§72-21) which permitted the
legalization of an existing synagogue (Congregation Torath
Haim Ohel Sara), contrary to front yard (§24-34), side yard
(\$24-35) and rear yard (§24-36), which expired on March 8,
2012; Amendment to permit minor changes to the
construction; Waiver of the rules. R4 zoning district.

PREMISES AFFECTED – 144-11 77th Avenue, between
Main Street and 147th Street, Block 6667, Lot 45, Borough
of Queens.

COMMUNITY BOARD #8Q

ACTION OF THE BOARD – Laid over to July 28,
2015, at 10 A.M., for continued hearing.

MINUTES

APPEALS CALENDAR

167-14-A

APPLICANT – Eric Palatnik, P.C., for 250 Manhattan LLC, owner.

SUBJECT – Application July 11, 2014 – Appeal seeking a determination that the owner has obtained a vested right to complete construction commenced under the prior C4-3(R6) zoning district. R6B zoning district.

PREMISES AFFECTED – 250 Manhattan Avenue, between Powers Avenue and Grand Street, Block 2782, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

THE RESOLUTION –

WHEREAS, this application seeks a determination from the Board that the owner of the subject site has obtained the right to complete construction of a six-story, mixed residential and commercial building under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on March 24, 2015, after due notice by publication in *The City Record*, with a continued hearing May 12, 2015, and then to decision on June 2, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, the subject site is located on the east side of Manhattan Avenue, between Powers Street and Grand Street, within an R6B zoning district; and

WHEREAS, the site has 25 feet of frontage along Manhattan Avenue, and 2,500 sq. ft. of lot area; and

WHEREAS, under construction at the site is a six-story, mixed residential and commercial building with 7,613sq. ft. of floor area (3.05 FAR) (5,483 sq. ft. of residential floor area (2.2 FAR) and 2,130 sq. ft. of commercial floor area (0.85 FAR)) and eight dwelling units and no accessory parking spaces (the “Building”); and

WHEREAS, the applicant represents that the Building complies with the parameters of the former C4-3 zoning district, which is an R6 equivalent, per ZR § 35-23(a); and

WHEREAS, on April 18, 2008, the Department of Buildings (“DOB”) issued New Building Permit No. 310058950-01-NB (hereinafter, the “New Building Permit”) authorizing construction of the Building; and

WHEREAS, on July 29, 2009, (hereinafter, the “Enactment Date”), the City Council voted to adopt the Greenpoint – Williamsburg Contextual zoning text amendment (the “Rezoning”), which rezoned the site from C4-3 (R6 Equivalent) to R6B; and

WHEREAS, as a result of the Rezoning, the Building no longer complies with the following zoning regulations: (1)

residential floor area (a maximum residential floor area of 5,000 sq. ft. (2.0 FAR) is permitted, a residential floor area of 5,483 sq. ft. (2.2 FAR) is proposed); (2) commercial floor area (commercial floor area, including Use Group 6, is not permitted under the current R6B zoning regulations, but Use Group 6 commercial floor area of 2,130 sq. ft. (.85 FAR) is proposed); (3) maximum building height (a maximum building height of 50’-0” is permitted, but a building height of 55’-0” is proposed); (4) maximum wall height (a maximum wall height of 40’-0” is permitted, but a wall height of 45’-0” is proposed); and (5) maximum number of dwelling units (seven dwelling units are permitted, but eight dwelling units are proposed); and

WHEREAS, the applicant represents that, as of the Enactment Date, the applicant had obtained permits and completed, among other things, 94 percent of the building foundation; 15 percent of the masonry work; 10 percent of the metal decking; 25 percent of the concrete slab; trenching at the basement level of the building for plumbing work to be performed; construction of the interior walls at the sides of the building through the first floor; and partial construction of the steel frames for the second floor of the building; and

WHEREAS, as set forth below, to establish the owner’s entitlement to a vested right, the applicant relies on the work performed and the expenditures made prior to the Enactment Date, as well as the serious loss that would result from having to comply with the R6B zoning regulations; and

WHEREAS, a threshold matter for the vested rights analysis is that a permit be issued lawfully prior to the Enactment Date and that the work was performed pursuant to such lawful permit; and

WHEREAS, by letter dated November 8, 2014, DOB confirmed that the New Building Permit was lawfully issued, authorizing construction of the Building prior to the Enactment Date; and

WHEREAS, the Board notes that when work proceeds under a lawfully-issued permit, a common law vested right to continue construction after a change in zoning generally exists if: (1) the owner has undertaken substantial construction; (2) the owner has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, specifically, as held in *Putnam Armonk, Inc. v Town of Southeast*, 52 AD 2d 10 (2d Dept 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner’s rights under the prior ordinance are deemed vested “and will not be disturbed where enforcement [of new zoning requirements] would cause ‘serious loss’ to the owner,” and “where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance”; and

WHEREAS, however, notwithstanding this general framework, as discussed by the court in *Kadin v Bennett*, 163 AD 2d 308 (2d Dept 1990) “there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess ‘a vested right’. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action”; and

MINUTES

WHEREAS, as noted above, the applicant obtained a permit to construct the Building and performed certain work prior to the Enactment Date; and

WHEREAS, specifically, the applicant states that the work it performed constitutes substantial construction, in that, prior to the Enactment Date, it constructed 96 percent of the foundation and substructure, including all footings and foundation walls to the cellar, and constructed the elevator pit in the proposed cellar; and

WHEREAS, in support of this statement, the applicant has submitted the following: a breakdown of the construction costs by line item; copies of cancelled checks; construction permits; and photographs of the site; and

WHEREAS, the Board has reviewed the representations as to the amount and type of work completed before and after the Enactment Date and the documentation submitted in support of these representations, and agrees that it establishes that substantial work was performed; and

WHEREAS, as to expenditure, the Board notes that unlike an application for relief under ZR § 11-30 *et seq.*, soft costs and irrevocable financial commitments can be considered in an application under the common law and accordingly, these costs are appropriately included in the applicant's analysis; and

WHEREAS, the applicant represents that the total expenditure paid toward the construction of the Building prior to the Enactment Date is \$587,677 (\$121,186 in hard costs, \$138,277 in soft costs, and \$328,214 in irrevocable financial commitments entered into prior to the Enactment Date), representing approximately 27 percent of the \$2,167,500 estimated cost to complete the project; and

WHEREAS, the Board considers the amount of expenditures significant, both for a project of this size, and when compared with the development costs; and

WHEREAS, the Board's consideration is guided by the percentages of expenditure cited by New York courts considering how much expenditure is needed to vest rights under a prior zoning regime; and

WHEREAS, the applicant states that in order to comply with applicable zoning it will have to demolish the rear portion of the first floor perimeter walls of the building to a distance of approximately 39'-5" from the rear lot line, incurring an additional estimated cost of \$25,000; and

WHEREAS, the applicant states that in order to comply with the current building code it would have to demolish the shaft foundation structure and rebuild it to accommodate a larger shaft and elevator core, incurring an addition estimated cost of \$75,000; and

WHEREAS, the applicant states that under the current zoning, it will have lost the right to develop 2,130 sq. ft. of commercial space as well as 483 sq. ft. of residential space, thereby eliminating from the project all of the commercial space and one of eight (8) planned dwelling units, significantly reducing the profit that will result from the planned development; and

WHEREAS, the applicant states that, in addition to the costs of removing work already performed, were it required to comply with the current zoning it would incur substantial architectural and filing fees associated with a redesign of the

building; and

WHEREAS, the applicant further states that the value of the building constructed under the current zoning would be \$2,560,000 and the value of the building constructed under the zoning applicable before the Enactment Date would be \$3,611,000, thus, were the applicant required to building under the zoning applicable before the Enactment Date it would suffer a loss in value of approximately 30 percent; and

WHEREAS, thus, the applicant states that it would suffer a serious loss if the site were required to comply with the R6B district regulations; and

WHEREAS, the Board agrees that complying with the R6B district regulations would result in a serious economic loss for the applicant; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed and the expenditures made both before and after the Enactment Date, the representations regarding serious loss, and the supporting documentation for such representations, and agrees that the applicant has satisfactorily established that a vested right to complete construction of the Building has accrued to the owner of the premises.

Therefore it is Resolved, that this application made pursuant to the common law doctrine of vested rights requesting a reinstatement of Permit No 310058950, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for four years from the date of this grant.

Adopted by the Board of Standards and Appeals, June 2, 2015.

250-14-A thru 257-14-A

APPLICANT – Sheldon Lobel, P.C., for Villanova Heights, Inc., owner.

SUBJECT – Application October 15, 2014 – Extension of time to complete construction of eight (8) homes and obtain a Certificate of Occupancy under the common law and Vested Rights. (R1-2) zoning district.

PREMISES AFFECTED – 5401, 5031, 5021, 5310, 5300, 5041, 5030, 5040 Grosvenor Avenue, Goodridge Avenue to the East of Iselin Avenue and West 250th Street, Borough of Bronx.

250-14-A thru 252-14-A, Block 05831, Lot(s) 50, 60, 70
253-14-A and 254-14-A, Block 05839, Lot, 4025, 4018
255-14-A, Block 05830, Lot 3940
256-14-A and 257-14-A, Block 05829, Lot 3630, 3635

COMMUNITY BOARD #8BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application requesting a

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determination that the owner of 5041 Grosvenor Avenue (Block 5831, Lot 50); 5031 Grosvenor Avenue (Block 5831, Lot 60); 5021 Grosvenor Avenue (Block 5831, Lot 70); 5310 Grosvenor Avenue (Block 5839, Lot 4018); 5300 Grosvenor Avenue (Block 5839, Lot 4025); 5041 Goodridge Avenue (Block 5830, Lot 3940); 5030 Goodridge Avenue (Block 5829, Lot 3630); 5040 Goodridge Avenue (Block 5829, Lot 3635), Bronx, New York (collectively, the "Site") has obtained the right to complete construction of the Premises under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on May 12, 2015, after due notice by publication in *The City Record*, and then to decision on June 2, 2015; and

WHEREAS, the Site and its surrounding neighborhood were examined by Vice-Chair Hinkson and Commissioner Ottley-Brown; and

WHEREAS, the Site is known as Villanova Heights and is formerly known as the Chapel Farm Estate; it is located in the Riverdale section of the Bronx and is comprised of an eight lot portion of a 15-acre site which contains a total of 15 lots, 12 of which, including the Site, comprise a Major Development (the "Major Development") which vested pursuant to statute (of the 12 lots which comprise the Major Development, four are complete and eight, the Site, are not complete); and

WHEREAS, thus, this determination sought herein relates only to whether the applicant's rights to complete construction of the Site have vested; and

WHEREAS, the Site is located south of West 253rd Street, west of Fieldston Road, north of West 250th Street, and east of Iselin Avenue, in the Bronx, within an R1-2 zoning district and also within a Special Natural Area District (the "SNAD"); and

WHEREAS, the lots which comprise the Site are located on the arcing portion of Grosvenor Avenue that begins at West 250th Street and terminates at Iselin Avenue as well as on that portion of Goodridge Avenue which extends east from Grosvenor Avenue between West 250th Street and West 252nd Street; and

WHEREAS, the Site is proposed to be developed with eight single-family homes at a rate of approximately two per year (the homes are referred to collectively herein as the "Buildings"); and

WHEREAS, the applicant represents that each of the Buildings comply with a prior version of the SNAD requirements set forth in Zoning Resolution Article X, Chapter 5; and

WHEREAS, however, on February 2, 2005 (hereinafter, the "Enactment Date"), the City Council voted to adopt a text amendment, which affected the SNAD regulations and resulted in non-compliances; and

WHEREAS, as of the Enactment Date permits for all eight of the Buildings were issued by the Department of Buildings ("DOB") under New Building Permit Nos. 200922528, 200922537, 200922546, 200922555, 200922564, 200922608, 200922617, and 200922626 ("the New Building Permits"); and

WHEREAS, upon the expiration of the two-year period in which the applicant was permitted to complete the Buildings

under the New Building Permits, the applicant sought, and the Board granted, under BSA Cal. Nos. 20-07-BZY through 31-07-BZY, the applicant sought, relief pursuant to ZR § 11-30 *et seq.*, renewing the New Building Permits for one term of two years; and

WHEREAS, consistent with BSA Cal. Nos. 20-07-BZY through 31-07-BZY, the Board renewed the New Building Permits for two additional two-year terms by letters dated June 15, 2009 and June 22, 2011; as a consequence, on June 22, 2013, the New Building Permits lapsed; and

WHEREAS, upon the June 22, 2013 lapse of the New Building Permits, the applicant sought an additional extension of time to complete construction and obtain certificates of occupancy pursuant to ZR § 11-332(b) under BSA Cal. Nos. 111-13-BZY through 119-13-BZY; and

WHEREAS, the Board granted the aforesaid applications under BSA Cal. Nos. 111-13-BZY through 119-13-BZY on July 9, 2013, for a term to expire on July 9, 2014; and

WHEREAS, as a consequence, on July 9, 2014, the New Building Permits lapsed; and

WHEREAS, the applicant now seeks a four-year extension to complete construction pursuant to the common law doctrine of vested rights; and

WHEREAS, a threshold matter for the vested rights analysis is that a permit be issued lawfully prior to the Enactment Date and that the work was performed pursuant to such lawful permit; and

WHEREAS, the Board notes its previous determination under BSA Cal Nos. 20-07-BZY through 31-07-BZY that the New Building Permits were lawfully issued prior to the Enactment Date; and

WHEREAS, the Board notes that when work proceeds under a lawfully-issued permit, a common law vested right to continue construction after a change in zoning generally exists if: (1) the owner has undertaken substantial construction; (2) the owner has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, specifically, as held in *Putnam Armonk, Inc. v. Town of Southeast*, 52 AD2d 10 (2d Dept 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner's rights under the prior ordinance are deemed vested "and will not be disturbed where enforcement [of new zoning requirements] would cause 'serious loss' to the owner," and "where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance"; and

WHEREAS, however, notwithstanding this general framework, as discussed by the court in *Kadin v. Bennett*, 163 AD2d 308 (2d Dept 1990) "there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess 'a vested right'. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action"; and

WHEREAS, the Board notes that work completed prior to the Enactment Date constituted substantial construction and/or substantial expenditures as stated or implied in 20-08-

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BZY through 31-07-BZY and the statutory renewals thereof; and

WHEREAS, the applicant submits, and the Board finds, that the work performed prior and subsequent to the previous approvals constitutes substantial construction and, similarly, that expenditures related thereto were similarly substantial, however, the Board notes that there has been more work performed at the Site, and additional expenditures made, since the most recent lapse on July 9, 2014, further-supporting the applicant's claim for a common law vested right to continue construction of the Site; and

WHEREAS, specifically, the applicant claims that, since the July 9, 2013 grant, and prior to its expiration, it has continued construction of the Buildings and related infrastructure at the Site in that it (1) performed Site-wide installation of infrastructure, including electrical, fencing of common areas, irrigation and partial landscaping and (2) performed infrastructure work including grading/site preparation for 5310 and 5300 Grosvenor Avenue, as well as the installation of gas line connections for 5030 and 5040 Goodridge Avenue; and

WHEREAS, the applicant notes that the Board's grant under BSA Cal. Nos. Cal. Nos. 20-07-BZY through 31-07-BZY included a finding that substantial expenditures were incurred at the Site; and

WHEREAS, in its July 9, 2013 grant the Board noted that after June, 2011, the applicant expended "approximately \$8,921,405, including soft costs"; and

WHEREAS, the applicant states that, since the July 9, 2013 grant, it has expended an additional \$876,222 in additional infrastructure and soft costs; and

WHEREAS, the Board notes that in the applicant has also expended \$2,455,678 in constructing the house located at 5030 Grosvenor, which was part of the Major Development but is not part of the Site; and

WHEREAS, the Board has reviewed the representations as to the amount and type of work completed before and after the Enactment Date and the documentation submitted in support of these representations, and agrees that it establishes that substantial work was performed; and

WHEREAS, as to expenditure, the Board notes that unlike an application for relief under ZR § 11-30 *et seq.*, soft costs and irrevocable financial commitments can be considered in an application under the common law and accordingly, these costs are appropriately included in the applicant's analysis; and

WHEREAS, the applicant represents that the total expenditure paid for the development is \$39,000,000, approximately \$25,000,000 is attributed to infrastructure and approximately \$14,000,000 of which is attributed to the completion of the four homes that are not a part of the Site but were a part of the previously vested Major Development; and

WHEREAS, as noted, the applicant has submitted invoices and copies of cancelled checks; and

WHEREAS, the Board considers the amount of expenditures significant, both for a project of this size, and when compared with the development costs; and

WHEREAS, again, the Board's consideration is guided

by the percentages of expenditure cited by New York courts considering how much expenditure is needed to vest rights under a prior zoning regime; and

WHEREAS, as to serious loss, the Board examines not only whether certain improvements and expenditures could not be recouped under the new zoning, but also considerations such as the diminution in income that would occur if the new zoning were imposed and the reduction in value between the proposed building and the building permitted under the new zoning; and

WHEREAS, with respect to serious loss, the applicant notes the Board's July 9, 2013 reasoning that the applicant "would not be able to recover all or substantially all of its financial expenditures through development that complies with the SNAD requirements"; and

WHEREAS, the applicant notes that it cannot recover its financial expenditures without constructing the Site as originally designed and that currently only four of the 12 homes that were part of the previously vested Major Development have been completed; and

WHEREAS, the applicant states that any future development of the Site, if subject to a City Planning Commission ("CPC") under current SNAD regulations, would result in a serious loss because, under the current zoning, the applicant would be required to apply for and obtain CPC approval by certification, authorization, or special permit in order to procure any building permits to continue construction of the Buildings, and the parameters and likelihood of obtaining such approvals are difficult to predict due to the discretionary nature of such actions; and

WHEREAS, the applicant states that the cost per Building as planned is approximately \$4,550,000 but that if the applicant is required to comply with the current SNAD requirements the cost per building will increase to approximately \$6,100,000, a cost that assumes SNAD approval; and

WHEREAS, the Board agrees that complying with the current SNAD regulations would result in a substantial reduction of the market value of the Site and cause the applicant a serious economic loss; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed and the expenditures made both before and after the Enactment Date, the representations regarding serious loss, and the supporting documentation for such representations, and agrees that the applicant has satisfactorily established that a vested right to complete construction of the Building has accrued to the owner of the premises.

Therefore it is Resolved, that this application made pursuant to the common law doctrine of vested rights requesting a reinstatement of Permit Nos. 200922528-01-NB, 200922537-01-NB, 200922546-01-NB, 200922555-01-NB, 200922564-01-NB, 200922608-01-NB, 200922617-01-NB, and 200922626-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for four years from the date of this grant.

Adopted by the Board of Standards and Appeals, June

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2, 2015.

26-15-A & 27-15-A

APPLICANT – Law Office of Steven Simicich, for PeteRock, Inc., owner.

SUBJECT – Application February 17, 2015 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3A zoning district.

PREMISES AFFECTED – 57 & 61 Alberta Avenue, north side of Alberta Avenue between Victory Boulevard and Wild Avenue, Block 02637, Lot(s) 0019, 0020, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated January 26, 2015, acting on DOB Application Nos. 520217211 and 520217202, reads, in pertinent part:

The street giving access to the proposed building is not duly placed on the official map of the City of New York, therefore:

- A) No certificate of occupancy can be issued pursuant to Article 3, Section 36 of the General City Law.
- B) Proposed construction does not have at least 8% of the total perimeter of building fronting directly upon a legally mapped street or frontage space contrary to sec 502.1 of the 2008 NYC Building Code; and

WHEREAS, this is an application, filed pursuant to General City Law §36, to allow the proposed construction not fronting on a mapped street; and

WHEREAS, a public hearing was held on this application on June 2, 2015, after due notice by publication in *The City Record*, and then to decision on the same date; and

WHEREAS, Commissioners Montanez and Ottley-Brown performed inspections of the site, premises, and surrounding area and neighborhood; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, the site, which does not front on a mapped street, is located on the north side of Alberta Avenue (which is not a final mapped street on the official City Map), between Victory Boulevard and Wild Avenue, in Staten Island; the site consists of two proposed zoning lots which will be created upon the subdivision of the existing Block 2637, Lot 19; each of the proposed lots will have 25 feet of frontage along Alberta Avenue and each will contain 2,500 square feet of lot area; and

WHEREAS, the existing Block 2637, Lot 19 contains a single family homes that will be demolished for the proposed development; and

WHEREAS, the applicant seeks to construct two single family dwellings, each of which will contain approximately 1,492 square feet of lot area and both of which comply with all applicable zoning regulations; and

WHEREAS, the applicant notes that Alberta Avenue is a one-way street which can be accessed by FDNY via Wild Avenue, approximately 275 feet from the site; and

WHEREAS, the applicant also states that working fire hydrants are located within 133 and 158 feet of the entrances to the proposed buildings and that the proposed buildings will be fully sprinklered, thus, the proposed development complies with sections 503.3.2 and 508.5.1 of the New York City Fire Code; and

WHEREAS, by letter dated April 15, 2015, the FDNY stated that it has no comments, objections or recommendations related to the proposed development or the instant application; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the decision of the Department of Buildings (“DOB”), dated January 26, 2015, acting on DOB Application No. 520217211, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction will substantially conform to the drawings filed with the application marked “May 14, 2015”-(1) sheet; and *on further condition*

THAT the proposal will comply with all applicable zoning district requirements and all other applicable laws, rules, and regulations;

THAT the proposed buildings shall be fully sprinklered in accordance with BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on June 2, 2015.

3-15-A

APPLICANT – Edward Lauria, for Jeff Schaffer, owner.

SUBJECT – Application January 7, 2015 – Proposed construction does not front on a legally mapped street contrary Section 36, of the General City Law, and 502.1 2008, building Code. M1-1SRD zoning district.

PREMISES AFFECTED – 47 Trioka Way, west side of Trioka Way, 124.11’ north of Winant Avenue, Block 7400, Lot 85, Borough of Staten Island.

COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –

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Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 14,
2015, at 10 A.M., for decision, hearing closed.

7-15-BZY & 8-15-A

APPLICANT – Duval & Stackenfeld, for 180 Orchard LLC
c/o Brack Capital Real Estate, owner.

SUBJECT – Application January 14, 2015 – BZY Minor
Development (§11-332) to extend the time of construction
for a minor development for a period of six months;
Determination of common law vested rights. Building
permit was obtained in 2005 and development was vested at
date of Lower East Side rezoning in 2008. C4-4A zoning
district.

PREMISES AFFECTED – 180 Orchard Street, bounded by
Orchard, East Houston, Ludlow and Stanton Streets, approx.
220' of East Houston, Block 00412, Lot 5, Borough of
Manhattan.

COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to June 16,
2015, at 10 A.M., for decision, hearing closed.

ZONING CALENDAR

37-14-BZ

CEQR #14-BSA-128Q

APPLICANT – Eric Palatnik, P.C., for FHM Roosevelt
FLP, owner; Executive Fitness Gym Inc., lessee.

SUBJECT – Application February 28, 2014 – Special
Permit (§73-36) to allow a physical culture establishment
(*Enterprise Fitness Gym*), which will occupy a portion of
the second floor of a two story building. C2-3/R6 zoning
district.

PREMISES AFFECTED – 86-10 Roosevelt Avenue, west
corner of Elbertson Street and Roosevelt Avenue, Block
1502, Lot 6, Borough of Queens.

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Application granted on
condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings
("DOB"), dated February 21, 2014, acting on DOB
Application No. 402021049, reads, in pertinent part:

Propose[d] Physical Culture Establishment (UG 9,
not used for basketball, handball, paddleball,
racquetball, squash or tennis) ... shall be granted by
BSA as per ZR 12-10, ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36
and 73-03, to legalize, on a site which the applicant represents
is partially within an R6 (C2-3) zoning district, and also
partially within an R4 zoning district and also partially within
an R7B zoning district, a physical culture establishment (the
"PCE") which currently operates on the second floor of a two-
story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this
application on March 3, 2015 after due notice by publication in
the *City Record*, and then to decision on June 2, 2015; and

WHEREAS, the premises and surrounding area had site
and neighborhood examinations by Vice-Chair Hinkson and
Commissioners Montanez and Ottley-Brown; and

WHEREAS, Community Board 4, Queens, recommends
approval of this application; and

WHEREAS, the applicant represents that the subject site
is a corner lot with approximately 157 ft. of frontage on
Roosevelt Avenue and approximately 118 ft. of frontage on
Elbertson Street, partially within an R6 (C2-3) zoning district,
partially within an R4 zoning district and also partially within
an R7B zoning district, in Queens; and

WHEREAS, the site contains approximately 17,538 sq.
ft. of lot area and is occupied by a two-story commercial
building containing approximately 32,173 sq. ft. of floor area,
with the PCE occupying 6,394 sq. ft. of floor area on the
second story of the building; and

WHEREAS, the PCE will operate as Executive Fitness
Gym; and

WHEREAS, the hours of operation for the PCE will be

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Monday through Thursday, from 5:00 a.m. to 1:00 a.m., Friday, from 5:00 a.m. to 12:00 a.m., and on Saturday and Sunday from 8:00 a.m. to 8:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 14-BSA-128Q, dated February 28, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site partially within an R6 (C2-3) zoning district, partially within an R4 zoning district and also partially within an R7B zoning district, the operation of a PCE on the second story of a two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received May 14, 2015," Four (4) sheets; and *on further condition:*

THAT the term of the PCE grant shall expire on June 26, 2024;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT the PCE shall operate only within that portion of the subject building which is located in the R6 (C2-3) zoning district and that the PCE shall not operate within that portion of the building which is located in the R4 zoning district or R7B zoning district;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by June 2, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 2, 2015.

222-13-BZ

APPLICANT – Eric Palatnik, P.C., for 2464 Coney Island Avenue, LLC, owner.

SUBJECT – Application July 23, 2013 – Special Permit (§73-44) to allow the reduction of required parking for the use group 4 ambulatory diagnostic treatment healthcare facility. C8-1/R5 zoning district.

PREMISES AFFECTED – 2472 Coney Island Avenue, southeast corner of Coney Island Avenue and Avenue V, Block 7136, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to July 14, 2015, at 10 A.M., for adjourned hearing.

303-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for SoBro Development Corporation, owner.

SUBJECT – Application November 15, 2013 – Variance (§72-21) to allow a new mixed use building with 36 residential units and community facility space. R6 & C1-4 zoning districts.

PREMISES AFFECTED – 506-510 Brook Avenue, east side of Brook Avenue between 147th and 148th Street, Block 2274, Lot(s) 6, 7 and 8, Borough of Bronx.

COMMUNITY BOARD #1BX

ACTION OF THE BOARD – Laid over to July 21, 2015, at 10 A.M., for adjourned hearing.

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29-14-BZ

APPLICANT – Lewis Garfinkel for Leon Goldenberg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-14a); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1255 East 27th Street, East side of East 27th Street, 325 feet from the North corner of Avenue M. Block 7645, Lot 25. Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to July 28, 2015, at 10 A.M., for adjourned hearing.

94-14-BZ

APPLICANT – Dennis D. Dell'Angelo, for Rivka Shapiro, owner.

SUBJECT – Application May 5, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-141) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1150 East 22nd Street, west side of East 22nd Street, 140' north of Avenue "K", Block 7603, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to July 21, 2015, at 10 A.M., for adjourned hearing.

98-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 404-414 Richmond Terrace Inc., owner.

SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the reestablishment of a banquet facility (catering hall -UG 9) with accessory parking. Located in an R5 and R3A zoning districts within the St. George Historic District. PREMISES AFFECTED – 404 Richmond Terrace, southeast corner of Richmond Terrace and Westervelt Avenue, Block 3, Lot(s) 40, 31, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to July 21, 2015, at 10 A.M., for continued hearing.

127-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Sean Banayan, owner.

SUBJECT – Application June 5, 2014 – Variance (§72-21) to permit construction of a cellar and two-story, two-family dwelling on a vacant lot that does not provide two required side yards, and does not provide two off street parking spaces. R4 zoning district.

PREMISES AFFECTED – 32-41 101st Street, east side of 101st, 180' north of intersection with Northern Boulevard, Block 1696, Lot 48, Borough of Queens.

COMMUNITY BOARD #3Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for decision, hearing closed.

169-14-BZ

APPLICANT – Jay Goldstein, Esq., for Midyan Gate Reality No. 3 LLC., owner.

SUBJECT – Application July 21, 2014 – Special Permit (§73-19) to allow a pre-school and child care services (Use Group 3) (*Inner Force Y*) within the existing building. M1-1 Ocean Parkway Special Zoning District.

PREMISES AFFECTED – 325 Avenue Y, southwest corner of Avenue Y between Shell Road and West 3rd Street, Block 7192, Lot 46, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Off-Calendar.

171-14-A & 172-14-BZ

APPLICANT – Law Office of Steven Simicich, for Dxngrnt2, LLC, owner.

SUBJECT – Application July 22, 2014 – Proposed construction of a single family detached home on the site which a portion is located within the bed of a mapped street, pursuant to the General City Law 35 and requires a waiver under ZR Section 72-01(g). Variance (§72-21) to allow for the reduction in the required front yard fronting from 10' to 4'. R3A zoning district.

PREMISES AFFECTED – 235 Dixon Avenue, corner of Dixon and Granite Avenue, Block 1172, Lot 244, Borough of Staten Island.

COMMUNITY BOARD #1SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 14, 2015, at 10 A.M., for decision, hearing closed.

1-15-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Manhattan Country School (contract vendee).

SUBJECT – Application January 2, 2015 – Variance (§72-21) proposed enlargement of an existing school structure to be used by the Manhattan Country School which will exceed permitted floor area and exceeds the maximum height. R8B zoning district.

PREMISES AFFECTED – 150 West 85th Street, southerly side of West 85th Street between Columbus Avenue and Amsterdam Avenue, Block 1215, Lot 53, Borough of Manhattan.

COMMUNITY BOARD #7M

MINUTES

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

ACTION OF THE BOARD – Laid over to July 14,
2015, at 10 A.M., for decision, hearing closed.

REGULAR MEETING

TUESDAY AFTERNOON, JUNE 2, 2015

1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

264-14-BZ

APPLICANT – Eric Palatnik, P.C., for GS 149 LLC, owner;
Crunch LLC, lessee.

SUBJECT – Application October 24, 2014 – Special Permit
(\$73-36) to permit a physical culture establishment (*Crunch
Fitness*) within portions of the existing commercial building.
C4-4 zoning district.

PREMISES AFFECTED – 436 East 149th Street, south side
of East 149th Street, approximately 215’ west of intersection
with Brook Avenue, Block 02293, Lot 46, Borough of
Bronx.

COMMUNITY BOARD #1BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

ACTION OF THE BOARD – Laid over to June 23,
2015, at 10 A.M., for decision, hearing closed.

319-14-BZ

APPLICANT – Eric Palatnik, P.C., for Shore Plaza LLC,
owner; Staten Island MMA1, Inc., lessee.

SUBJECT – Application December 5, 2014 – Special
Permit (\$73-36) to permit the legalization of a physical
culture establishment (*UFC Gym*). C43 zoning district.

PREMISES AFFECTED – 1781 South Avenue, within West
Shore Plaza 1745-1801 South Avenue, Block 02800, Lot 37,
Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to July 21,
2015, at 10 A.M., for continued hearing.

335-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for
Trize Hahn, owner; Soul Cycle Bryant Park LLC, lessee.

SUBJECT – Application December 31, 2014 – Special
Permit (\$73-36) to allow for a physical culture establishment
(*Soulcycle*) within portions of an existing commercial
building. C5-3(MID)(T) zoning district.

PREMISES AFFECTED – 1065 Avenue of the Americas
aka 5 Bryant Park, 101 West 40th Street, northwest corner
of Avenue of the Americas and West 40th Street, Block
00993, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

ACTION OF THE BOARD – Laid over to June 23,
2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director

MINUTES

CORRECTION

This resolution adopted on April 28, 2015, under Calendar No. 147-14-BZ and printed in Volume 100, Bulletin No. 19, is hereby corrected to read as follows:

147-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Iris E. Shalam, owner.

SUBJECT – Application June 24, 2014 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area ZR 23-141; and less than the required rear yard ZR 23-47. R3-1 zoning district.

PREMISES AFFECTED – 4167 Ocean Avenue, east side of Ocean Avenue between Hampton Avenue and Oriental Boulevard, Block 8748, Lot 227, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated May 28, 2014, acting on DOB Application No. 320960359, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141 in that the proposed floor area ratio exceeds the maximum permitted.
2. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”) and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on March 31, 2015, after due notice by publication in *The City Record*, and then to decision on April 28, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Ottley-Brown performed inspections of the site and premises, as well as the surrounding neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of Ocean Avenue, between Hampton Avenue and Oriental Boulevard, within an R3-1 zoning district; and

WHEREAS, the site has 60 feet of frontage along Ocean Avenue and 6,240 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with attic, single-family home with 3,608 sq. ft. of floor area (0.58 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the building, resulting in an increase in the floor area from 3,608 sq. ft. (0.58 FAR) to 4,128 sq. ft. (0.66 FAR); the maximum permitted floor area is 3,120 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to decrease its rear yard from 39’- 3 ½” to 22’-3 ¾”; the requirement is a minimum depth of 30’-0”; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, at hearing, the Board expressed concern about the impact of the proposed FAR and 22’-3 ¾” rear yard; and

WHEREAS, the applicant asserts that the subject block contains 24 sites which are occupied by a residence and have a rear yard, eight of which have a smaller rear than that which is proposed by the applicant, and that such rear yards range in depth from 11’-0” to 20’-0”; and

WHEREAS, the applicant further asserts that 15 of the 24 sites have garages located in their rear yards; and

WHEREAS, the above-noted assertions are supported in a rear yard study submitted by the applicant; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”) and rear yards, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received April 16, 2015”– (12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,128 sq. ft. (0.66 FAR) and a rear yard with a minimum depth of 22’-3 ¾”, as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

MINUTES

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by April 28, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 28, 2015.

***The resolution has been amended. Corrected in Bulletin Nos. 23-24, Vol. 100, dated June 10, 2015.**

BULLETIN

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AND APPEALS

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June 24, 2015

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Tuesday, June 16, 2015**

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705-81-BZ 1433 York Avenue, Manhattan
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180-14-A 332 West 44th Street, Manhattan
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7-15-BZY & 8-15-A 180 Orchard Street, Manhattan
37-15-A 2020 Demerest Road, Queens
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303-14-BZ 1032 Olympia Boulevard, Staten Island

DOCKETS

New Case Filed Up to June 16, 2015

132-15-A

163 Benedict Road, East side of Benedict road distant 167.93" north of the corner of St. James Avenue and benedict Road, Block 0868, Lot(s) 030, Borough of **Staten Island, Community Board: 2**. Proposed construction of a single family home not fronting on a legally mapped street contrary to Section 36 Article 3 of the General City Law. R1-1 Zoning district . R1-1SNAD district.

133-15-A

147 Benedict Road, East side of Benedict Road distant 268.12" north of the corner of St. James Avenue and Benedict Road, Block 0868, Lot(s) 09, Borough of **Staten Island, Community Board: 2**. Proposed construction of a single family home not fronting on a legally mapped street, contrary to Article 3 Section36 of the General City Law. R1-1 zoning district . R1-1 SNAD district.

134-15-BZ

248 Flatbush Avenue, Located along Flatbush Avenue between St. Marks Place and Prospect Place, Block 0936, Lot(s) 012, Borough of **Brooklyn, Community Board: 6**. Special Permit (73-36) to allow the operation of a Physical Culture establishment(Orange theory Fitness) in the existing building on the first floor and cellar of a one story commercial building, located within an R7A/C2-4 zoning district. R7A/C2-4 district.

135-15-A

50 Oak Point Avenue, north shore of east river, approximately 900 lateral feet east of East 149th Street, Block 02604, Lot(s) 0180, Borough of **Bronx, Community Board: 2**. Proposed construction of a building not fronting on a legally mapped street contrary to Section 36 Article 3 of the General City Law. M3-1 zoning district. M3-1 district.

136-15-A

521 Durant Avenue, , Block 05120, Lot(s) 0062, Borough of **Staten Island, Community Board: 3**. Proposed construction of a building not fronting on a legally mapped street contrary to Section 36 Article 3 of the General City Law. R3X (SRD) district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

JULY 14, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, July 14, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

17-93-BZ

APPLICANT – Fox Rothschild, LLC., for Lincoln Square commercial Holding, owner; Equinox SC Upper West Side, Inc., lessee.

SUBJECT – Application January 15, 2015 – Extension of Term of a previously approved Special Permit (§73-36) which permitted the operation of a physical culture establishment which expired June 7, 2014; Amendment to reflect a change in ownership; Waiver of the Rules. C4-7 zoning district.

PREMISES AFFECTED – 160 Columbus Avenue aka 1992 Broadway, block bounded by Broadway, Columbus Avenue, West 67th Street and West 68th Street, Block 01139, Lot(s) 24, 7503, Borough of Manhattan.

COMMUNITY BOARD #7M

84-93-BZ

APPLICANT – Sheldon Lobel P.C., 671 Timpson Realty corp./Timpson Salvage Corp., owner.

SUBJECT – Application December 1, 2014 – Extension of Term of a previously Variance (§72-21) permitting the operation of a Use Group 18B scrap, metal, junk, paper or rags, storage sorting, and bailing facility, which expired on November 15, 2015. C8-3 zoning district.

PREMISES AFFECTED – 671-677 Timpson Place, West of the intersection formed by Timpson Place, Bruckner Boulevard and Leggett Avenue, Block 2603, Lot(s) 190, 192, Borough of Bronx.

COMMUNITY BOARD #2BX

122-93-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 895 Broadway LLC, owner.

SUBJECT – Application September 24, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of physical culture establishment (*Equinox*) which expired on September 20, 2014; Amendment to permit the expansion of the use into the second floor. M1-5M zoning district.

PREMISES AFFECTED – 895 Broadway, west side of Broadway, 27.5' south of intersection of Broadway and E. 20th Street, Block 00848, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #5M

146-96-BZ

APPLICANT – Stroock & Stroock & Lavan, LLP., for Scholastic 557 Broadway, LLC., owner.

SUBJECT – Application February 19, 2015 – Amendment of a previously approved Variance (§72-21) to permit the relocation of the building lobby from Broadway to Mercer Street and the conversion of an existing office lobby to retail space. M1-5B zoning district.

PREMISES AFFECTED – 557 Broadway aka 128-130 Mercer Street, west side of Broadway, 101' south of the corner formed by the intersection of Prince Street and Broadway, Borough of Manhattan.

COMMUNITY BOARD #2M

156-03-BZ

APPLICANT – Goldman Harris LLC., for Flushing Square, LLC., lessee.

SUBJECT – Application March 10, 2015 – Extension of Time to Complete Construction of a previously granted Variance (72-21) for the construction of a seventeen story mixed-use commercial/community facility/residential condominium building which expires on January 31, 2016; Amendment. R6/C2-2 zoning district.

PREMISES AFFECTED – 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard, Block 04958, Lot(s) 48,38, Borough of Queens.

COMMUNITY BOARD #7Q

127-15-BZ

APPLICANT – Goldman Harris LLC., for Flushing Square, LLC., owner.

SUBJECT – Application May 29, 2015 – Special Permit (§73-66) to permit the construction of building in excess of the height limits established pursuant Z.R. §§61-211 & 61-22. The proposed building was approved by the Board pursuant to BSA Calendar Number 156-03-BZ. C2-2/R6 zoning district

PREMISES AFFECTED – 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard, Block 04958, Lot(s) 48, 38, Borough of Queens.

COMMUNITY BOARD #7Q

APPEALS CALENDAR

199-14-A

APPLICANT – Alfonso Duarte, for Hector Florimon, owner.

SUBJECT – Application August 20, 2014 – Proposed legalization of accessory parking in open portion of site that lies within a bed of mapped street pursuant to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 102-11 Roosevelt Avenue, North side 175.59' west of 103rd Street, Block 01770, Lot 47, Borough of Queens.

CALENDAR

COMMUNITY BOARD #4Q

271-14-A thru 282-14-A

APPLICANT – Eric Palatnik, P.C., for 91 Seguine Avenue LLC, owner.

SUBJECT – Application November 3, 2014 – To permit the proposed development consisting of seven one family homes and one-two family home, contrary Article 3 Section 36 of the General City Law. R3X zoning district.

PREMISES AFFECTED – 15, 25, 26, 35, 36, 45, 46, Patricia Court, bound by Seguine Avenue, MacGregor Avenue, Herbert Street, Holton Avenue, Block 06680, Lot (s) 80, 9, 6, 8, 7, 24, 25, 26 Herbert Court, Block 06680, Lot 23, Borough of Staten Island.

COMMUNITY BOARD #3SI

325-14-A

APPLICANT – Eric Palatnik, P.C., for Michael Esposito, owner.

SUBJECT – Application December 15, 2014 – Proposed construction of a mixed use building located partly within the bed of a mapped street contrary to article 3, Section 35 of the General City Law. C4-2/R6 zoning district.

PREMISES AFFECTED –631 Bay Street, between Canal Street and Thompson Street, Block 00494, Lot 10, Borough of Staten Island.

COMMUNITY BOARD #1SI

JULY 14, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, July 14, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

108-14-BZ

APPLICANT – Sheldon Lobel, P.C., for UD 736 Broadway LLC, owner.

SUBJECT – Application May 22, 2014 –Variance (§72-21) to permit Use Group 6 commercial uses on the first floor and cellar of the existing building. M1-5B zoning district.

PREMISES AFFECTED – 736 Broadway, east side of Broadway approximately 117' southwest of the intersection formed by Astor Pace and Broadway, Block 00545, Lot 22, Borough of Manhattan.

COMMUNITY BOARD #2M

14-15-BZ

APPLICANT – Warshaw Burstein, LLP., for 1566 Westchester Avenue Associates, LLC., owner; 1560 Westchester Avenue Fitness Group, LLC.; lessee.

SUBJECT – Application January 22, 2015 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) within an existing building to be enlarged. C4-2 zoning district.

PREMISES AFFECTED – 1560 Westchester Avenue, southeast corner of Ward Avenue and Westchester Avenue, Block 03742, Lot 40, Borough of Bronx.

COMMUNITY BOARD #9BX

15-15-BZ

APPLICANT – Warshaw Burstein, LLP., for 1160 Ward Avenue, LLC, owner; 1560 Westchester Avenue Fitness Group, LLC.; lessee.

SUBJECT – Application January 22, 2015 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) within an existing building to be enlarged. C4-2 zoning district.

PREMISES AFFECTED – 1160 Ward Avenue, southeast corner of Ward Avenue and Westchester Avenue, Block 03742, Lot 38, Borough of Bronx.

COMMUNITY BOARD #9BX

Ryan Singer, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JUNE 16, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

619-73-BZ

APPLICANT – Sheldon Lobel, P.C., for CI Gateway LL, owner.

SUBJECT – Application October 23, 2014 – Re-instatement of a variance (§72-21) which permitted the operation of an eating and drinking establishment (UG 6) with an accessory drive thru which expired on February 26, 2004; Amendment to permit the redevelopment of the site; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 2940 Cropsey Avenue, front of Bay 52nd Street, Cropsey Avenue and 53rd Street, Block 6949, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #13BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of term for a variance permitting an eating and drinking establishment within a residence district, which expired on February 26, 2004 and an amendment of the aforesaid variance to permit the reinstatement of an eating and drinking establishment use and anew drive-in bank use at the subject premises; and

WHEREAS, a public hearing was held on this application on April 28, 2015, after due notice by publication in *The City Record*, with a continued hearing on June 2, 2015, and then to decision on June 16, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 13, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site has frontage on Bay 52nd Street, Cropsey Avenue, and Bay 53rd Street, and is thus a through lot as well as a corner lot, within an R4 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 200 feet of frontage along Cropsey Avenue, 92 feet of frontage along Bay 52nd Street, and 107 feet of frontage along Bay 53rd Street; and

WHEREAS, the site has approximately 19,960 sq. ft. of lot area and is occupied by a vacant one-story eating and

drinking establishment with 19 parking spaces; it was operated as a Burger King franchise until November, 2011, and has been vacant since that time; and

WHEREAS, the Board has exercised jurisdiction over the site since February 26, 1974, when, under BSA Cal. No. 619-73-BZ, it granted, pursuant to ZR § 72-21, an application to permit in an R4 zoning district the construction of a one-story building to be operated as an eating and drinking establishment (Use Group 6) with accessory signage and parking, contrary to use regulations, for a term of 10 years, to expire on February 26, 1984; and

WHEREAS, the variance was amended at various times in subsequent years, including on June 5, 1979, when the Board amended the grant to authorize the operation of an accessory drive-through and the reconfiguration of parking spaces at the site; and

WHEREAS, on March 18, 1986, also under the subject calendar number, the Board, upon waiving its Rules of Practice and Procedure, reopened and amended the grant to include an extension of term for a period of ten years, expiring on February 26, 1994; and

WHEREAS, on August 9, 1988, also under the subject calendar number, the Board reopened and amended the grant to permit the enlargement of the existing building, add a vestibule and alter the dining area within the building; and

WHEREAS, on October 20, 1998, also under the subject calendar number, the Board, upon waiving its Rules of Practice and Procedure, reopened and amended the grant to extend the term of the variance for a period of ten years, expiring on February 26, 2004; and

WHEREAS, the applicant now seeks, upon a waiver of the Board's Rules of Practice and Procedure, an extension of the term of the variance for a period of ten years and an amendment of the variance to permit a new eating and drinking establishment and drive-in bank at the site (both of which are proposed to be within the footprint of the existing building); and

WHEREAS, the applicant proposes to maintain the majority of the Use Group 6 eating and drinking establishment within the footprint of the existing building but to eliminate the existing accessory drive-through, thereby reducing the required number of parking spaces at the site and eliminating the outdoor menu board and amplified intercom system; the applicant further proposed to construct a new Use Group 6 drive-in bank with approximately 150 square feet of floor area, also within the footprint of the existing building, which would be accessed via the existing drive-through lane; and

WHEREAS, the applicant notes that the site contains 19 parking spaces, four fewer than the 23 spaces which were required under the Board's previous grant, and states that the removal of four spaces resulted from the previous owner's installation of a curb cut at Bay 52nd Street; and

WHEREAS, the applicant proposes to eliminate the curb cut at Bay 52nd Street, restore the four previously eliminated parking spaces and add three additional spaces, increasing the total number of parking spaces on the site to 26, which would comply with the parking regulations applicable in a C1-1 zoning district (which would require 22 parking spaces); and

MINUTES

WHEREAS, the applicant states that the parking spaces will comply with all applicable provisions of ZR § 36-50 with respect to the size of parking spaces, maneuverability, travel lanes and minimum turnarounds, as if the site were located in a C1-1 zoning district; and

WHEREAS, pursuant to 2 RCNY § 1-07.3(b)(4)(ii), the Board may reinstate a use variance granted pursuant to a post-1961 variance where, as here, the grant is limited to a term that is specified only as a condition in the Board's resolution as, an amendment to modify such term; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may, in appropriate cases, allow an extension of the term of a variance; and

WHEREAS, at hearing, the Board directed the applicant to: provide for signage directing

WHEREAS, at hearing, the Board directed the applicant to add signage directing drivers to yield for pedestrians; and

WHEREAS, the applicant provided the Board with updated plans depicting four signs, located at the entrance and exist to the drive-in bank lane, directing drivers to yield for pedestrians; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made for an extension of term under ZR §§ 72-01 and 72-22.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated February 11, 2003, so that as amended the resolution reads: "to permit an extension of the term of the variance for an additional ten years to expire on June 16, 2025; *on condition* that all work will substantially conform to drawings, filed with this application marked "Received, June 4, 2015" – (11) sheets; and on further condition:

THAT the term of the variance shall expire on June 16, 2025;

THAT the signage shall comply with the C1 regulations;

THAT landscaping shall be maintained in accordance with the BSA-approved plans;

THAT the site shall be maintained free of graffiti and debris;

THAT the above conditions shall be noted on the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by June 16, 2016;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s); and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, June 16, 2015.

584-55-BZ

APPLICANT – Nasir J. Khanzada, PE, for Gurnam Singh, owner.

SUBJECT – Application June 11, 2014 – Amendment (§11-412) of a previously approved variance which permitted the alteration of an existing Automotive Service Station (UG 16B). The amendment seeks to permit the conversion of the accessory auto repair shop to a convenience store and alter the existing building. C2-4/R7-2 zoning district.

PREMISES AFFECTED – 699 Morris Avenue, southwest corner of East 155th Street and Park Avenue, Block 2422, Lot 65, Borough of Bronx.

COMMUNITY BOARD #2BX

ACTION OF THE BOARD – Laid over to July 21, 2015, at 10 A.M., for continued hearing.

705-81-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Fraydun Enterprises, LLC, owner; Fraydun Enterprises, LLC, lessee.

SUBJECT – Application November 10, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the operation of a physical culture establishment which expired on May 10, 2013; Extension of Time to obtain a Certificate of Occupancy; Waiver of the Rules. R10 zoning district.

PREMISES AFFECTED – 1433 York Avenue, northeast corner of intersection of York Avenue and East 76th Street, Block 01471, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to July 28, 2015, at 10 A.M., for continued hearing.

169-91-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP., for New York University, owner.

SUBJECT – Application November 15, 2015 – Extension of Term of a previously approved Special Permit (§73-36) permitting the operation of a physical culture establishment which expired on May 18, 2013; Amendment to reflect a change in the operator and to permit a new interior layout; Waiver of the Rules. M1-5B zoning district.

PREMISES AFFECTED – 404 Lafayette Street aka 708 Broadway, Lafayette Street and East 4th Street, Block 00545, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Laid over to July 21, 2015, at 10 A.M., for continued hearing.

MINUTES

APPEALS CALENDAR

180-14-A

APPLICANT – Fried Frank Harris Shriver and Jacobson LLP, for EXG 332 W 44 LLC c/o Edison Properties, owner. SUBJECT – Application August 1, 2014 – Appeal challenging the Department of Building's determination that the subject façade treatment located on the north wall is an impermissible accessory sign as defined under the ZR Section 12-10. C6-2SCD zoning district.

PREMISES AFFECTED – 332 West 44th Street, south side West 44th Street, 378 west of the corner formed by the intersection of West 44th Street and 8th Avenue and 250' east of the intersection of West 44th Street and 8th Avenue, Block 1034, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Appeal Denied.

THE VOTE TO GRANT –

Affirmative:0

Negative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
THE RESOLUTION –

WHEREAS, the subject appeal comes before the Board in response to a Final Determination, dated July 3, 2014, by the Department of Buildings (“DOB”) (the “Final Determination”); and

WHEREAS, the Final Determination states, in pertinent part:

The request to accept the proposed façade treatment that reads “BRAVO!” located on the north wall of a public parking garage located in the C6-2 zoning district as a display that is not a “sign” as defined by New York City

Zoning Resolution 12-10, is hereby denied; and

WHEREAS, a public hearing was held on this appeal on December 9, 2014, after due notice by publication in *The City Record*, with a continued hearing on March 3, 2015, April 21, 2015 and April 28, 2015, and then to decision on June 16, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, this appeal is filed on behalf of EXG 332W44, LLC (the “Appellant”), which owns 332 West 44th Street, Manhattan; the Appellant contends that DOB’s issuance of the Final Determination was erroneous; and

WHEREAS, DOB and the Appellant have been represented by counsel throughout this appeal; and

WHEREAS, the subject site is located on the south side of West 44th Street, between Eighth Avenue and Ninth Avenue, within a C6-2 zoning district, within the Special Clinton District; a portion of the site extends to West 43rd Street, making a portion of the site an interior lot and a portion of the site a through lot; and

WHEREAS, the site has 172 feet of frontage along West 44th Street, 25 feet of frontage along West 43rd Street, and approximately 19,783 sq. ft. of lot area; and

WHEREAS, the site is occupied by a three-story public parking garage (Use Group 8) for 273 automobiles; the Appellant notes that the garage levels are currently open to the air and covered by half-height metal cladding; and

PROCEDURAL HISTORY

WHEREAS, on January 7, 2014, the Appellant submitted a determination request to DOB, seeking confirmation that a design treatment on the north façade of the building incorporating the word “BRAVO!” would not constitute a “sign” per the Zoning Resolution (“ZR”) § 12-10 definition; and

WHEREAS, on January 21, 2014, DOB issued a determination stating that the proposed installation constituted a “sign” according to ZR § 12-10; and

WHEREAS, on April 7, 2014, the Appellant submitted a second determination request seeking reversal of the January 21, 2014 determination; DOB responded by issuing the Final Determination on July 3, 2014; and

WHEREAS, accordingly, the narrow question on appeal is whether the BRAVO! installation is a “sign,” as that term is defined in ZR § 12-10; and

WHEREAS, the Appellant asserts that it is not; DOB maintains that it is; both parties claim support for their position in the Zoning Resolution; and

WHEREAS, by letter dated January 29, 2015, the Department of City Planning (“DCP”) states that it supports DOB’s position; and

PROVISIONS OF THE ZONING RESOLUTION

WHEREAS, the Appellant and DOB agree that the Zoning Resolution provision at issue is the definition of “sign” set forth in ZR § 12-10, which provides in pertinent part:

Sign

A "sign" is any writing (including letter, word, or numeral), pictorial representation (including illustration or decoration), emblem (including device, symbol, or trademark), flag, (including banner or pennant), or any other figure of similar character, that:

- (a) is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building or other structure;
- (b) is used to announce, direct attention to, or advertise; and
- (c) is visible from outside a building.¹

DISCUSSION

A. THE APPELLANT’S POSITION

WHEREAS, the Appellant asserts that the BRAVO! installation does not satisfy subsection (b) of the ZR § 12-10 definition of “sign,” which provides that an installation must, among other things, be “used to announce, direct attention to,

¹ Neither party disputes that the BRAVO! installation satisfies subsections (a) and (c) of the definition in that the word “bravo” is a writing and that the installation would be attached to and incorporated as an element within the façade of the subject building and, therefore, would be visible from outside the subject building.

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or advertise” in order to be classified as a sign; and

WHEREAS, the Appellant states that the BRAVO! installation does not “announce, direct attention to, or advertise” anything other than itself; therefore, it is not a “sign”; and

WHEREAS, the Appellant states that DOB’s position is that ‘all words announce’; thus, the Appellant contends that DOB is erroneously conflating subsection (a) of the Zoning Resolution’s definition of “sign,” which states that a “sign” is “any writing (including letter, word, or numeral),” with subsection (b) of the definition, which requires that the writing is “used to announce, direct attention to or advertise,” rendering subsection (b) superfluous; and

WHEREAS, the Appellant notes that according to standard principles of statutory construction, a statute should be construed so as to give effect to all its provisions, so that no part will be inoperative or superfluous; the Appellant asserts that DOB’s position directly contradicts this fundamental principle; and

WHEREAS, the Appellant observes that in BSA Cal. No. 90-12-A (111 Varick Street, Manhattan), the Board determined that in order for a sign to be an advertising sign, there must be a “reasonable nexus” between the installation (the alleged sign) and something other than the installation itself (in that case, a use located off the zoning lot); and

WHEREAS, the Appellant also notes that in BSA Cal. No. 90-12-A, the Board acknowledged that “there are examples of writing, pictorial representation, emblems, flags or other characters which announce, direct attention to, or advertise and there are those that do not do any of those things yet may satisfy the other elements of the definition” and the Board found that “the complete criteria for signs is enumerated so as to make clear that a writing or pictorial representation along with being located on a wall alone [i.e., without satisfying requirement (b) of the definition] do not meet the criteria for a sign and would fit into some other category not regulated by DOB”; and

WHEREAS, the Appellant contends that implicit in the Board’s decision in BSA Cal. No. 90-12-A is the idea that some writings, pictorial representations, emblems, etc. announce, direct attention and/or advertise, and some do not; accordingly, the Appellant states that the Board properly adopted a “reasonable nexus” test to determine whether the writing, pictorial representation or emblem has an *identifiable relationship* with—i.e., announces, directs attention or advertises—something other than itself; and

WHEREAS, the Appellant states that while the issue presented in this appeal is not whether the installation at the subject site is an “advertising sign,” the Board’s reasoning that there must be a “reasonable nexus” between an installation and something other than the installation itself, in order for it to qualify as a “sign,” is equally valid here; and

WHEREAS, the Appellant contends that proper application of the Board’s reasonable nexus standard requires a case-by-case determination; and

WHEREAS, the Appellant asserts that there is no reasonable nexus between the BRAVO! installation and anything other than itself, including the public parking garage

that operates at the site; thus, the Appellant likens the BRAVO! installation to the art installation at issue in BSA Cal. No. 90-12-A, which DOB argued directed attention only to itself;² and

WHEREAS, the Appellant states that although there may be some relationship or association between the word bravo and the theater or Theater District (the site is in close proximity to the Theater Subdistrict of the Special Midtown District), such relationship is too attenuated to constitute a reasonable nexus between the BRAVO! installation and parking, even if the parking garage may be utilized by theater patrons; and

WHEREAS, likewise, the Appellant asserts that DOB did not demonstrate that subsection (b) could be satisfied by an installation that uses a word that refers to or celebrates a particular neighborhood, industry or general notion, such as “congratulations, you made it to Manhattan” or “congratulations, you have found parking”; and

WHEREAS, the Appellant also disagrees with DOB that the word “bravo” by its very nature is a “congratulatory remark between a business and its customer or potential customer” and therefore inherently has a reasonable nexus with any business located on a site at which the word is displayed; and

WHEREAS, the Appellant rejects DOB’s assertion that the BRAVO! installation is, at a minimum, subject to regulation as a non-commercial sign which directs attention to the Theater District or announces a general congratulatory statement; rather, the Appellant contends that the BRAVO! installation is an art and design piece, akin to other decorative façade treatments or artistic expressions; and

WHEREAS, in response to DOB’s position that, pursuant to the 1998 amendment to the Zoning Resolution, DOB is required to regulate artwork or other displays on buildings that include words, the Appellant notes that, historically, non-commercial signs were treated as advertising signs if they related to an activity conducted off the zoning lot; however, in *City of New York v. Allied Outdoor Adv. Inc.*, 172 Misc 2d 707, 659 N.Y.S. 2d 390 (Sup. Ct. Kings Co. 1997), the court held that by regulating non-commercial copy more stringently than commercial business signs, the Zoning Resolution ran counter to constitutional prohibitions favoring commercial speech over non-commercial speech; consequently, in 1998, the Zoning Resolution was amended to make a distinction between advertising signs and all other signs; in effect, the amendments made it clear that signs with non-commercial copy could be regulated only as stringently as business signs (signs promoting

² On appeal pursuant to Article 78 of the CPLR, the court disagreed with DOB that the art installation directed attention only to itself and found that it directed attention to the work of the artist, making the installation a “sign,” *see Van Wagner Communications, LLC v. Board of Standards and Appeals*, Sup. Ct. N.Y. County, July 22, 2014, Rakower, J., Index No. 10085/2014; however, nothing in Judge Rakower’s decision suggests that BSA erred in applying a “reasonable nexus” standard in determining whether subsection (b) was satisfied. The City of New York appealed from Judge Rakower’s July 22, 2014 decision. The City’s appeal is currently pending before the Appellate Division, First Department.

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an activity occurring on the zoning lot, which have come to be known as accessory signs); and

WHEREAS, the Appellant disputes that the purpose or effect of the 1998 amendments was to expand the coverage of the sign regulations to include artwork or design displays that include words on the basis that words, by definition, announce something, even when such words are non-commercial, and therefore disagrees with DOB's position that the BRAVO! installation may be regulated as non-commercial speech; and

WHEREAS, to the contrary, the Appellant states that, viewed in their historical context, the 1998 amendments had no effect on subsection (b) of the sign definition; and

WHEREAS, in short, the Appellant contends that DOB's classification of the BRAVO! installation as a non-commercial sign ignores that the installation is not a sign in the first instance because, the Appellant argues, despite its use of a word that is commonly known, the installation does not announce, direct attention to or advertise any readily identifiable thing and, therefore, is not a sign, non-commercial or otherwise; and

WHEREAS, the Appellant states that the BRAVO! installation is not intended to serve as a logo or emblem to advertise or announce the PARKFAST brand that operates the subject parking garage; likewise, the Appellant asserts that the installation is not an extension of the broader PARKFAST marketing campaign; and

WHEREAS, the Appellant disagrees with DOB's assertion that the use of yellow and black in the BRAVO! installation and in the PARKFAST branded accessory signage suggests that the BRAVO! installation is an extension of the PARKFAST branding efforts; and

WHEREAS, in response to DOB's assertion that both the PARKFAST logo and the BRAVO! installation employ a version of the Helvetica typeface, the Appellant notes that Helvetica is widely acknowledged as the most commonly used typeface in all of graphic design; further, the Appellant notes that the BRAVO! installation actually employs Helvetica-Neue rather than Helvetica; and

WHEREAS, the Appellant states that the use of a color and font for the BRAVO! installation that are similar to those of the PARKFAST logo was an aesthetic decision made by a design architect, whose intent was to create a pleasing view of a parking garage façade; and

WHEREAS, in addition, the Appellant states that it does not conduct or market its parking operations under the name "bravo" and the word "bravo" is not a trademark of the Appellant, its parent company or the Appellant's affiliates; accordingly the Appellant asserts that any similarities between the BRAVO! installation and the PARKFAST branding (including the accessory signage at the site) are coincidental and inconsequential on the question of whether the BRAVO! installation satisfies subsection (b); and

WHEREAS, the Appellant contends that the accessory signage is distinguishable from the BRAVO! installation primarily on the ground that the accessory signage announces, directs attention to, and advertises the availability of parking at the site and the BRAVO! installation announces, directs attention to, and advertises itself alone; the Appellant states that

while the existing signs and the BRAVO! installation may share a whimsical quality and a sense of humor, the installation is categorically distinct in that it does not direct attention to the availability of parking or to the existing signs; the Appellant also notes that the accessory signage is temporary and will be removed in connection with the design upgrades that include the construction of the BRAVO! installation; and

WHEREAS, the Appellant contrasts the word "bravo" with the words DOB identifies in various signs displayed at other sites operated by the PARKFAST brand and submits that in each instance, the PARKFAST brand sign expressly announces, directs attention to or advertises the availability of parking; and

WHEREAS, finally, the Appellant contends that DOB's apparent approach to determining whether a particular installation that includes words is a form of speech within its regulatory authority: (1) is unconstitutionally vague and contrary to the Fourteenth Amendment of the United States Constitution; (2) a prior restraint on speech in violation of the First Amendment of the United States Constitution; and (3) a content-based restriction on protected non-commercial speech in violation of the First Amendment; the Appellant identifies various United States Supreme Court cases in support of this contention; and

B. DOB'S POSITION

WHEREAS, DOB states that that the Final Determination was properly issued because the BRAVO! installation satisfies subsection (b) of the definition of "sign," in that: (1) the word "bravo" is a congratulatory sentiment which necessarily relates to any on-premises commercial use and, in this context, states "congratulations, you have found parking"; (2) the word "bravo" is used to announce, direct attention to, and advertise the public parking garage that operates at the site which is within the vicinity of the Theater District; (3) the word "bravo" is a celebratory remark that, due to the installation's proximity to the Theater District, evokes, celebrates or draws attention to the Theater District itself; and (4) that the installation of the word "bravo" is part of a marketing strategy by the owner of the subject premises to promote the parking use located within the premises; and

1. DOB's argument that the word "bravo" necessarily relates to any on-premises commercial use

WHEREAS, with respect to DOB's assertion that the word "bravo" is a congratulatory sentiment which, when displayed at a premises containing a commercial use, necessarily relates to such commercial use and, as such, is a writing which, under any circumstances, announces said commercial use so as to satisfy subsection (b) of the ZR § 12-10 definition of sign, DOB argues, the BRAVO! installation is akin to signs stating "Welcome," "Thank you," "Have a nice day," "Open," and "Closed" all of which DOB states are subject to the zoning regulations governing commercial signs; and

WHEREAS, DOB further maintains that even if there is *no* nexus between the word displayed and a particular business, profession, commodity or idea, it has the authority to regulate the word's display as non-commercial speech, citing the 1998

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amendments to the sign regulations and case law; and

WHEREAS, thus, DOB observes that even if use of the word “bravo” in this case has no nexus to a particular business, the word is akin to broad policy statements such as “End Illiteracy!” and “Smoking Kills!,” hence it is a “sign” because it is a word that announces and directs attention to something; DOB notes that even the symbol for “peace”—because its meaning is so well-established—constitutes a “sign” because its announcement can be understood; and

2. DOB’s argument that the word “bravo” announces and directs attention to the parking use at the premises because it speaks to theater-going motorists

WHEREAS, with respect to DOB’s assertion that the BRAVO! installation announces, directs attention to, and advertises the public parking garage at the site, DOB states that the word “bravo” conveys a particular and universally comprehended message that relates to theater and, therefore, directs the attention of motorists whose destination is the Theater District to the parking use at the subject premises; and

WHEREAS, DOB notes that the site is located in close proximity to the Theater District and asserts that the BRAVO! installation is not an example of a work of art that could have varying meaning depending on the interpreter but that, to the contrary, it communicates to the viewer a universally accepted meaning and directly relates to the Theater District location of the parking garage; and

WHEREAS, further, DOB observes that the Appellant concedes that the word “bravo” was chosen because it is a well-known theater term and that the garage’s proximity to the Theater District makes it a likely choice for motorists going to the theater; and

WHEREAS, based upon the foregoing, DOB contends that the proposed installation—the word “bravo” in bold, capital letters with an exclamation point at the end of the word, attached to and forming a part of the façade with a surface area of approximately 4,650 sq. ft., with voids in the façade revealing parked cars—is an attempt to arouse the desires of potential Theater District customers in need of parking who may be familiar with the word’s connection to the theater and performance arts in general; and

WHEREAS, as such, DOB contends that there is a reasonable nexus between the word “bravo” and the parking garage at the site; and

3. DOB’s argument that the word “bravo” celebrates a neighborhood, the Theater District, and, as such, announces or directs attention to something as contemplated in subsection (b) of the ZR § 12-10 definition of sign

WHEREAS, DOB contends that subsection (b) could be satisfied by an installation that uses a word that refers to or celebrates a particular neighborhood, industry or general notion, such as “congratulations you made it to Manhattan” or “congratulations, you have found parking”; and

WHEREAS, with respect to its argument that the word “bravo” satisfies subsection (b) of the ZR § 12-10 definition of sign in this instance, DOB maintains that in addition to the

purported nexus between the BRAVO! installation and the parking garage at the site, there is a reasonable nexus between the word “bravo” and the Theater District in general; and

WHEREAS, specifically, DOB argues that the well-established connection between the word “bravo” and the theater, even if insufficient to form a reasonable nexus with a parking garage that caters to Theater District patrons, is a reasonable nexus to the district or neighborhood itself and, as such, the BRAVO! installation falls within the sign regulations of the Zoning Resolution; and

WHEREAS, DOB maintains that nothing about the text of subsection (b) requires that the announcement take the form of a specific identifiable use, business, or idea, and that as such, making reference to—announcing—a neighborhood (here, the Theater District) is sufficient to satisfy the text of subsection (b); and

4. DOB’s Argument that the Bravo! installation is part of a marketing strategy by the owner of the subject premises

WHEREAS, with respect to its argument that the word “bravo” is part of a marketing scheme to promote parking at the subject premises, DOB asserts that the BRAVO! installation is intended to serve as an emblem to advertise or announce the PARKFAST brand that operates the subject parking garage, and that similarities between the branding for the latter and the former further demonstrates the reasonable nexus between the installation and the parking garage; and

WHEREAS, DOB observes that both the PARKFAST logo and the BRAVO! installation employ a version of the Helvetica typeface and a highlighter yellow and black motif; and

WHEREAS, DOB asserts that the use of the same color and typeface in the BRAVO! installation and in the PARKFAST branded accessory signage suggests that the BRAVO! installation is an extension of the PARKFAST branding efforts; and

WHEREAS, DOB contends that the similarities between the BRAVO! installation and the PARKFAST branding are striking, cannot be a mere coincidence, and are, contrary to the Appellant’s explanations, a thinly-veiled attempt to invoke the PARKFAST brand without using the word “parkfast”; and

WHEREAS, in addition, DOB identified accessory signage—namely, a sign that states “park here for: Times Square, theaters, hotels” and another that states “save the drama for the stage”—that DOB asserts gives further context to the use of the word “bravo” in the façade installation and demonstrate the reasonable nexus between the BRAVO! installation and the parking garage; and

WHEREAS, lastly, as to the Appellant’s arguments based on the United States Constitution, DOB asserts that its ability to regulate signage, including in instances where a subjective judgment must be made, is well-established, and DOB cited a number of cases in support of this assertion; and

WHEREAS, based on all of the foregoing arguments, DOB requests that the Board deny the appeal and affirm the Final Determination; and

C. DEPARTMENT OF CITY PLANNING’S POSITION

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WHEREAS, as noted above, by letter dated January 29, 2015, the Department of City Planning (“DCP”) states that it supports DOB’s position; and

WHEREAS, in pertinent part, DCP’s letter provides that

DCP agrees with DOB’s determination that the façade treatment which is the subject of this appeal announces, directs attention to and attracts people to the building as a public parking garage location, and thus is a #sign#. The façade treatment conveys a message and discernibly makes a connection to the commercial enterprise of the garage. We do not agree that the use of the word “Bravo!” as set forth in the Karnovsky submission of 12/23/14 “simply evokes the building’s location in the Theater District, but is not an advertisement or promotion of anything whatsoever.” Nor do we agree that it “simply draws attention to itself as an art or design object.”

Appellant acknowledges that the parking garage is located close to the Theater Subdistrict and that “Bravo!” is a “theater term,” but refutes [sic] that the use of such term therefore advertises the availability of parking to theater patrons.

* * *

[A]lthough BSA need not reach the question of whether the use of words in and of themselves creates a #sign#, since in this case, the word “Bravo!” does announce, direct, or advertise the parking garage, it is DCP’s position that words are not always signs. We do not agree with Appellant that in this instance, DOB has improperly conflated the portion of the ZR Section 12-10 definition of #sign# Rather, here each prong is individually met, under the facts set forth.

* * *

If the Board were to accept Appellant’s argument, it could have far reaching and severe consequences. Furthermore, this drastic change in the application of sign regulations across all boroughs of the City would have occurred absent the City-wide public review process which would normally accompany such a change. (emphasis in original); and

CONCLUSION

WHEREAS, the Board notes its agreement with DOB and the Applicant that the BRAVO! Installation satisfies subsections (a) and (c) of the ZR § 12-10 definition of “sign”; and

WHEREAS, thus, the Board finds that the BRAVO! installation is a sign because it satisfies subsection (b) of the ZR § 12-10 definition of “sign” and as such, the Final Determination is affirmed and the appeal is denied; and

WHEREAS, the Board notes that it previously

examined the meaning of subsection (b) of the ZR § 12-10 definition of “sign” in BSA Cal. No. 90-12-A; in that case, the Board observed that while writings often do announce, direct attention to, or advertise, sometimes they do not; implicit in the Board’s observation is the notion that the first paragraph of the definition (which brings within the ambit of the sign definition “any writing”) and subsection (b) (which requires that the writing be “used to announce, direct attention to, or advertise”) both have meaning; and

WHEREAS, the Board finds that interpreting the definition so as to give meaning to all portions of the provision is consistent with standard principles of statutory construction; and

WHEREAS, thus, the Board identifies the issue as whether or not the BRAVO! installation is “used to announce, direct attention, or advertise” within the meaning of the definition; and

WHEREAS, the Board notes that in BSA Cal. No. 90-12-A, it examined whether painted plywood on a building wall announced, directed attention to, or advertised; in answering that question, the Board determined that there must be a connection—a reasonable nexus—between the painted plywood and something else, be it an idea, a profession, or a commodity; the Board found none and thus determined that the plywood directed attention only to itself; and

WHEREAS, the Board agrees with the Appellant that the Board’s reasoning in BSA Cal. No. 90-12-A applies with equal force in the instant appeal; thus, the Board finds that the issue is whether or not there is a reasonable nexus between the BRAVO! installation and something other than the BRAVO! installation that would satisfy subsection (b) of the “sign” definition and bring the installation within the purview of the sign regulations; and

WHEREAS, ultimately, the Board rejects DOB’s arguments that the BRAVO! installation is a sign because of its purported congratulatory sentiment, because of its purported direction of attention to parking for patrons of the Theater District, and because of its purported celebration of theater or the Theater District, but credits and finds dispositive DOB’s argument that the BRAVO! installation, by virtue of its design, including color, text and placement on the façade, is a deliberate textual and visual reference to the existing signage at the premises and the PARKFAST marketing program, which signage is directly related to the parking use at the premises and as such, constitutes a sign; and

WHEREAS, the Board finds that the BRAVO! installation is not, as the Appellant contends, purely self-referential, with no direct relationship to any profession, commodity, use, or idea located on or off the zoning lot; and

WHEREAS, the Board agrees with the Appellant that the word “bravo” has a nexus to a multitude of things, including the theater and performing arts (and thus has no reasonable nexus to any one thing); however, the characteristics of the BRAVO! installation at this site create the reasonable nexus that the Board has identified as an element of subsection (b) of the definition of “sign”; and

WHEREAS, specifically, the Board is persuaded that the font, color, and whimsical nature of the BRAVO! installation

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are too similar to the PARKFAST branding and marketing campaign to be a coincidence; the Board finds particularly illustrative DOB's pictorial comparison of the PARKFAST brand signs and the BRAVO! installation and the visual and textual relationship between the signage currently displayed at the garage and the BRAVO! installation; in that context, the similarity between the BRAVO! installation and the PARKFAST logo and signage is striking; and

WHEREAS, accordingly, the Board finds that because the BRAVO! installation evokes the well-established PARKFAST brand, there is a reasonable nexus between the installation and the parking garage use at the site; thus, the installation satisfies subsection (b) of the ZR § 12-10 definition of "sign"; and

WHEREAS, the Board emphasizes that it is not the word "bravo" but the manner in which it is displayed that is dispositive; and

WHEREAS, the Board reiterates its disagreement with DOB's position that whenever a writing is visible from outside a building and has an identifiable relationship with anything, including even the neighborhood in which the writing is located, such writing necessarily directs attention as contemplated in subsection (b) and is therefore a "sign"; and

WHEREAS, indeed, to the contrary, and as the Board observed in BSA Cal. No. 90-12-A, there must be a reasonable nexus between the writing and the alleged referent – where there is sufficient ambiguity, the writing does not direct attention within the meaning of ZR § 12-10; and

WHEREAS, thus, the Board reiterates its previous reasoning that in order to determine if a writing satisfies subsection (b) of the definition of "sign," it must (1) direct or refer the reader's attention to something other than itself and (2) must have a reasonable nexus to the alleged referent; and

WHEREAS, the Board does not accept DOB's position that the word "bravo" is inherently commercial in nature and, as such, is a "writing" which, under any circumstance, "announces" so as to satisfy subsection (b) and explicitly rejects any interpretation of the Zoning Resolution which renders a particular word a "writing" on those grounds as an improper conflation of subsections (a) and (b) of the definition of "sign"; and

WHEREAS, as to the Appellant's assertion that the United States Constitution and federal case law prohibit regulation of the BRAVO! installation, the Board disagrees and acknowledges DOB's well-established authority to regulate signs; and

WHEREAS, for the reasons set forth above, the Board finds that the proposed BRAVO! installation is a "sign"; and

Therefore it is Resolved, that the subject appeal, seeking a reversal of the Final Determination, dated July 3, 2014, is hereby *denied*.

Adopted by the Board of Standards and Appeals, June 16, 2015.

230-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Anthony and Linda Colletti, owners.

SUBJECT – Application May 19, 2015 – Proposed construction of a one-family residence located partially within the bed of a mapped street pursuant to Section 35 of the General City Law. R3X zoning district.

PREMISES AFFECTED – 20 Pelton Avenue, northwest corner of intersection of Pelton Avenue and Pelton Place, Block 00149, Lot 20, Borough of Staten Island

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated August 25, 2014, acting on DOB Application No. 520187280, reads in pertinent part:

1. Proposed construction located partly within the bed of a mapped street is contrary to section 35 of the General City Law...
2. Proposed new building has bulk non-compliances resulting from the location of such mapped street. Obtain Board of Standards and Appeals waiver pursuant to 72-01(g); and

WHEREAS, a public hearing was held on this application on May 19, 2015, after due notice by publication in *The City Record*, and then to decision on June 16, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Montanez; and

WHEREAS, this is an application to allow the construction of a two-story, two-family residential building that will be located partially within the bed of a mapped but unbuilt portion of Pelton Place, in Staten Island;

WHEREAS, Community Board 1, Staten Island, recommends approval of the instant application; and

WHEREAS, the subject site is located at the northwest corner of the intersection formed by Pelton Avenue and Pelton Place, within an R3X zoning district, in Staten Island; and

WHEREAS, the site, which is irregularly shaped and is vacant, has approximately 53 feet of frontage along Richmond Terrace, 91.73 feet of frontage along Pelton Place, and 53 feet of frontage along Pelton Avenue, with a lot area of approximately 4,715 sq. ft.; and

WHEREAS, the proposed development will conform and comply with all zoning regulations applicable in an R3X zoning district and will contain 2,208 sq. ft. of floor area (.47 FAR) (the maximum permitted FAR for the zoning lot is .6) as well as three accessory parking spaces; and

WHEREAS, by letter dated April 13, 2015, the New York City Fire Department ("FDNY") states that it has no objections to the proposed application; and

WHEREAS, by letter dated April 30, 2015, the New York City Department of Environmental Protection ("DEP")

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states that it has no objections to the proposed application; and

WHEREAS, by letter dated April 6, 2015, the New York City Department of Transportation (“DOT”) states that the improvement of Pelton Place at the site is not presently included in DOT’s Capital Improvement Program; and

WHEREAS, the Board notes that pursuant to GCL § 35, it may authorize construction within the bed of the mapped street subject to reasonable requirements; and

WHEREAS, the Board notes that pursuant to ZR § 72-01(g), the Board may waive bulk regulations where construction is proposed in part within the bed of a mapped street; such bulk waivers will be only as necessary to address non compliances resulting from the location of construction within and outside of the mapped street, and the zoning lot will comply to the maximum extent feasible with all applicable zoning regulations as if the street were not mapped; and

WHEREAS, therefore, consistent with GCL § 35 and ZR § 72-01(g), the Board finds that applying the bulk regulations across the portion of the subject lot within the mapped street and the portion of the subject lot outside the mapped street as if the lot were unencumbered by a mapped street is both reasonable and necessary to allow the proposed construction; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the Board modifies the decision of the DOB, dated August 25, 2014, acting on DOB Application No. 520187280, by the power vested in it by Section 35 of the General City Law, and also waives the bulk regulations associated with the presence of the mapped but unbuilt street pursuant to Section 72-01(g) of the Zoning Resolution to grant this appeal, limited to the decision noted above *on condition* that construction will substantially conform to the drawing filed with the application marked “June 11, 2015”- (1) sheet; and *on further condition*:

THAT DOB will review and approve plans associated with the Board’s approval for compliance with the underlying zoning regulations as if the unbuilt portion of the street were not mapped;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on June 16, 2015.

7-15-BZY

APPLICANT – Duval & Stackenfeld, for 180 Orchard LLC c/o Brack Capital Real Estate, owner.

SUBJECT – Application January 14, 2015 – BZY Minor Development (§11-332) to extend the time of construction for a minor development for a period of six months; Determination of common law vested rights. Building permit was obtained in 2005 and development was vested at date of Lower East Side rezoning in 2008. C4-4A zoning district.

PREMISES AFFECTED – 180 Orchard Street, bounded by Orchard, East Houston, Ludlow and Stanton Streets, approx. 220’ of East Houston, Block 00412, Lot 5, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application under ZR §11-331, to renew a building permit and extend the time for the completion of a 24-story, with mezzanine, mixed use building at the subject site; and

WHEREAS, this application was brought concurrently with a companion application under BSA Cal. No. 8-15-A (the “Appeals Application”), decided as of the date hereof, which is a request to the Board for a finding that the owner of the premises has obtained a vested right to continue construction of the building under the common law; and

WHEREAS, the Board notes that while separate applications were filed according to Board procedure the cases were heard together and the record for both cases is the same; and

WHEREAS, a public hearing was held on this application on June 2, 2015, after due notice by publication in The City Record, and then to decision on June 16, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Ottley-Brown; and

WHEREAS, the subject site is an L-shaped through lot with frontage on Orchard Street and Ludlow Street, between Houston Street and Stanton Street, within a C4-4A zoning district; and

WHEREAS, the subject site has 128’-3” of frontage along Orchard Street, 50’-1” of frontage along Ludlow Street, a depth ranging from 87’-10” to 175’-8”, and a total lot area of 41,501 sq. ft.; and

WHEREAS, under construction at the site is a 24-story, with mezzanine, mixed commercial and community facility building with 154,153.15 sq. ft. of floor area (the “Building”); and

WHEREAS, the Building will contain retail uses on the cellar and ground floors, community facility uses on the mezzanine and second floor and hotel uses throughout, as

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well as an accessory parking garage¹; and

WHEREAS, on November 23, 2005, New Building Permit No. 104297850-01-NB (hereinafter, the "Permit") was issued by the DOB permitting construction of the Building; and

WHEREAS, however, on November 19, 2008 (hereinafter, the "Enactment Date"), the City Council voted to adopt the East Village/Lower East Side Rezoning, which rezoned the site from C6-1 to C4-4A; and

WHEREAS, accordingly, the Building does not comply with the current zoning with respect to floor area, number of hotel rooms, lot coverage, density, building height and street wall location; and

WHEREAS, the applicant represents that the Building complies with the parameters of the former C6-1 zoning district; and

WHEREAS, as of the Enactment Date, the applicant had obtained permits for the development and had completed 100 percent of its foundations, such that the right to continue construction was vested pursuant to ZR § 11-331, which allows DOB to determine that construction may continue under such circumstances; and

WHEREAS, however, only two years are allowed for completion of construction and to obtain a certificate of occupancy; and

WHEREAS, in the two years subsequent to the Enactment Date, construction was not completed and a certificate of occupancy was not issued; and

WHEREAS, accordingly, an application was filed with the Board for an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, on March 15, 2011, the Board granted a two-year extension of time to complete construction and obtain a certificate of occupancy under BSA Cal. No. 201-10-BZY; and

WHEREAS, accordingly, the applicant had until March 15, 2013 to complete construction and obtain a certificate of occupancy; and

WHEREAS, on March 19, 2013, also under BSA Cal. No. 201-10-BZY, the Board granted a subsequent two-year extension of time to complete construction and obtain certificate of occupancy; and

WHEREAS, accordingly, the applicant had until March 19, 2015 to complete construction of the Building and obtain a certificate of occupancy; and

WHEREAS, as a consequence, on March 19, 2015, the Permit lapsed; and

WHEREAS, the applicant now seeks a one-year extension to complete construction pursuant to ZR § 11-30 et seq., which sets forth the regulations that apply to a reinstatement of a permit that lapses due to a zoning change; and

WHEREAS, first, the Board notes that ZR § 11-31(c)(1) defines construction such as the proposed development, which

involves the construction of a single building which is non-complying under an amendment to the Zoning Resolution, as a "minor development"; and

WHEREAS, for a "minor development," an extension of time to complete construction, previously authorized under a grant for an extension made pursuant to ZR § 11-331, may be granted by the Board pursuant to ZR § 11-332; and

WHEREAS, ZR § 11-332 reads, in pertinent part: "[I]n the event that construction permitted in Section 11-331 (Right to construct if foundations completed) has not been completed and a certificate of occupancy including a temporary certificate of occupancy, issued therefore within two years after the effective date of any applicable amendment . . . the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew such building permit for two terms of not more than two years each for a minor development . . . In granting such an extension, the Board shall find that substantial construction has been completed and substantial expenditures made, subsequent to the granting of the permit, for work required by any applicable law for the use or development of the property pursuant to the permit."; and

WHEREAS, as a threshold issue, the Board must determine that proper permits were issued, since ZR § 11-31(a) requires: "[F]or the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met."; and

WHEREAS, the applicant represents that all of the relevant DOB permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the Board notes its previous determination under BSA Cal No. 201-10-BZY that the Permit lawfully issued prior to the Enactment Date; and

WHEREAS, moreover, by letter dated May 26, 2015, DOB confirmed that the Permit was lawfully issued, authorizing construction of the Building prior to the Enactment Date; and

WHEREAS, the Board has reviewed the record and agrees that the Permit was lawfully issued to the owner of the subject premises prior to the Enactment Date and was timely renewed until the expiration of the two-year term for construction; and

WHEREAS, turning to the substantive findings of ZR § 11-332, the Board notes that there is no fixed standard in an application made under this provision as to what constitutes substantial construction or substantial expenditure in the context of new development; and

¹ Pursuant to a special permit issued by the Department of City Planning on March 4, 2015, pursuant to ZR § 13-561, the applicant has increased the size of the accessory parking garage to accommodate 99 cars.

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WHEREAS, the Board also observes that the work to be measured under ZR § 11-332 must be performed after the issuance of the permit; and

WHEREAS, similarly, the expenditures to be assessed under ZR § 11-332 are those incurred after the permit is issued; and

WHEREAS, as is reflected below, the Board only considered post-permit work and expenditures, as submitted by the applicant; and

WHEREAS, the Board further notes that any work performed after the two-year time limit to complete construction and obtain a certificate of occupancy cannot be considered for vesting purposes; accordingly, only the work performed as of November 19, 2010 has been considered; and

WHEREAS, the applicant states that work on the proposed development subsequent to the issuance of the original permit includes: 100 percent of the excavation, footings and foundation; the full construction and enclosure of all permitted zoning floor area (154,153.15 sq. ft.); five internal elevators operational and hoist removed; all mechanical equipment and plumbing equipment installed (less heat pumps for upper floors and electrical wiring); finishes on sub-cellar and floors 2-5; 90-percent finishes on floors 6-8; 50-percent finishes on floors 9-11; 30-percent finishes on floors 12-13; 40-percent finishes on floors 14-18; 20-percent finishes on floors 19-24; and

WHEREAS, additionally, the applicant has substantially revised the plans to comply with changes in applicable codes since 2005, including: the 2010 ADA Code; the life safety provisions of the 2008 NYC Construction Codes; and the NYC Energy Conservation Code; and

WHEREAS, in support of these statements, the applicant has referred the Board to its submission in connection with BSA Cal. No. 201-10-BZY and submitted a breakdown of the construction costs by line item; plans showing construction work; copies of cancelled checks; invoices; photographs of the site; and

WHEREAS, the Board has reviewed all documentation and agrees that it establishes that the aforementioned work was completed subsequent to the issuance of the valid permits; and

WHEREAS, as to costs, the applicant represents that the total expenditure paid for the development is \$75,572,757, or 100-percent of the total costs of construction; and

WHEREAS, further as to costs, the applicant represents of the \$75,572,757 expended to date, \$51,367,621 has been expended since the Board's March 19, 2013 extension of time to complete construction; and

WHEREAS, as noted, the applicant has submitted invoices and copies of cancelled checks; and

WHEREAS, the applicant contends that this constitutes a substantial expenditure sufficient to satisfy the finding in ZR § 11-332; and

WHEREAS, based upon its review of all the submitted evidence, the Board finds that substantial construction was completed and that substantial expenditures were made since the issuance of the permits; and

WHEREAS, therefore, the Board finds that the applicant has adequately satisfied all the requirements of ZR § 11-332, and that the owner is entitled to the requested reinstatement of the New Building Permit, and all other permits necessary to complete the proposed development; and

WHEREAS, accordingly, the Board, through this resolution, grants the owner of the site a one-year extension of time to complete construction, pursuant to ZR § 11-332.

Therefore it is Resolved that this application made pursuant to ZR § 11-332 to renew New Building Permit No. 104297850-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed development and obtain a certificate of occupancy for one term of one year from the date of this resolution, to expire on June 16, 2016.

Adopted by the Board of Standards and Appeals, June 16, 2015.

8-15-A

APPLICANT – Duval & Stackenfeld, for 180 Orchard LLC c/o Brack Capital Real Estate, owner.

SUBJECT – Application January 14, 2015 – BZY Minor Development (§11-332) to extend the time of construction for a minor development for a period of six months; Determination of common law vested rights. Building permit was obtained in 2005 and development was vested at date of Lower East Side rezoning in 2008. C4-4A zoning district.

PREMISES AFFECTED – 180 Orchard Street, bounded by Orchard, East Houston, Ludlow and Stanton Streets, approx. 220' of East Houston, Block 00412, Lot 5, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an appeal requesting a Board determination that the owner of the subject premises has obtained a vested right under the common law to the construction of a 24-story, with mezzanine, mixed use building at the subject site; and

WHEREAS, this application was brought concurrently with a companion application under BSA Cal. No. 7-15-BZY (the "BZY Application"), decided as of the date hereof, which is a request to the Board for a finding that the owner of the premises has obtained a right to continue construction of the building pursuant to ZR § 11-332; and

WHEREAS, the Board notes that while separate applications were filed according to Board procedure the cases were heard together and the record for both cases is the same;

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and

WHEREAS, a public hearing was held on this application on June 2, 2015, after due notice by publication in The City Record, and then to decision on June 16, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Ottley-Brown; and

WHEREAS, the subject site is an L-shaped through lot with frontage on Orchard Street and Ludlow Street, between Houston Street and Stanton Street, within a C4-4A zoning district; and

WHEREAS, the subject site has 128'-3" of frontage along Orchard Street, 50'-1" of frontage along Ludlow Street, a depth ranging from 87'-10" to 175'-8", and a total lot area of 41,501 sq. ft.; and

WHEREAS, under construction at the site is a 24-story, with mezzanine, mixed commercial and community facility building with 154,153.15 sq. ft. of floor area (the "Building"); and

WHEREAS, the Building will contain retail uses on the cellar and ground floors, community facility uses on the mezzanine and second floor and hotel uses throughout, as well as an accessory parking garage¹; and

WHEREAS, on November 23, 2005, New Building Permit No. 104297850-01-NB (hereinafter, the "Permit") was issued by the DOB permitting construction of the Building; and

WHEREAS, however, on November 19, 2008 (hereinafter, the "Enactment Date"), the City Council voted to adopt the East Village/Lower East Side Rezoning, which rezoned the site from C6-1 to C4-4A; and

WHEREAS, accordingly, the Building does not comply with the current zoning with respect to floor area, number of hotel rooms, lot coverage, density, building height and street wall location; and

WHEREAS, the applicant represents that the Building complies with the parameters of the former C6-1 zoning district; and

WHEREAS, as of the Enactment Date, the applicant had obtained permits for the development and had completed 100 percent of its foundations, such that the right to continue construction was vested pursuant to ZR § 11-331, which allows DOB to determine that construction may continue under such circumstances; and

WHEREAS, however, only two years are allowed for completion of construction and to obtain a certificate of occupancy; and

WHEREAS, in the two years subsequent to the Enactment Date, construction was not completed and a certificate of occupancy was not issued; and

WHEREAS, accordingly, an application was filed with the Board for an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, on March 15, 2011, the Board granted a

two-year extension of time to complete construction and obtain a certificate of occupancy under BSA Cal. No. 201-10-BZY; and

WHEREAS, accordingly, the applicant had until March 15, 2013 to complete construction and obtain a certificate of occupancy; and

WHEREAS, on March 19, 2013, also under BSA Cal. No. 201-10-BZY, the Board granted a subsequent two-year extension of time to complete construction and obtain certificate of occupancy; and

WHEREAS, accordingly, the applicant had until March 19, 2015 to complete construction of the Building and obtain a certificate of occupancy; and

WHEREAS, as a consequence, on March 19, 2015, the Permit lapsed; and

WHEREAS, the applicant now seeks a two-year extension to complete construction pursuant to the common law doctrine of vested rights; and

WHEREAS, a threshold matter for the vested rights analysis is that a permit be issued lawfully prior to the Enactment Date and that the work was performed pursuant to such lawful permit; and

WHEREAS, the Board notes its previous determination under BSA Cal No. 201-10-BZY that the Permit lawfully issued prior to the Enactment Date; and

WHEREAS, moreover, by letter dated May 26, 2015, DOB confirmed that the Permit was lawfully issued, authorizing construction of the Building prior to the Enactment Date; and

WHEREAS, the Board notes that when work proceeds under a lawfully-issued permit, a common law vested right to continue construction after a change in zoning generally exists if: (1) the owner has undertaken substantial construction; (2) the owner has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, specifically, as held in Putnam Armonk, Inc. v Town of Southeast, 52 AD 2d 10 (2d Dept 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner's rights under the prior ordinance are deemed vested "and will not be disturbed where enforcement [of new zoning requirements] would cause 'serious loss' to the owner," and "where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance"; and

WHEREAS, however, notwithstanding this general framework, as discussed by the court in Kadin v Bennett, 163 AD 2d 308 (2d Dept 1990) "there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess 'a vested right'. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action"; and

WHEREAS, as noted above, the applicant obtained a permit to construct the Building and performed certain work prior to the Enactment Date; and

WHEREAS, the Board notes that work completed prior to the Enactment Date constituted substantial construction

¹ Pursuant to a special permit issued by the Department of City Planning on March 4, 2015, pursuant to ZR § 13-561, the applicant has increased the size of the accessory parking garage to accommodate 99 cars.

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and/or substantial expenditures as stated or implied in BSA Cal No. 201-10-BZY and the statutory renewal thereof; and

WHEREAS, the applicant submits, and the Board finds, that the work performed prior and subsequent to the previous approvals constitutes substantial construction and, similarly, that expenditures related thereto were similarly substantial; and

WHEREAS, the applicant notes that the Board's grant under BSA Cal No. 201-10-BZY included a finding that substantial expenditures were incurred at the Site; and

WHEREAS, specifically, the applicant notes that it has incurred additional construction costs and obligations of \$51,367,621 since the previous extension was granted by this Board such that the total construction expenditure and obligation to date for the Building is \$76,572,757; and

WHEREAS, as to expenditure, the Board notes that unlike an application for relief under ZR § 11-30 et seq., soft costs and irrevocable financial commitments can be considered in an application under the common law and accordingly, these costs are appropriately included in the applicant's analysis; and

WHEREAS, the applicant states that in addition to the foregoing construction costs, it has spent approximately \$19.4 million in soft costs and \$27,756,918 in acquisition costs; and

WHEREAS, as noted, the applicant has submitted invoices and copies of cancelled checks; and

WHEREAS, the Board considers the amount of expenditures significant, both for a project of this size, and when compared with the development costs; and

WHEREAS, again, the Board's consideration is guided by the percentages of expenditure cited by New York courts considering how much expenditure is needed to vest rights under a prior zoning regime; and

WHEREAS, the applicant states that if it is not allowed to complete construction of the New Building it will incur a loss in excess of \$123,972,500 in funds spent and obligations incurred (including soft costs and construction costs incurred by the previous owner of the Site, which were included in the purchase price of the Building) and notes that demolition of the existing Building and construction of a new building which complies with the current C4-4A zoning regulations would cost in excess of \$60 million; and

WHEREAS, thus, the applicant states that it would suffer a serious loss if the site were required to comply with the C4-4A zoning regulations; and

WHEREAS, the Board agrees that complying with the C4-4A zoning regulations would result in a serious economic loss for the applicant; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed and the expenditures made both before and after the Enactment Date, the representations regarding serious loss, and the supporting documentation for such representations, and agrees that the applicant has satisfactorily established that a vested right to complete construction of the Building has accrued to the owner of the premises.

Therefore it is Resolved, that this application made pursuant to the common law doctrine of vested rights requesting a reinstatement of Permit No. 104297850-01-NB, as well as all related permits for various work types, either already

issued or necessary to complete construction and obtain a certificate of occupancy, is granted for two years from the date of this grant.

Adopted by the Board of Standards and Appeals, June 16, 2015.

37-15-A

APPLICANT – Jeffrey Geary, for Louis Devivo, owner.
SUBJECT – Application February 26, 2015 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-2 zoning district.

PREMISES AFFECTED – 2020 Demerest Road, Van Brunt Road and Demerest Road, Block 15485, Lot 0007, Borough of Queens.

COMMUNITY BOARD #14Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 21, 2015, at 10 A.M., for decision, hearing closed.

ZONING CALENDAR

301-13-BZ

CEQR #14-BSA-067K

APPLICANT – Eric Palatnik, P.C., for Rabbi Mordechai Jofen, owner.

SUBJECT – Application November 12, 2013 – Variance (72-21) to add three floors to an existing one story and basement UG 4 synagogue for a religious-based college and post graduate (UG 3) with 10 dormitory rooms, contrary to sections 24-11, 24-521, 24-52,24-34(a),24-06. R5B zoning district.

PREMISES AFFECTED – 1502 Avenue N, southeast Corner of East 15th Street and Avenue N, Block 6753, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated October 22, 2013, acting on DOB Application No. 320832248 reads, in pertinent part:

Proposed enlargement to existing use group 4 synagogue, so as to create a use group 4A house of worship (synagogue) and use group 3 college is contrary to ZR Section 24-11 (floor area)(lot coverage); 24-521 (height); 24-52 (sky exposure); 24-34 (front yard); 24-35(a) (side yard); 25-31

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(parking); and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21 to permit, on a site within an R5B zoning district, a four-story and basement building to be occupied by a rabbinical seminary (college and post-graduate) (Use Group 3) and synagogue (Use Group 4), which does not comply with the underlying zoning regulations for floor area, lot coverage, height, sky exposure plane, front yards, side yards and parking, contrary to ZR §§ 24-11, 24-34, 24-35(a), 24-521, 24-52, and 25-31; and

WHEREAS, a public hearing was held on this application on February 3, 2015, after due notice by publication in *The City Record*, with a continued hearing on April 14, 2015, and then to decision on June 16, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, this application is being brought on behalf of Central Yeshiva Bais Yosef, a non-profit religious entity (the "Seminary"); and

WHEREAS, the subject site is located on the southeast corner of the intersection of Avenue N and East 15th Street, within an R5B zoning district; and

WHEREAS, the site has 40 feet of frontage along Avenue N, 100 feet of frontage along East 15th Street, and a total lot area of approximately 4,000 sq. ft.; and

WHEREAS, the applicant proposes to construct a four-story rabbinical seminary and accessory synagogue (the "Building") with a floor area of 16,711.19 sq. ft. (4.18 FAR) (the maximum permitted floor area is 8,000 sq. ft. (2.0 FAR)), a maximum lot coverage of 87-percent (the maximum permitted lot coverage is 60-percent), a height of 54'-0" (the maximum permitted height is 35'-0"), front yards of 0'-0" (two front yards are required, on Avenue N and on East 15th Street, each of which is required to be at least 10'-0"), side yards of 10'-0" and 0'-0" (two side yards are required with a minimum depth of 8'-0"), one parking space (16 parking spaces are required), and a non-complying sky-exposure plane of 0:00 (a 1:1 sky exposure plane is required); and

WHEREAS, the applicant states that the Seminary will contain ten (10) dormitory rooms (to accommodate 42 students), five (5) classrooms (including an existing lecture room on the first floor), the existing basement-level social hall, and the existing synagogue space; and

WHEREAS, as to the finding under ZR § 72-21(a), that there are unique physical conditions which create practical difficulties or unnecessary hardship in complying with the underlying zoning regulations, the Board acknowledges that the Seminary, as a religious institution, is entitled to significant deference under the law of the State of New York as to zoning and as to the ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, the applicant represents that the following are the Seminary's programmatic needs necessitating the requested variances: (1) the Seminary's existing facility cannot accommodate its current or projected enrollment

(approximately 150 students are enrolled at the Seminary and the applicant states that it will have an enrollment of 180 within the next year); (2) the Seminary's existing facility cannot provide on-site dormitory space for students, many of whom are foreign nationals and many of whom have elected to attend the Seminary specifically for full immersion in Talmudic study, which requires that students live together and among their instructors; and

WHEREAS, the applicant submitted as-of-right plans as well as plans depicting a lesser variance (the "Lesser Variance");

WHEREAS, the as-of-right scenario allowed for an enlargement of approximately 287 square feet, which is insufficient to address either of the applicant's programmatic needs (i.e. classroom and dormitory space); and

WHEREAS, the Lesser Variance entails the integration of classroom space into a basement level social space and the construction of a two-story extension of the existing building, thereby providing two dormitory rooms and additional classroom/social space; the applicant notes that this Lesser Variance, like the proposed Building, is non-compliant with regard to floor area, FAR, lot coverage, front and side yards, height, sky exposure plane and parking; and

WHEREAS, the applicant represents that the Lesser Variance does not accommodate the Seminary's programmatic needs because it would require that the Seminary utilize the basement space for incompatible programs at the same time (i.e., for group study and for socializing), it would not provide adequate classroom space, and it would not provide adequate dormitory space; and

WHEREAS, as noted above, the Board acknowledges that the Seminary, as a religious institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in *Westchester Reform Temple v. Brown*, 22 NY2d 488 (1968), a religious institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the Seminary create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since the Seminary is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; and

WHEREAS, as to the finding under ZR § 72-21(c), the applicant represents that the proposed Building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the proposed use is

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permitted in the subject zoning district; and

WHEREAS, the applicant represents that the proposed Building will be designed to enhance the neighborhood in which it is located and will benefit the Seminary's status as a community landmark; and

WHEREAS, the applicant states that the proposed Building will rest lower height than the six-story multiple dwellings across the street from the site; and

WHEREAS, the applicant further states that within a 400 foot radius of the site there are over twenty buildings that are five stories or taller, and that there are three multiple dwellings within 500 feet of the site that are taller than the proposed Building, one of which has a higher FAR than that which is proposed for the subject site; and

WHEREAS, the applicant further states that there are two community facilities located on Avenue N, in Brooklyn, within 1,000 feet of the site, the first of which is a synagogue with residential use containing approximately 13,360 sq. ft. of floor area, with an FAR of 3.16 and a height of approximately 42 feet and the second of which is a religious school containing approximately 22,000 sq. ft. of floor area, with an FAR of 4.89 and a height of approximately 80 feet; and

WHEREAS, the above-noted assertions are supported in a land use study submitted by the applicant; and

WHEREAS, accordingly, the Board finds that this action will neither alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, as to the finding under ZR § 72-21(d), the applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the Seminary could occur on the existing lot; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, as to the finding under ZR § 72-21(e) requiring that the variance be the minimum necessary to afford relief, as noted above, the applicant represents that neither the as-of-right scenario nor the Lesser Variance scenario will accommodate the Seminary's programmatic needs; and

WHEREAS, accordingly, the Board finds the requested waivers to be the minimum necessary to afford the Seminary the relief needed both to meet its programmatic needs and to construct a building that is compatible with the character of the neighborhood; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as a Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 14-BSA-067K dated October 25, 2013; and

WHEREAS, the EAS documents that the project as

proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit a , a four-story and basement building to be occupied by a rabbinical seminary (college and post-graduate) (Use Group 3) and synagogue (Use Group 4), which does not comply with the underlying zoning regulations for floor area, lot coverage, height, sky exposure plane, front yards, side yards and parking, contrary to ZR §§ 24-11, 24-34, 24-35(a), 24-521, 24-52, and 25-31, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 22, 2015" – Eighteen (18) sheets; and *on further condition*:

THAT the building parameters will be: a maximum floor area of 16,711.19 sq. ft. (4.18 FAR); a maximum lot coverage of 87-percent; a maximum building height of 54' - 0"; no front yard; a single side yard of 10' - 0"; eight bicycle parking spaces and a single motor vehicle parking space, all as illustrated on the BSA-approved plans;

THAT any change in control or ownership of the building shall require the prior approval of the Board;

THAT the use shall be limited to a rabbinical seminary (college and post-graduate) (Use Group 4) with accessory synagogue (Use Group 3);

THAT the above conditions shall be listed on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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

THAT construction shall proceed in accordance with ZR § 72-23;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

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Adopted by the Board of Standards and Appeals, June 16, 2015.

248-14-BZ

APPLICANT – Slater & Beckerman, P.C., for KIOP Forest Avenue L.P., owner; Fitness International LIC aka LA Fitness, lessee.

SUBJECT – Application October 24, 2014 – Special Permit (§73-36) to allow the operation of a new physical culture establishment (*LA Fitness*) in the existing building. C4-1 zoning district.

PREMISES AFFECTED – 1565 Forest Avenue, Forest Avenue, Between Barrett and Decker Avenues, Block 1053, Lot (s) 130, 133, 138, 189, 166, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated October 24, 2014, acting on DOB Application No. 320627032, reads, in pertinent part:

Proposed use as a physical culture establishment is not permitted in a C4-1 district per ZR 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-1 zoning district, a physical culture establishment (“PCE”) operating in a one story building, known as “Building B” (the “Building”), within the Forest Avenue Shopping Center (the “Site”), contrary to ZR §§ 32-10; and

WHEREAS, a public hearing was held on this application on April 21, 2015, after due notice by publication in the *City Record*, and then to decision on June 16, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Montanez performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 1, Staten Island, recommends approval of this application; and

WHEREAS, the Building is located within the Forest Avenue Shopping Center, between Smith Place and Hagaman Place, south of Decker Avenue, within a C4-1 zoning district, on Staten Island; and

WHEREAS, the Building contains approximately 157,361 sq. ft. of floor area; and

WHEREAS, the PCE occupies 33,800 sq. ft. of floor area within the Building; and

WHEREAS, the PCE operates as LA Fitness; and

WHEREAS, the applicant represents that the hours of operation for the PCE are 24 hours per day, seven days per week; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and

issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, at hearing, the Board inquired as to the number of parking spaces required for the PCE; and

WHEREAS, in response, the applicant provided an analysis of the required parking and concluded, to the Board’s satisfaction, that 154 parking spaces are required; and

WHEREAS, the Site is the subject of a City Planning ULURP Action; and

WHEREAS, the Site has existing institutional controls, specifically an ‘E’ designation, relating to the potential for hazardous materials as identified in the February 4, 2013 Negative Declaration CEQR No. 12DCP125R; and

WHEREAS, the text of the ‘E’ designation states as follows: the first ‘E’ designation is on Block 1053, Lots p/o 138 and 200, which requires, prior to redevelopment, that the property owner of the above lots must develop and submit a Remedial Action Plan (RAP) and Construction Health and Safety Plan (CHASP) to the Mayor’s Office of Environmental Remediation (OER) for review and approval before issuance of construction-related New York City Department of Buildings (DOB) permits (pursuant to Section 11-15 of the Zoning Resolution –Environmental Requirements). The RAP should delineate that contaminated soil should be properly disposed of in accordance with the applicable NYSDEC regulations. Additional testing of the soils may be required by the disposal and/or recycling facility; and

WHEREAS, the applicant has submitted a RAP and CHASP to OER and it has been assigned an OER Project No. 13EHAZ363R and has been accepted by the Mayor’s Office of Environmental Coordination; and

WHEREAS, all potential contaminated materials on the project site will have to be remediated to OER’s satisfaction in order to have NYCDOB issue construction permits; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

Therefore it is Resolved, that the Board of Standards and Appeals adopts the Negative Declaration issued by the New York City Department of City Planning on February 4, 2013 for CEQR No. 12DCP125R and makes each and every one of

MINUTES

the required findings under ZR §§ 73-36 and 73-03, to permit, on a 33,800 sq. ft. portion of an existing commercial building within a C4-1 zoning district, a PCE in a one story building, known as "Building B," within the Forest Avenue Shopping Center, contrary to ZR §§ 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received, June 12, 2015"-(3) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on June 16, 2025;

THAT the hours of operation shall be 24 hours per day, seven days per week;

THAT any massages at the PCE shall be performed by New York State licensed massage therapists;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by June 16, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 16, 2015.

30-12-BZ

APPLICANT – Eric Palatnik, P.C., for Don Ricks Associates, owner; New York Mart Group, Inc., lessee.

SUBJECT – Application February 8, 2012 – Remand Back to Board of Standards and Appeals; seeks a judgment vacating the resolution issued on January 15, 2013 and filed on January 17, 2013. R6-/C2-2 zoning district.

PREMISES AFFECTED – 142-41 Roosevelt Avenue, northwest corner of Roosevelt Avenue and Avenue B, Block 5020, Lot 34, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for adjourned hearing.

31-14-BZ

APPLICANT – Moshe M. Friedman, PE, for Bnos Square of Williamsburg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-19) to allow a conversion of an existing Synagogue (*Bnos Square of Williamsburg*) building (Use Group 4 to (Use Group 3). M1-2 zoning district.

PREMISES AFFECTED – 165 Spencer Street, 32'6" Northerly from the corner of the northerly side of Willoughby Avenue and easterly side of Spencer Street, Block 1751, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to July 28, 2015, at 10 A.M., for adjourned hearing.

41-14-BZ

APPLICANT – The Law Office of Jay Goldstein, for United Talmudical Academy, owner.

SUBJECT – Application March 7, 2014 – Special Permit (§73-19) to legalize an existing school/yeshiva (UG 3). M1-2 zoning district.

PREMISES AFFECTED – 21-37 Waverly Avenue aka 56-58 Washington Avenue, between Flushing Avenue and Park Avenue front both Washington and Waverly Avenues, Block 1874, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

148-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 11 Avenue A Realty LLC, owner.

SUBJECT – Application June 24, 2014 – Variance (§72-21) to permit multi-family residential use at the premises. R8A/C2-5 zoning districts.

PREMISES AFFECTED – 11 Avenue A, west side of Avenue A between East 1st Street and East 2nd Street, Block 429, Lot 39, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to July 14, 2015, at 10 A.M., for adjourned hearing.

173-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 244 Madison Realty Corp., owner; Coban's Muay Thai Camp NYC, lessee.

SUBJECT – Application July 22, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Evolution Muay Thai Camp*) in the cellar of an existing 16-story mixed-used residential and commercial building, located within an C5-2 zoning district.

PREMISES AFFECTED – 20 East 38th Street aka 244 Madison Avenue, southwest corner of Madison Avenue and East 38th Street, Block 867, Lot 57, Borough of Manhattan.

COMMUNITY BOARD #5M

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ACTION OF THE BOARD – Laid over to August 18, 2015, at 10 A.M., for adjourned hearing.

238-14-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for DDG 100 Franklin, LLC., owner.

SUBJECT – Application October 1, 2014 – Variance (§72-21) to permit the construction of two mixed residential and commercial buildings on a single zoning lot contrary to §§35-21 & 23-145 (Lot Coverage), 35-24c (Height and setback), 35-52 and 33-23 (minimum width of open area along a side lot line and permitted obstruction regulations), 35-24b (Street wall location). C6-2A Zoning District, Historic District.

PREMISES AFFECTED – 98-100 Franklin Street, Bounded by Avenue of the Americas, Franklin and White Streets, West Broadway, Block 00178, Lot 0029, Borough of Manhattan.

COMMUNITY BOARD #1M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for decision, hearing closed.

**REGULAR MEETING
TUESDAY AFTERNOON, JUNE 16, 2015
1:00 P.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

243-14-BZ

APPLICANT – Eric Palatnik, PC, for Victorystar, LTD, owner.

SUBJECT – Application October 9, 2014 – Special Permit (§73-243) to permit the legalization and continued use of an existing eating and drinking establishment (UG 6) with an accessory drive-through. C1-2/R3X zoning district.

PREMISES AFFECTED – 1660 Richmond Avenue, Richmond Avenue between Victory Boulevard and Merrill Avenue. Block 02236, Lot 133. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to August 18, 2015, at 10 A.M., for continued hearing.

244-14-BZ

APPLICANT – Eric Palatnik, PC, for Chong Duk Chung, owner.

SUBJECT – Application October 9, 2014 – Special Permit (§73-36) to operate a physical culture establishment (*K-Town Sauna*) within an existing building. C6-4 zoning district.

PREMISES AFFECTED – 22 West 32nd Street, 32nd Street between Fifth and Sixth Avenues, Block 00833, Lot 57, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 28, 2015, at 10 A.M., for decision, hearing closed.

314-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Maurice Realty Inc., owner.

SUBJECT – Application November 20, 2014 – Special Permit (§73-125) to allow construction of an UG4 health care facility that exceed the maximum permitted floor area of 1,500 sf. R4A zoning district.

PREMISES AFFECTED – 1604 Williamsbridge Road, northwest corner of the intersection formed by Williamsbridge Road and Pierce Avenue, Block 04111, Lot 43, Borough of Bronx.

COMMUNITY BOARD #11BX

ACTION OF THE BOARD – Laid over to August

MINUTES

18, 2015, at 10 A.M., for continued hearing.

2-15-BZ

APPLICANT – Jay Goldstein, Esq., for Panasia Estate Inc., owner; Chelsea Fhitting Room LLC, lessee.

SUBJECT – Application January 7, 2015 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*The Fhitting Room*) in the portions of the cellar and first floor of the premises. C6-4A zoning district.

PREMISES AFFECTED – 31 West 19th Street, 5th Avenue and 6th Avenue on the north side of 19th Street, Block 00821, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Laid over to August 18, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

MINUTES

*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 303-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

303-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 1032 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 03808, Lot 0016. Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the west side of Olympia Boulevard between Hempstead Avenue and Mapleton Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Olympia Boulevard and 1,980 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 583 sq. ft. of floor area (0.29 FAR); the existing site has the following yard non-compliances: no front yard (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); a rear yard depth of 20’-4” (a minimum rear yard depth of 30’-0” is required, per ZR § 23-47); and side yards with widths of 3’-7” (northern side yard) and 1’-10” (southern side yard) (the requirement is two side yards with minimum widths of 5’-0”, per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,082 sq. ft. of floor area (0.55 FAR); the new building will provide a front yard depth of 14’-3”, a rear yard depth of 24’-7”, a northern side yard width of 3’-5”, and southern side yard width of 3’-0”; and

WHEREAS, in addition, the applicant represents that the proposed building will be less than 8’-0” from the building directly south of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8’-0” is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5’-0”; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 24’-7”, a minimum distance of less than 8’-0” from the building directly south of the site, and side yard widths of 3’-5” and 3’-0”; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing

MINUTES

on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings: (a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the

existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from a non-complying 0'-0" to a non-complying 14'-3", and an increase in open space ratio from 71 percent to 73 percent; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,082 sq. ft. of floor area (0.55 FAR), a minimum rear yard depth of 24'-7", a minimum front yard depth of 14'-3" and side yards with minimum widths of 3'-0" and 3'-5", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the building directly south of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 16, 2018;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

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Adopted by the Board of Standards and Appeals,
December 16, 2014.

*The resolution has been amended. **Corrected in Bulletin
Nos. 25-26, Vol. 100, dated June 24, 2015.**

BULLETIN

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July 1, 2015

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137-15-BZ

74-10 88th Street, West wide of 88th Street between 72nd Drive and 77th Avenue, Block 03810, Lot(s) 093, Borough of **Brooklyn, Community Board: 5**. Variance (72-21 change of use and enlargement from existing Use Group 9 trade school to use Group 3 religious school with additional classrooms and dormitories, located within and M1-1 zoning district. M1-1 district.

138-15-A

1475 President Street, Northwest corner of President Street and Albany Avenue, Block 01279, Lot(s) 043, Borough of **Brooklyn, Community Board: 9**. Interpretative Appeals of Borough Commissioner's determination relative to applicability of Zoning Resolution Sections 24-01,24-34,24-35(a)and 54-31 to a proposed community facility use in the cellar of a non-complying residential building. R4 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

JULY 21, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, July 21, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

340-41-BZ

APPLICANT – Nasir J. Khanzada, PE, for Paul Sinanis, owner; S & J Service Station, Incorporated, lessee.

SUBJECT – Application June 27, 2014 – Extension of Term (§11-411) of a previously approved variance permitting the operation of an Automotive Service Station (UG 16B), with accessory uses, which expired on May 1, 2012; Amendment to permit the enlargement of an existing canopy, the addition of a fuel dispenser and small convenience sales area; Waiver of the Rules. C1-2/R4 zoning district.

PREMISES AFFECTED – 72-09 Main Street, Block 06660, Lot 1, Borough of Queens.

COMMUNITY BOARD #4Q

110-99-BZ

APPLICANT – Law Office of Jay Goldstein, for Lessiz Realty, LLC., owner; 14-18 Fulton servicing, lessee.

SUBJECT – Application March 2, 2015 – Extension of Term of a previously approved Variance (§72-21) to permitted the legalization of an existing garage and automotive repair shop (Use Group 16B), which expired on June 27, 2010; Amendment to permit minor modifications to the interior layout; Waiver of the Rules. R6B zoning district.

PREMISES AFFECTED – 56-58 Kosciuszko Street, south side of Kosciuszko Street between Nostrand and Bedford Avenues, Block 01783, Lot 0034, Borough of Brooklyn.

COMMUNITY BOARD #3BK

JULY 21, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, July 21, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

213-14-BZ

APPLICANT – Law Office of Steven Simicich, for Wayne Bilotti, owner.

SUBJECT – Application August 29, 2014 – Variance (§72-21) for the construction of a single family detached home contrary to ZR 23-32 for minimum lot area. R2 zoning district.

PREMISES AFFECTED – 165 Wooley Avenue, Woolley Avenue between Lathrop and Garrison Avenues, Block 00419, Lot 13, Borough of Staten Island.

COMMUNITY BOARD #1SI

219-14-BZ

APPLICANT – Slater & Beckerman, P.C., for People 4 Parks LLC., owner.

SUBJECT – Application September 4, 2014 – Variance (§72-21) to permit the construction of a three-story, single-family residence with one parking space. M1-1 zoning district.

PREMISES AFFECTED – 64 DeGraw Street, south side of DeGraw Street between Columbia and Van Brunt Streets, Block 00329, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #6BK

220-14-BZ and 221-14-BZ

APPLICANT – Slater & Beckerman, P.C., for Post Industrial Thinking, LLC, owner.

SUBJECT – Application September 4, 2014 – Variance (§72-21) to permit the construction of two 3-story single family residences. M1-1 zoning district.

PREMISES AFFECTED – 8 & 10 Underhill Avenue, west side of Underhill Avenue between Atlantic avenue and Pacific Street, Block 01122, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #8K

CALENDAR

236-14-BZ

APPLICANT – Law Office of Stuart Klein, for The 5th Street Dorchester, Inc. c/o Brown Harris, owner; BLT Steak, LLC, lessee.

SUBJECT – Application October 1, 2014 – Special Permit (§73-241) to legalize the operation of an eating and drinking establishment (UG 6C) with entertainment, but not dancing, with a capacity of 200 persons or fewer. C5-3 (MID) zoning district.

PREMISES AFFECTED – 106 East 57th Street aka 104-114 East 57th Street, south side of East 57th Street, 90' from Park Avenue, Block 01311, Lot 0065, Borough of Manhattan.

COMMUNITY BOARD #5M

18-15-BZ

APPLICANT – Frances R. Angelino, Esq., for 90 Fifth Owner, LLC, owner; Peak Performance NYC. LLC, lessee.

SUBJECT – Application January 28, 2015 – Special Permit (§73-36) to permit a physical culture establishment (*Peak Performance*) on 10th & 11th floors of an 11- story commercial building. C6-4M zoning district.

PREMISES AFFECTED – 90 5th Avenue, northwest corner of West 14th Street and Fifth Avenue, Block 00816, Lot 37, Borough of Manhattan.

COMMUNITY BOARD #5M

61-15-BZ

APPLICANT – Deirdre A. Carson, Esq., for 540 W. 26th St. Property Investors II A, LLC., owner; Avenue World Holdings LLC., lessee.

SUBJECT – Application March 19, 2015 – Special Permit (§73-19) to permit the operation of a portion of a school known as Avenues (*The School*) Use Group 3A, located in a M1-5 zoning district.

PREMISES AFFECTED – 540 West 26th Street, an interior lot on the south side of West 26th Street, 100' east of intersection of 11th Avenue and West 26th Street, Block 0697, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #4M

Ryan Singer, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, JUNE 23, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

150-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Shun K. and Oi-Yee Fung, owners.

SUBJECT – Application May 2, 2014 – Amendment of a previously approved variance to permit the construction of a four-story building with retail space and one-car garage. C6-2G zoning district.

PREMISES AFFECTED – 129 Elizabeth Street, west side of Elizabeth Street between Broome and Grand Street, Block 470, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously-granted variance, and plans, which, pursuant to ZR § 72-21, authorized the construction of a four-story building, with a retail use on the first floor and residential use on the upper three floors, in a C6-2G zoning district, within the Special Little Italy District, contrary to ZR §§ 23-32 and 109-122; and

WHEREAS, the applicant seeks to amend the previous grant and plans to reflect a reduction in the size of the subject lot from 815 sq. ft. of lot area to 789 sq. ft. of lot area, as a result of the settlement of an adverse possession claim; and

WHEREAS, a public hearing was held on this application on March 24, 2015, after due notice by publication in the *City Record*, with a continued hearing on May 12, 2015, and then to decision on June 23, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioners Montanez and Ottley-Brown; and

WHEREAS, Community Board 2, Manhattan, recommends denial of this application; and

WHEREAS, the subject site is a vacant 789 sq. ft. lot with approximately 34 feet of frontage along Elizabeth Street, between Broome Street and Grand Street, and a depth of approximately 23 feet; and

WHEREAS, on March 29, 2005, under the subject calendar number, the Board granted a variance to permit the construction of a four-story building at the site with a retail store and one-car garage on the ground floor and residential use on the upper three floors, contrary to minimum lot area and lot coverage regulations set forth at ZR §§ 23-32 and 109-122; and

WHEREAS, on May 14, 2013, also under the subject calendar number, the Board granted an extension of time to complete construction until May 14, 2017; and

WHEREAS, at the time of the initial grant, the site contained 815 sq. ft. of floor area, however, upon settlement of an adverse possession claim brought by the owner of an adjacent parcel, the size of the subject site was reduced by approximately 26 sq. ft., reflecting the loss of a small triangular section of the premises along its northern lot line; and

WHEREAS, the applicant now seeks to amend the plans to reflect the reduction in the size of the lot and the site's changed configuration and to modify certain building conditions to compensate for the unique hardship associated with the lot's small size; and

WHEREAS, specifically, the applicant asserts that the further reduction in the size of the lot impacts the marketability of the commercial and residential units in the building; and

WHEREAS, the applicant states that the need to revise the site plan led to its request for the following additional relief: (1) 116 sq. ft. of additional floor area (2,890 sq. ft. were granted, 3,106.29 sq. ft. are proposed); (2) an increased FAR (3.55 FAR was granted, 3.94 FAR is proposed); (3) increased building height (a height of 43'-6" was granted, a height of 51'-0" is proposed); and (4) the addition of a mezzanine above the first floor of the building to provide additional retail space; and

WHEREAS, in response to the Board's inquiry about the uniqueness of the site conditions, the applicant submitted a letter from a licensed real estate broker stating that the floor plate of the proposed building is the smallest new development in the Nolita neighborhood and that the two proposed residential units are significantly smaller than typical new construction in the neighborhood; and

WHEREAS, the aforesaid letter also stated that the reduction in the size of the building, and attendant reduction in the sellable square footage of the building, would adversely impact the sales price of units in the proposed building; and

WHEREAS, accordingly the applicant seeks a minor addition to the floor area to modify the height of the residential units and add a mezzanine to the ground floor retail use of the building; and

WHEREAS, the applicant states that the increase in the building height is necessary to accommodate the addition of the mezzanine space, the provision of which required that the height of the first floor ceiling be increased from 13'-0" to 18'-0", allowing for an aggregate increase in the commercial floor area from 411 sq. ft. to 641 sq. ft. (including the mezzanine); and

WHEREAS, the applicant further states that the height of the floors on the 2nd, 3rd and 4th floors of the proposed building have increased by 1'-0" to provide improved light and air, increased storage space and additional space for mechanical, electrical and plumbing between floors, intended as relief from the loss of floor area resulting from the settlement of the adverse possession claim; and

WHEREAS, the applicant asserts that none of the original findings the Board made are disturbed by the minor amendments to the plans, which were triggered by the need to revise the site plan due to the change in lot size; and

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WHEREAS, the applicant notes that the floor area, FAR, building height, and number of stories all comply with the underlying zoning regulations and are consistent with surrounding conditions and the Board's original finding pursuant to ZR § 72-21(c); and

WHEREAS, the applicant represents that the revised plans do not trigger any new zoning non-compliance; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may permit an amendment to an existing variance; and

WHEREAS, based upon its review of the evidence, the Board finds that the requested changes do not alter the Board's findings made for the original variance; and

WHEREAS, accordingly, the Board finds that the proposed variance, as amended, is appropriate, with certain conditions set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals reopens and amends the resolution, dated March 29, 2005, and extended by resolution dated May 14, 2013, to grant the noted modifications to the previous approval and the amendment of the plans submitted therewith; *on condition* that all work shall substantially conform to drawings filed with this application and marked 'Received June 22, 2015'- five (5) sheets; and *on further condition*:

THAT the revised building conditions include: a maximum of 3,106.29 sq. ft. of floor area (3.94 FAR) and a maximum building height of 51'-0";

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application No. 103299048)

Adopted by the Board of Standards and Appeals, June 23, 2015.

51-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Rivoli Realty Corp., owner; American Dance & Drama, lessee.

SUBJECT – Application July 10, 2014 – Amendment of a variance (§72-21) which permitted a Physical Culture Establishment and a dance studio (Use Group 9), contrary to use regulations. The amendment seeks to enlarge the floor area utilized by the dance studio on the first floor of the existing one-story and cellar building. C1-2/R2A zoning district.

PREMISES AFFECTED – 188-02 Union Turnpike aka 22 Union Turnpike, south side of Union Turnpike between 188th Street and 189th Street, Block 7266, Lot 1, Borough of Queens.

COMMUNITY BOARD #8Q

ACTION OF THE BOARD – Application granted on

condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Board's Rules of Practice and Procedure, a reopening, the amendment of a previously granted variance to allow for the addition of approximately 1,056 square feet of floor area to an existing Use Group 9 dance studio (the "Dance Studio") located on the first floor of a one-story and cellar building, and an extension to time to obtain a certificate of occupancy, which expired on August 14, 2013; and

WHEREAS, a public hearing was held on this application on March 24, 2015, after due notice by publication in *The City Record*, with a continued hearing on June 2, 2015, and then to decision on June 23, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioners Montanez and Ottley-Brown; and

WHEREAS, Community Board 8, Queens, recommends approval of this application; and

WHEREAS, the subject site is located is located on the south side of Union Turnpike, between 188th Street and 189th Street, within an R2A (C1-2) zoning district; and

WHEREAS, the site is occupied by a one-story and cellar commercial building; and

WHEREAS, the Board has exercised jurisdiction over the subject site since December 12, 2006 when, under the subject calendar number, the Board granted a variance, which will expire on December 12, 2016, to permit, subject to conditions, the operation of a PCE and the legalization of the Dance Studio; and

WHEREAS, on February 10, 2009, also under the subject calendar number, the Board granted an extension of time to obtain a certificate of occupancy for the building to May 10, 2010; and

WHEREAS, on August 14, 2012, also under the subject calendar number, the Board waived its Rules of Practice and Procedure and reopened and amended the resolution dated December 12, 2006 to grant an extension of time to obtain a certificate of occupancy to August 14, 2013, and to permit a 2,332 sq. ft. expansion of the PCE on the first floor; and

WHEREAS, the applicant seeks to further amend the December 12, 2006 grant to permit an expansion of the Dance Studio, which, the applicant states, currently occupies approximately 1,198 sq. ft. of floor area on the first floor of the subject building, as well as 3,473 sq. ft. of floor space at the cellar level of the building; and

WHEREAS, specifically, the applicant requests seeks to expand the first-floor portion of the Dance Studio by 1,056 sq. ft. into a vacant retail space, so that the total first-floor floor area of the Dance Studio will be 2,254 sq. ft.; and

WHEREAS, the applicant notes that the request is made to accommodate the American Street Dance Theatre Company, Inc. ("American Dance"), which has been recognized by the

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Jamaica Arts Center for its contribution to the local community and which has operated at the premises for forty years; and

WHEREAS, the applicant states that the expansion of American Dance is necessary to keep the long-term tenant at the premises, and further states that the vacant retail space is narrow and small and, therefore, that it has been difficult to market; and

WHEREAS, the applicant notes that no changes to the cellar, building envelope or façade are requested; and

WHEREAS, the applicant states that the proposed amendment will not have any adverse effect on the neighborhood and is consistent with the character of the surrounding area, and notes that the request merely allows for the expansion of an existing Use Group 9 dance space into existing retail space; and

WHEREAS, the applicant notes that it has complied with the conditions imposed pursuant to the initial variance dated December 12, 2006, save that which required the applicant to obtain a Certificate of Occupancy by August 14, 2013; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may permit an amendment to an existing variance; and

WHEREAS, the applicant states that a Certificate of Occupancy has not yet been obtained for the PCE, that its time to obtain the Certificate of Occupancy expired on August 14, 2013 and that it has not filed an application to extend that period within 30 days of August 14, 2013; and

WHEREAS, accordingly, the applicant now seeks a further extension of time to obtain a certificate of occupancy, as well as a waiver of §1-07.3(d)(2) of the Board's Rules of Practice and Procedure, which requires that an extension of time in which an applicant may submit an application to obtain a Certificate of Occupancy be filed within thirty (30) days of the expiration of the BSA-mandated period to obtain the Certificate of Occupancy; and

WHEREAS, the applicant states that its acquisition of the certificate of occupancy was delayed due to an existing violation which was not cured by the owner of the building, but that the applicant and the building owner are working expeditiously to cure the violation; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment, waiver and extension of time to obtain a Certificate of Occupancy are appropriate, with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated December 12, 2006, so that as amended the resolution read: "to grant an extension of time to obtain a certificate of occupancy to June 23, 2016, and to permit a 1,056 sq. ft. expansion of the Use Group 9 dance studio on the first floor; *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked 'June 12, 2015'-(11) sheets; and *on further condition*:

THAT signage on the site shall comply with C1 district regulations;

THAT the applicant shall obtain a Public Assembly Permit for the PCE located on the first floor and cellar of the building prior to obtaining the Certificate of Occupancy;

THAT the above condition shall be listed on the Certificate of Occupancy;

THAT the Department of Buildings must ensure compliance with all accessibility requirements;

THAT a certificate of occupancy shall be obtained by June 23, 2016;

THAT there shall be no change in ownership or operating control of the PCE without prior approval from the Board;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Application No. 402279495)

Adopted by the Board of Standards and Appeals, June 23, 2015.

545-56-BZ

APPLICANT – Eric Palatnik, P.C., for Williamsbridge Road Realty corporation, owner.

SUBJECT – Application June 12, 2014 – Extension of Term (§11-411) to seek the term of a previously granted variance for a gasoline service station and maintenance which expired October 19, 2012; Waiver of the Rules. C2-4/R5D zoning district.

PREMISES AFFECTED – 2001-2007 Williamsbridge Road aka 1131 Neil Avenue, southeast corner of Williamsbridge Road and Neil Avenue, Block 4306, Lot 20, Borough of Bronx.

COMMUNITY BOARD #11BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 28, 2015, at 10 A.M., for decision, hearing closed.

131-93-BZ

APPLICANT – Eric Palatnik, P.C., for Paul Memi, owner.

SUBJECT – Application April 25, 2014 – Extension of Term (§11-411) of a previously approved variance which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses which expires on November 22, 2014. C2-2/R5 zoning district.

PREMISES AFFECTED – 3743-3761 Nostrand Avenue, north of the intersection of Avenue "Y", Block 7422, Lot 53, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

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APPEALS CALENDAR

174-04-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for 124 West 24th Street Condominium, owner.

SUBJECT – Application October 31, 2014 – Amendment: to amend and the approval of the conveyance of unused development rights appurtenant to the subject site. The variance previously granted by the Board located within and M1-5 zoning district.

PREMISES AFFECTED – 124 West 24th Street, location on the south side of West 24th Street, between Sixth and Seventh Avenues. Block 799, Lots 1001, 1026. Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 28, 2015, at 10 A.M., for decision, hearing closed.

318-06-BZ

APPLICANT – Eric Palatnik, LLP for Sun Company Inc. (R&M), owner.

SUBJECT – Application August 9, 2013 – Extension of Term (§11-411) of a previously approved variance which permitted the operation of an automotive service station (UG 16B), which expired on May 22, 2013; Extension of Time to Obtain a Certificate of Occupancy which expired on November 22, 2007; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 49-05 Astoria Boulevard, Noreast corner of Astoria Boulevard and 49th Street. Block 1000, Lot 35, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

42-08-BZ

APPLICANT – Eric Palatnik, P.C., for David Nikechemny, owner.

SUBJECT – Application July 22, 2014 – Extension of Time to Complete Construction of a previously granted Special Permit (73-622) for the enlargement of an existing two family home to be converted into a single family home which expired on January 27, 2013; Waiver of the Rules. R3-1 zoning district.

PREMISES AFFECTED – 182 Girard Street, between Oriental Boulevard and Hampton Street, Block 8749, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to August 18, 2015, at 10 A.M., for continued hearing.

163-14-A thru 165-14-A

APPLICANT – Ponte Equities, for Ponte Equities, Ink, owner.

SUBJECT – Application July 10, 2014 – Appeal seeking waiver of Section G304.1.2 of the NYC Building Code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A zoning district. PREMISES AFFECTED – 502, 504, 506 Canal Street, Greenwich Street and Canal Street, Block 595, Lot 40, 39, 38, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for continued hearing.

320-14-A

APPLICANT – Dean Heitner, Esq., for PWV owner LLC c/o The Chevrolet Group, owner.

SUBJECT – Application December 8, 2014 – Interpretative Appeals for an open space requirements on a zoning lot for a proposed nursing facility to be constructed by Jewish Home Life Care on West 97th Street. R7-2/C1-8 zoning district. PREMISES AFFECTED – 125 West 97th Street, between Amsterdam Avenue and Columbus Avenue, Block 1852, Lot 5, Borough of Manhattan.

COMMUNITY BOARD #7M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to August 18, 2015, at 10 A.M., for decision, hearing closed.

ZONING CALENDAR

155-13-BZ

CEQR #13-BSA-133K

APPLICANT – Law Office of Fredrick A. Becker, for Cong Kozover Zichron Chaim Shloime, owners.

SUBJECT – Application May 15, 2013 – Variance (§72-21) to permit the enlargement of an existing synagogue (*Congregation Kozover Sichron Chaim Shloime*) and rabbi's residence (UG 4) and the legalization of a Mikvah, contrary to floor area (§24-11), lot coverage (§24-11), wall height and setbacks (§24-521), front yard (§24-34), side yard (§24-35), rear yard (§24-36), and parking (§25-18, 25-31) requirements. R3-2 zoning district.

PREMISES AFFECTED – 1782-1784 East 28th Street, west side of East 28th Street between Quentin road and Avenue R, Block 06810, Lots 40 & 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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Affirmative: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez....4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated April 19, 2013, acting on DOB Application No. 320588565 reads, in pertinent part:

1. Proposed floor area is contrary to Z.R. Section 24-11
2. Proposed lot coverage is contrary to Z.R. Section 24-11
3. Proposed wall height is contrary to Z.R. Section 24-521
4. Proposed front yard is contrary to Z.R. Section 24-34
5. Proposed side yards are contrary to Z.R. Section 24-35
6. Proposed rear yard is contrary to Z.R. Section 24-36
7. Proposed building encroaches into the required setbacks contrary to Z.R. Section 24-521
8. Proposed number of parking spaces is contrary to Z.R. Sections 25-18 and 25-31; and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21 to enlarge and legalize a synagogue and mikvah, and to convert three existing first floor residences to two Rabbi’s residences on a site within an R3-2 zoning district, contrary to zoning regulations for floor area, lot coverage, height, front yards, side yards, rear yards, required setbacks and parking, contrary to ZR §§ 24-11, 24-521, 24-34, 24-35, 24-36, 24-521, 25-18 and 25-31; and

WHEREAS, a public hearing was held on this application on May 13, 2014 after due notice by publication in *The City Record*, with continued hearings on August 19, 2014, October 21, 2014, April 14, 2015 and May 19, 2015, and then to decision on June 23, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed site and neighborhood examinations of the premises and surrounding area; and

WHEREAS, Community Board 15, Brooklyn, recommends disapproval of this application; and

WHEREAS, the Board notes that New York City Council Member Chaim Deutsch and New York State Assemblywoman Helene E. Weinstein submitted letters in support of the application and the applicant’s efforts to correct any unlawful conditions at the subject site; and

WHEREAS, this application is being brought on behalf of Congregation Kozover Zichron Chaim Shloime (the “Synagogue”); and

WHEREAS, the subject site is located on the west side of East 28th Street, between Quentin Road and Avenue R, within an R3-2 zoning district, in Brooklyn; and

WHEREAS, the site consists of three adjacent lots with approximately 83 feet of frontage along East 28th Street, and a depth of approximately 100 feet, with a lot area of approximately 8,300 sq. ft.; and

WHEREAS, the site is currently occupied by three one-

story basement and cellar buildings containing a total of 8,623 sq. ft. of floor area (1.04 FAR) into a single one-story basement and cellar building with 10,677 sq. ft. of floor area (1.29 FAR) (the maximum floor area permitted at the site is 8,300 sq. ft. (1.0 FAR)); and

WHEREAS, the proposed development also contains the following non-complying conditions: lot coverage (83-percent is proposed, a maximum lot coverage of 55-percent is permitted); front yard (a front yard of 10’-31/2” is proposed, a front yard of 15’-0” is required); side yards (a single side yard of 5’-0” is proposed, two side yards with a minimum width of 8’-0” are required); rear yard (the proposed development contains no rear yard, a rear yard of 30’-0” is required); and parking (zero (0) parking spaces are proposed, 36 parking spaces are required); and

WHEREAS, the proposal provides for the following uses: (1) at the cellar level, a mikvah, with bathrooms, wash rooms and storage; (2) at the basement level, a men’s synagogue, a women’s synagogue, a men’s entrance, a women’s entrance, a rabbi’s study, a kitchen, a coffee room, bathrooms, and coat rooms; (3) at the first floor, two (2) Use Group 4 Rabbi’s Residences

WHEREAS, the applicant states that the following are the primary programmatic needs of the Synagogue which necessitate the requested variances: (1) to accommodate a congregation with a desire to expand and currently consists of approximately 200 families; (2) to provide separate worship and study spaces for male and female congregants; (3) to accommodate the necessary space for lectures; (4) to provide space for the Synagogue’s mikvah group; (5) to provide housing for the Synagogue’s Rabbis; and (6) to satisfy the religious requirement that members of the congregation be within walking distance of the residences of the congregants; and

WHEREAS, the Synagogue also seeks to provide community and religious lectures, use the facility for Bris and Shalom Zachar festivities and accommodate the congregation during the high holidays; and

WHEREAS, the applicant states that the Synagogue’s existing facilities cannot accommodate its existing congregation and forces congregants to worship in cramped and uncomfortable conditions; and

WHEREAS, as to the need for a floor area waiver, the applicant notes that the existing buildings do not accommodate the congregation and that, at full capacity, the existing facility can only accommodate 164 men in the main sanctuary, 90 women in the women’s sanctuary and 110 people in the accessory sanctuary, or 1.82 people per family; and

WHEREAS, as to the need for waivers to the front and side yards, and lot coverage, the applicant states that the requested waivers are the minimum necessary to provide floor plates that can accommodate a sanctuary that can meet the programmatic needs of the Synagogue; and

WHEREAS, the applicant states that the parking waiver is necessary because providing the required 36 parking spaces would render the site wholly inadequate to support the proposed building and such parking spaces are not necessary because congregants must live within walking distance of their

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synagogue and must walk to the synagogue on the Sabbath and on high holidays; and

WHEREAS, the applicant states that 93-percent of the congregation lives within a three-quarter-mile radius of the site, which is consistent with ZR § 25-35 which provides for a parking waiver for locally oriented houses of worship from the City Planning Commission upon a showing that more than 75-percent of congregants live within a three-quarter-mile radius of the subject house of worship; and

WHEREAS, the applicant states that the requested waivers enable the Synagogue to construct a building that can accommodate its growing congregation as well as provide a separate worship space for men and women, as required by religious doctrine, housing for the Synagogue's rabbis and space for studying and meeting, and other lecture space; and

WHEREAS, the Board acknowledges that the Synagogue, as a religious institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in *Westchester Reform Temple v. Brown*, 22 NY2d 488 (1968), a religious institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the Synagogue create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since the Synagogue is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; and

WHEREAS, as to ZR § 72-21(c) the applicant represents that the proposed building will not alter the essential character of the neighborhood, impair the appropriate use or development of adjacent property, or be detrimental to the public welfare; and

WHEREAS, the applicant states that the proposed use is permitted in the subject R3-2 zoning district; and

WHEREAS, as to bulk, the applicant represents that the proposed building will be similar in height to other buildings in the immediate vicinity (and significantly shorter than that which is permitted in the district) and that the majority of the buildings on the subject block are, like the proposed building, semi-attached; and

WHEREAS, the applicant notes that the proposed development does not reduce the existing non-complying front yard, which is consistent with the remainder of the block, and that the addition to the structure is set back to the required front yard; and

WHEREAS, the applicant maintains that the extension into the rear yard of the site will abut garages on four of the adjacent properties; and

WHEREAS, the applicant states the proposed

expansion will not create a parking issue because the orthodox practice of the congregation permits only pedestrian traffic on the Sabbath and on the majority of holidays when the proposed building will have the most significant number of visitors; and

WHEREAS, accordingly, the Board finds that this action will neither alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is due to the peculiarities of the site; and

WHEREAS, the Board finds the requested waivers to be the minimum necessary to meet the Synagogue's programmatic needs, thus the Board also finds that this proposal is the minimum necessary to afford the owner relief, in accordance with ZR § 72-21(e); and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 13-BSA-133K, dated March 26, 2015; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to enlarge and legalize a synagogue and mikvah, and to convert three existing first floor residences to two Rabbi's residences on a site within an R3-2 zoning district, contrary to zoning regulations for floor area, lot coverage, height, front yards, side yards, rear yards, required setbacks and parking, contrary to ZR §§ 24-11, 24-521, 24-34, 24-35, 24-36,

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24-521, 25-18 and 25-31; *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 8, 2015" – Twelve (12) sheets; and *on further condition*:

THAT the building parameters will be: 10,677 sq. ft. of floor area (1.29 FAR), 83-percent lot coverage, a front yard of 10'-31/2"; a single side yard of 5'-0", no rear yard, zero (0) parking spaces as illustrated on the BSA-approved plans;

THAT any change in control or ownership of the building will require the prior approval of the Board;

THAT the above conditions will be listed on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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

THAT construction will proceed in accordance with ZR § 72-23;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 23, 2015.

127-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Sean Banayan, owner.

SUBJECT – Application June 5, 2014 – Variance (§72-21) to permit construction of a cellar and two-story, two-family dwelling on a vacant lot that does not provide two required side yards, and does not provide two off street parking spaces. R4 zoning district.

PREMISES AFFECTED – 32-41 101st Street, east side of 101st, 180' north of intersection with Northern Boulevard, Block 1696, Lot 48, Borough of Queens.

COMMUNITY BOARD #3Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the Department of Buildings ("DOB") objection, dated May 7, 2014, and acting on DOB Application No. 420926449 reads, in pertinent part:

Side yard is not in compliance with Zoning Section.

The required side yard as per ZR 23-461 is 5 feet.

Proposed side yard is 3 feet;

Parking is not in compliance with Zoning Section.

Required number of parking space as per ZR 25-20

is two (2) Proposed number of spaces is none (0);

and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R4 zoning district, the construction of a two-story, with cellar, two-family detached home does not provide the required side yards or parking, contrary to ZR §§ 23-461 and 25-22; and

WHEREAS, a public hearing was held on this application on March 3, 2015 after due notice by publication in *The City Record*, with a continued hearing on April 14, 2015 and then to decision on June 23, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed site and neighborhood examinations of the premises and surrounding area; and

WHEREAS, Community Board 3, Queens, recommends approval of this application on the condition that the proposed cellar-level bathroom be eliminated from the plan; and

WHEREAS, the subject site is located on the east side of 101st Street between 32nd Avenue and Northern Boulevard, within an R4 zoning district, in Queens; and

WHEREAS, the site has approximately 20 feet of frontage along 101st Street and a depth of approximately 100 feet, with a lot area of approximately 2,000 sq. ft.; and

WHEREAS, the site is vacant and has been vacant and the applicant represents that the site has been vacant since at least 1914, based on Sanborn map depictions; and

WHEREAS, the applicant proposes to develop a two-story, with cellar, two-family detached home on the site with a complying floor area of 1,680 sq. ft. (.84 FAR) but, contrary to side yard and parking requirements; and

WHEREAS, specifically, the applicant proposes two 3'-0" side yards (two side yards of no less than five feet each and 13 feet total, with a minimum distance of eight feet between buildings is required, per ZR § 23-461) and zero accessory parking (two parking spaces are required as per ZR § 25-22); the applicant notes that the proposed enlargement complies in all other respects with the applicable bulk regulations; and

WHEREAS, because the proposed enlargement does not comply with the applicable R4 zoning regulations, a variance is requested; and

WHEREAS, the applicant states that, in accordance with ZR § 72-21(a), the following are unique physical conditions that create practical difficulties and unnecessary hardships in developing the site in compliance with applicable regulations: (1) the narrow width of the site; and (2) that fact that the site is vacant; and

WHEREAS, the applicant states that because the lot was in common ownership with the adjacent Lot 46 on December 15, 1961, it does not qualify for treatment as a pre-existing undersized lot, but notes that Lot 46 was sold, independently, on June 1, 1971 and that lots 46 and 48 were never part of a common DOB filing and that indeed no structure has ever been erected on Lot 48; and

WHEREAS, the applicant also states that the subject site, Lot 48, was acquired by the City of New York in 1970 as part of a multi-family foreclosure and subsequently sold at auction, without restriction; and

WHEREAS, the applicant submits that there are only four vacant sites within the vicinity of the subject site that are

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similarly narrow to the subject site, but that each of those four sites have distinguishing characteristics as follows: (1) the site located at Block 1695, Lot 4 has a width of 20 feet but is used solely for parking and ingress/egress in connection with the four-family dwelling on the adjacent Lot 5, with which Lot 4 is in common ownership; (2) the site located at Block 1696, Lot 13 has a width of 20 feet and is currently used for parking in conjunction with adjacent Lot 12, with which Lot 13 is in common ownership; (3) the site located at Block 1697, Lot 52 has a width of 20 feet but is the subject of a New York City lien for failure to pay property taxes; and (4) the site located at Block 1697, Lot 53 has a width of 20 feet, but is the subject of a New York City lien for failure to pay property taxes; and

WHEREAS, the applicant concludes that for the foregoing reasons, the site is unique in that it is the only vacant site with a width of 20 feet which is impacted by the side yard and parking requirements applicable to buildings within an R4 zoning district within an area of approximately 400 feet; and

WHEREAS, based upon the above, the Board finds that the site's narrow width, small size, and vacant status, in the aggregate, constitute unique physical conditions that create unnecessary hardships in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the Board directed the applicant to prepare an alternate plan in which a single parking space is provided at the ground floor of the proposed building (the "Alternate Plan"); and

WHEREAS, the applicant provided the Board with the Alternate Plan and states that including parking on the ground floor of the building would reduce the size of the ground floor dwelling by approximately 150 feet and would result in the elimination of one existing on-street parking space; and

WHEREAS, the Board agrees that it is not feasible to provide parking on the site; and

WHEREAS, the applicant contends that, per ZR § 72-21(b), there is no reasonable possibility of development of the site in compliance with the Zoning Resolution; and

WHEREAS, specifically, the applicant states that the narrow width of the subject zoning lot prohibits the construction of a reasonable dwelling absent the waiver of the side yard and parking regulations in that a side-yard compliant structure provides for a dwelling with a width of only ten feet, exclusive of parking and that providing the required parking on site further reduces the width of any dwelling unit that could be constructed thereupon or, alternatively, eliminates a significant portion of the first floor unit; and

WHEREAS, based upon its review of the submitted material, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in compliance with applicable zoning requirements would provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, specifically, the applicant notes that other

than the absence of parking and the insufficient side yards, the proposal complies with all other applicable zoning regulations, including floor area and yard dimensions, including the front yard, as discussed below; and

WHEREAS, at hearing, the Board directed the applicant to prepare a street montage depicting the proposed building in relation to adjacent buildings, which the applicant submitted to the Board; and

WHEREAS, the street montage reflects that the proposed building is consistent with the adjacent buildings, and other buildings on the street; and

WHEREAS, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is due to the peculiarities of the site; and

WHEREAS, the Board also finds that this proposal is the minimum necessary to afford the owner relief, in accordance with ZR § 72-21(e); and

WHEREAS, at hearing, the Board inquired as to the compliance of the front yard of the proposed building; and

WHEREAS, the applicant stated that, as per DOB Technical Memorandum BB 2014-1, required front yards may be mapped from a tax lot line, as opposed to a street line, provided that the privately owned portion of the mapped street is unimproved and is not required to be improved, and that the applicant obtain a letter from the Department of Transportation ("DOT") stating that the portion of the mapped street is not in the City's Capital Plan; and

WHEREAS, thus, the applicant is required to obtain a letter from DOT stating that the portion of 101st Street onto which the proposed building fronts is not in the City's Capital Plan so that the proposed front yard may be mapped from the subject tax lot line, and not the street line; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

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Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 to permit, on a site within an R4 zoning district, the construction of a two-story, with cellar, two-family detached home does not provide the required side yards or parking, contrary to ZR §§ 23-461 and 25-22; *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received June 5, 2015”– nine (9) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: 1,680 sq. ft. of floor area (.84 FAR); 42 percent lot coverage; a height of 24’-7”, a front yard with a depth of 10’-0”, two side yards with widths of 3’-0”, a rear yard with a depth of 30’-0” and a maximum of two (2) dwelling units, as reflected on the BSA-approved drawings;

THAT prior to filing any application for development of the site, the applicant must obtain a letter from DOT establishing that the portion of 101st Street onto which the proposed building fronts is not in the City’s Capital Plan;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by June 23, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 23, 2015.

238-14-BZ

CEQR #15-BSA-076M

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for DDG 100 Franklin, LLC., owner.

SUBJECT – Application October 1, 2014 – Variance (§72-21) to permit the construction of two mixed residential and commercial buildings on a single zoning lot contrary to §§35-21 & 23-145 (Lot Coverage), 35-24c (Height and setback), 35-52 and 33-23 (minimum width of open area along a side lot line and permitted obstruction regulations), 35-24b (Street wall location). C6-2A Zoning District, Historic District.

PREMISES AFFECTED – 98-100 Franklin Street, Bounded by Avenue of the Americas, Franklin and White Streets, West Broadway, Block 00178, Lot 0029, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated September 3, 2014, acting on Department of Buildings Application Nos. 121185993 & 121185975, reads in pertinent part:

1. ZR 23-145 – Proposed building in the portion of the zoning lot (at the intersection of White Street and Sixth Avenue) exceeds the maximum lot coverage contrary to ZR 23-145;
2. ZR 35-24(c)(1) – Proposed building in the portion of the zoning lot (at the intersection of White Street and Sixth Avenue) does not provide the required setback above the maximum base height contrary to ZR 35-24(c)(1);
3. ZR 35-52 – Proposed building in the portion of the zoning lot (at the intersection of White Street and Sixth Avenue) does not provide the minimum required side yard contrary to ZR 35-52;
4. ZR 35-24(b)(2) – Proposed building in the portion of the zoning lot (at the intersection of White Street and Sixth Avenue) does not comply with street wall location requirement contrary to ZR 35-24(b)(2);
5. ZR 23-145 – Proposed building in the portion of the zoning lot (at the intersection of Franklin Street and Sixth Avenue) exceeds the maximum lot coverage contrary to ZR 23-145;
6. ZR 35-24(b)(2) – Proposed building in the portion of the zoning lot (at the intersection of Franklin Street and Sixth Avenue) does not comply with street wall location requirement contrary to ZR 35-24(b)(2); and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within a C6-2A zoning district, within the Tribeca East Historic District, the development of two mixed residential and commercial use buildings on a single zoning lot the first of which does not comply with zoning regulations for lot coverage, setback above the maximum base height, side yards or street wall location and the second of which does not comply with zoning regulations for lot coverage and street wall location, contrary to ZR §§ 23-145, 25-24(c)(1), 35-52, 35-24(b)(2); and

WHEREAS, a public hearing was held on this application February 10, 2015, after due notice by publication in the *City Record*, with continued hearings on April 28, 2015 and June 16, 2015, and then to decision on June 23, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed site and neighborhood examinations of the premises and surrounding area; and

WHEREAS, Community Board 1, Manhattan, recommended disapproval of the application; and

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WHEREAS, certain members of the surrounding community submitted testimony in opposition to the application (the "Opposition," certain of whom were represented by counsel), citing the following concerns: (1) that the subject site is not unique as required by ZR § 72-21(a) and, as such, the application should be denied; (2) that the applicant's analysis of its potential return on the development of the site is flawed in that it uses incorrect and outdated data so as to understate that the value of an as-of-right development; (3) that the proposed development will negatively impact the character of the neighborhood; (4) that the proposed development will negatively impact neighbors' access to light and air; (5) that the proposed development will impair development of adjacent property; (6) that the applicant has not sought the minimum variance necessary to alleviate its hardship; and

WHEREAS, Councilmember Margaret S. Chin submitted testimony noting her interest in the application; and

WHEREAS, the subject site is a small, irregular, bowtie-shaped lot consisting of two triangular portions, bounded by Avenue of the Americas, to the east, Franklin Street, to the south, White Street, to the north, and West Broadway, to the west; and

WHEREAS, the site is located within a C6-2A zoning district, within the Tribeca East Historic District zoning district and has 218.42 feet of frontage along Avenue of the Americas (effectively divided into two portions), 32.71 feet of frontage along Franklin Street and .45 feet of frontage along White Street, with a lot area of 4,129 sq. ft.; and

WHEREAS, while the site consists of a single tax lot, its two triangular portions, of which has frontage along Avenue of the Americas, are connected by a portion of land that measures, at its narrowest point, .004 feet in width; and

WHEREAS, the applicant notes that, as stated in the Tribeca East Historic District, the eastern boundary of the site, and its two triangular portions, resulted from the extension of then Sixth Avenue (now Avenue of the Americas) in 1930; and

WHEREAS, the applicant represents that the site has been a single tax lot since at least 1949, and that it has been used as a parking lot since that time; and

WHEREAS, the applicant proposes to construct two separate triangular buildings with a total floor area of 24,854.74 sq. ft. (6.02 FAR) (consisting of 2,049 sq. ft. of commercial floor area and 22,805.74 sq. ft. of residential floor area), a non-complying lot coverage of 89-percent, a non-complying side yard, a non-complying wall height and a non-complying setback; and

WHEREAS, the proposed buildings include, at the southern portion of the site, a six story plus cellar building with a height of approximately 75'-8", plus mechanical bulkhead and parapet, and, at the northern portion of the site, an eight story plus cellar building with a height of approximately 95'-11", plus mechanical bulkhead and parapet; and

WHEREAS, in order to construct the building as proposed, applicant seeks the following waivers: (1) lot coverage (a maximum residential lot coverage of 78.8-percent

is permitted as per ZR § 23-1451, a lot coverage of 89-percent is proposed); (2) height and setback (a minimum base height of 60'-0" is required, with a 10'-0" setback and a maximum base height of 85'-0" with a maximum building height of 120'-0"); street wall (ZR § 35-24(b) requires that the street wall be located on the street line and extend along the entire street frontage up to at least the minimum base height); side yard (no side yards are required, however, because the proposed development includes an open area along a side lot line, ZR § 35-52 mandates that such open area be at least 8'-0" in width); and

WHEREAS, the applicant states that, in accordance with ZR § 72-21(a), the following are unique physical conditions which create an unnecessary hardship in developing the site in compliance with applicable regulations: (1) the site's small size and irregular shape; (2) the amount of perimeter and street frontage relative to lot area; the encumbrance of the Eighth Avenue Subway; and

WHEREAS, the applicant states that the site's irregular "bowtie" shape requires that it be developed with two distinct buildings with separate building systems which necessitates multiple tie-ins to public utilities at a cost estimated to be \$350,000; and

WHEREAS, the applicant states that the irregular shape of the site also precludes the use of on-site drilling rigs and requires, because piles will be installed from sidewalk grade prior to excavation, longer piles to be cut after they are installed, at a premium of \$60,000; and

WHEREAS, the applicant states that its close proximity to the Eighth Avenue subway tunnel, which is located approximately 10 feet below the top of the curb and between 0 and 5 feet away from the property line, coupled with the site's greater than typical frontage along the tunnel, require the applicant to incur substantial and atypical costs associated with deep foundations, tunnel monitoring and acoustical considerations; and

WHEREAS, specifically, the applicant represents that (1) the proposed development must be structurally isolated from the tunnel, which requires deep foundations extending to bedrock (at an estimated cost of \$1,000,000) rather than shallow foundations which might impact the tunnel (at an estimated cost of \$100,000); (2) because of the proximity of the proposed development to the tunnel, the MTA requires extensive monitoring at an estimated cost of \$200,000; (3) the proposed development requires acoustical study and vibration isolation at a combined cost estimated to be \$525,000; (4) required MTA inspections associated with the proposed development's proximity to the tunnel will cost an estimated \$150,000; and

WHEREAS, the applicant states that of the 29 lots fronting on the Eighth Avenue subway tunnel from Canal

1 ZR § 23-145 proves that the maximum lot coverage for a residential building in an R8A equivalent district is 80-percent on a corner lot and 70-percent on an interior lot. The subject site consists of both corner lot and interior lot portions, such that the adjustable allowable lot coverage is 78.8-percent.

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Street to Reade Street, none, other than the subject site, are “bowtie” shaped and only one lot has a lower ratio of lot size to feet of tunnel frontage (that lot, containing approximately 680 sq. ft. of lot area, being too small to develop for residential development as per the New York City Department of Finance); and

WHEREAS, the applicant submitted the statement of an independent consultant to establish that the foregoing subgrade conditions will result in a total premium construction cost estimated to be \$2,185,000; and

WHEREAS, the applicant also states that, because the site’s unique “bowtie” configuration requires the construction of two separate and distinct buildings, the proposed development (1) requires the construction of an additional structural building core (stair and elevator) where only one core would be required for a typical corner lot of this size; (2) requires an additional elevator as opposed to the single elevator that would be needed for a typical corner lot; and (3) has, due to an excess of street frontage as compared to a typical corner lot, an atypically large exterior facade relative to other building components; and

WHEREAS, specifically, the applicant states that the proposed buildings’ combined 251 linear feet of exterior façade will result in a premium construction cost of \$984,880, the additional building core will result in a premium construction cost of \$463,400 and the additional elevator will result in a premium construction cost of \$261,660, for a combined above-grade premium construction cost resulting from the site’s unique “bowtie” configuration estimated to be \$1,709,880; and

WHEREAS, the applicant submitted the statement of an independent cost estimator to establish that the costs associated with the foregoing above-grade construction costs

WHEREAS, thus, the applicant represents that the total premium construction costs associated with the site’s unique shape and excessive frontage along the Eight Avenue subway tunnel are approximately \$3,900,000 in excess of the cost to develop on a more typical site, and further represents that it will cost approximately \$4,678,000 more to develop the subject site than a typical site when both construction premiums and associated soft premium costs are accounted for; and

WHEREAS, based upon the above, the Board finds that the aggregate impact of the site’s irregular “bowtie” shape and its adjacency to and extended frontage upon the Eighth Avenue subway tunnel, the combination of which mandate an irregular building design and excessive construction costs, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that, per ZR § 72-21(b), there is no reasonable possibility of development of the site in strict compliance with the Zoning Resolution; and

WHEREAS, as explained above, the applicant represents that the site’s unique conditions create premium construction costs in excess of \$3,900,000; and

WHEREAS, the applicant provided the Board with an analysis of two development scenarios for the site, the proposed development as well as a complying development (the “Zoning Compliant Development”), which assessed the projected residential sales value of the two scenarios as well as

the capitalization of income with respect to the retail components of both scenarios; and

WHEREAS, the applicant represents that the total value of the Zoning Compliant Development is \$33,416,691, reflecting a capitalized value for the retail space of \$3,277,829 and a value of the residential condominium sales of \$30,138,862; and

WHEREAS, the applicant further represents that the total estimated development cost for the Zoning Compliant Development is \$36,667,319; and

WHEREAS, thus, the applicant concludes that the Zoning Compliant Development would result in a loss of \$3,250,628, rendering the Zoning Compliant infeasible and an unacceptable investment opportunity; and

WHEREAS, the applicant represents that the total value of the proposed development is \$43,024,229, reflecting a capitalized value for the retail space of \$2,704,146 and a value of the residential condominium sales of \$40,320,083; and

WHEREAS, the applicant further represents that the total estimated development cost for the proposed development is \$35,957,343; and

WHEREAS, thus, the applicant concludes that the proposed development would result in a projected profit of \$7,066,886, representing an acceptable investment opportunity; and

WHEREAS, based upon its review of the applicant’s submissions, the Board has determined that because of the site’s unique physical conditions there is no reasonable possibility of development of the site in strict compliance with the Zoning Resolution; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant notes that the uses of the proposed development will be consistent with, and will enhance those of the surrounding neighborhood in that the ground floor retail use will be similar to that of most building along Avenue of the Americas and the surrounding area and that the upper-floor residential use of the proposed buildings will be consistent with the neighborhood’s trend toward new residential development; and

WHEREAS, the applicant represents that the proposed buildings, constructed to six and eight stories, are built on a scale consistent with the surrounding buildings and that the proposed buildings are consistent with the dominant built form within the Tribeca East Historic District; and

WHEREAS, LPC issued Certificate of Appropriateness No. 15-3120 for the proposed development, dated January 14, 2014 (the “C of A”); and

WHEREAS, as stated by the LPC in the C of A, the construction of the proposed buildings will “restore the continuity of the street walls and anchor the end of the block fronting three street, thereby strengthening the streetscape around this prominent site”; and

WHEREAS, as further stated in the C of A, the proposed

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buildings “are consistent with that of historic buildings found in the [Tribeca East Historic District]...”; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is due to the peculiarities of the site, including the site’s small size, irregular shape and excessive amount of perimeter and street frontage; and

WHEREAS, with respect to ZR § 72-21(e), the Board notes that the proposed development does not involve a modification of the floor area permitted at the site and that the proposed bulk waivers are modest in that they are the minimum required to maximize the floor plates of the proposed buildings so as to increase efficiency and create more saleable units; and

WHEREAS, the Board notes further that the requested height and setback modification does not seek modification of the maximum building height, but seeks an encroachment within the required setback at one floor within the proposed northern building, thereby affecting only the front ten feet of the proposed northern buildings above a height of 85 feet; and

WHEREAS, the Board also notes that alternative massing of the building, as contemplated by the applicant, would not result in a lesser variance and that while an alternative site plan considered by the applicant would require no side yard waiver, it would require a greater waiver of streetwall regulations; and

WHEREAS, thus the Board also finds that this proposal is the minimum necessary to afford the owner relief, in accordance with ZR § 72-21(e)

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 15-BSA-076M, dated September 25, 2014; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the New York City Department of Environmental Protection’s (“DEP”) Bureau of Environmental Planning and Analysis reviewed the project for potential

hazardous materials, air quality and noise impacts; and

WHEREAS, DEP reviewed and accepted the November 2014 Remedial Action Plan and the November 2014 site-specific Construction Health and Safety Plan; and

WHEREAS, DEP requested that a P.E.-certified Remedial Closure Report be submitted to DEP for review and approval upon completion of the proposed project; and

WHEREAS, DEP reviewed the applicant’s stationary source air quality screening analysis and determined that the potential impact from the proposed boilers would not result in significant air quality impacts; and

WHEREAS, based on the projected noise levels, DEP concurred with the consultant that their proposed design measures would provide sufficient attenuation to satisfy CEQR requirements; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type I Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 to permit, on a site within a C6-2A zoning district, within the Tribeca East Historic District, the development of two mixed residential and commercial use buildings on a single zoning lot the first of which does not comply with zoning regulations for lot coverage, setback above the maximum base height, side yards or street wall location and the second of which does not comply with zoning regulations for lot coverage and street wall location, contrary to ZR §§ 23-145, 25-24(c)(1), 35-52, 35-24(b)(2); *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received June 11, 2015”– fourteen (14) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: at the southern portion of the site, a 6-story plus cellar building with a height of 75’-8”, and at the northern portion of the site, an 8-story plus cellar building with a height of 95’-11”, with no setback, with a combined floor area of 24,855 sq. ft. (6.02 FAR), total lot coverage of 89-percent, a 5’-5” side yard, and a 97.4-percent streetwall to extend along street frontage of zoning lot as reflected on the BSA-approved plans;

THAT the buildings shall achieve a composite window/wall attenuation of 28 dBA for eastern and southern façades and 23 dBA for retail uses, alternative means of ventilation shall be incorporated into building design and construction, as reflected on BSA-approved plans;

THAT natural gas-fired hot water boilers shall emit no more than 30 ppm of NOx, as reflected on BSA-approved plans;

THAT all construction shall be in conformance with the LPC Certificate of Appropriateness No. 15-3120, dated

MINUTES

January 14, 2014;

THAT DOB will not issue a Certificate of Occupancy until the applicant has provided it with DEP's approval of the Remedial Closure Report; and

THAT substantial construction shall be completed in accordance with ZR § 72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 23, 2015.

335-14-BZ

CEQR #15-BSA-137M

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Trizc Hahn, owner; Soul Cycle Bryant Park LLC, lessee.

SUBJECT – Application December 31, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Soulcycle*) within portions of an existing commercial building. C5-3(MID)(T) zoning district.

PREMISES AFFECTED – 1065 Avenue of the Americas aka 5 Bryant Park, 101 West 40th Street, northwest corner of Avenue of the Americas and West 40th Street, Block 00993, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated December 23, 2014, acting on DOB Application No. 121184164, reads, in pertinent part:

ZR §§ 32-10, 73-36: Proposed Physical Culture or Health Establishment not permitted as-of-right in C5-3 districts...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-3 zoning district, within the Special Midtown District, a physical culture establishment (the “PCE”) on the first floor of a thirty-five story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on June 2, 2015, after due notice by publication in the *City Record*, and then to decision on June 23, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Ottley-Brown; and

WHEREAS, Community Board 5, Manhattan,

recommends approval of this application; and

WHEREAS, the subject site is an L-shaped lot located on the west side of Sixth Avenue between West 40th Street and West 41st Street, within a C5-3 zoning district, within the Special Midtown District; and

WHEREAS, the site has 200 feet of frontage along West 40th Street, 98.75 feet of frontage along Sixth Avenue, 75 feet of frontage along West 41st Street, and 27,152.5 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 35-story commercial building; and

WHEREAS, the proposed PCE will occupy 3,377 sq. ft. of floor area on the first floor of the building; and

WHEREAS, the PCE will be operated as SoulCycle; and

WHEREAS, the hours of operation for the PCE will be Monday through Saturday, from 5:30 a.m. to 11:00 p.m., and Sunday, from 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, the proposed PCE use is consistent with ZR §81-00, which is applicable to the Special Midtown District; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15-BSA-137M, dated December 31, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-3 zoning district, within the Special Midtown District, a physical culture establishment on the first floor of a thirty-five story commercial

MINUTES

building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to drawings filed with this application marked "December 31, 2014"- Four (4) sheets; *on further condition*:

THAT the term of the PCE grant will expire on June 23, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by June 23, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 23, 2015.

153-11-BZ

APPLICANT – Eric Palatnik, P.C., for Theodoros Parais, owner.

SUBJECT – Application September 21, 2011 – Reinstatement (§§11-411 & 11-412) to permit the continued operation of an automotive repair use (UG 16B); amendment to enlarge the existing one story building; Waiver of the Board's Rules. C1-3 zoning district.

PREMISES AFFECTED – 27-11 30th Avenue, between 27th Street and 39th Street. Block 575, Lot 23. Borough of Brooklyn.

COMMUNITY BOARD #4BK

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

343-12-BZ

APPLICANT – Akerman Senterfitt, LLP., for Ocean Ave Education Support, Inc., owner.

SUBJECT – Application December 19, 2012 – Variance (§72-21) to permit the construction of a Use Group 3 school (*Brooklyn School for Medically Frail Children*) with dormitory facilities in a split zoning lot, contrary to lot

coverage(§24-11), yard requirements (§24-382, §24-393, §24-33) and use regulations (§22-13). R1-2/R7A zoning district.

PREMISES AFFECTED – 570 East 21st Street, between Dorchester Road and Ditmas Avenue, Block 5184, Lot(s) 39, 62, 66, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to July 28, 2015, at 10 A.M., for continued hearing.

5-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Israel Ashkenazi & Racquel Ashkenazi, owner.

SUBJECT – Application January 9, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141); side yards (§23-461) and rear yard (§23-47) regulations. R3-2 zoning district.

PREMISES AFFECTED – 1807 East 22nd Street, east side of East 22nd Street between Quentin Road and Avenue R, Block 6805, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to July 28, 2015, at 10 A.M., for continued hearing.

182-14-BZ

APPLICANT – Eric Palatnik, PC, for Izhak Lati, owner.

SUBJECT – Application August 5, 2014 – Special Permit (§73-622) for the enlargement of an existing single family, two story dwelling contrary to floor area (ZR 23-141(b)); side yards (ZR 23-461) and less than the minimum rear yard (ZR 23-47). R5 zoning district.

PREMISES AFFECTED – 1977 Homecrest Avenue, between Avenue "S" and Avenue "T", Block 7291, Lot 136, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to July 21, 2015, at 10 A.M., for adjourned hearing.

204-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Wythe Berry LLC, owner.

SUBJECT – Application August 25, 2014 – Special Permit (§73-44) for reduction of required off-street parking spaces for proposed ambulatory diagnostic or treatment health care facilities (UG 4A) and commercial office use (UG 6B listed in Use Group 4 and PRC-B1. M1-2 Zoning District.

PREMISES AFFECTED – 55 Wythe Avenue, between North 12th Street and North 13th Street, Block 2283, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for adjourned hearing.

MINUTES

237-14-BZ

APPLICANT – Jeffrey A. Chester/GSHLLP, for 162nd Street Realty, LLC, owner; SPE Jamaica Avenue, LLC, lessee.

SUBJECT – Application October 1, 2014 – Special Permit (§73-36) to allow for the operation of a physical culture establishment (*Lucille Roberts*). C6-3 zoning district.

PREMISES AFFECTED – 162-01 Jamaica Avenue, corner of Jamaica Avenue and 162nd Street, Block 09761, Lot 0001, Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Off-Calendar.

258-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Henry Atlantic Partners LLC, owner.

SUBJECT – Application October 16, 2014 – Variance (§72-21) to permit the construction of a 4-story mixed-use building of an existing with commercial use on the first floor in a (R6) zoning district located in Cobble Hill Historic District.

PREMISES AFFECTED – 112 Atlantic Avenue, southeast corner of the intersection formed by Atlantic Avenue and Henry Street, Block 285, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Laid over to August 18, 2015, at 10 A.M., for continued hearing.

264-14-BZ

APPLICANT – Eric Palatnik, P.C., for GS 149 LLC, owner; Crunch LLC, lessee.

SUBJECT – Application October 24, 2014 – Special Permit (§73-36) to permit a physical culture establishment (*Crunch Fitness*) within portions of the existing commercial building. C4-4 zoning district.

PREMISES AFFECTED – 436 East 149th Street, south side of East 149th Street, approximately 215' west of intersection with Brook Avenue, Block 02293, Lot 46, Borough of Bronx.

COMMUNITY BOARD #1BX

ACTION OF THE BOARD – Laid over to July 21, 2015, at 10 A.M., for continued hearing.

270-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Carnegie Park land Holding LLC c/o Related Cos., owner; Equinox-East 92nd LLC, lessee.

SUBJECT – Application November 3, 2014 – Special Permit 73-36 to allow the physical culture establishment (*Equinox*) within portions of a new mixed use building, located within an C4-6 zoning district.

PREMISES AFFECTED – 203 East 92nd Street, north side of East 92nd Street, 80 ft. east of intersection with 3rd Avenue, Block 01538, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 14, 2015, at 10 A.M., for decision, hearing closed.

324-14-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for Kulwanty Pittam, owner.

SUBJECT – Application December 15, 2014 – Reinstatement (§11-411) for an automotive repair facility (UG 16B) granted under Cal. No. 909-52-BZ, expiring January 29, 2000; Amendment to permit the sale of used cars; Waiver of the Rules. C2-2/R5 zoning district.

PREMISES AFFECTED – 198-30 Jamaica Avenue, Southwest corner of Jamaica Avenue. Block 10829, Lot 56. Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Laid over to August 18, 2015, at 10 A.M., for continued hearing.

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**REGULAR MEETING
TUESDAY AFTERNOON, JUNE 23, 2015
1:00 P.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

101-14-BZ

APPLICANT – Moshe M. Friedman PE, for Bais Yaakov D.
Chassidei Gur, owner.

SUBJECT – Application May 8, 2015 – Variance (§72-21)
to permit the vertical extension of an existing not for profit
religious school. R5 zoning district.

PREMISES AFFECTED – 1975 51st Street, northwest
corner of 20th Avenue and 51st Street, Block 05462, Lot 45,
Borough of Brooklyn.

COMMUNITY BOARD #12BK

ACTION OF THE BOARD – Laid over to October
20, 2015, at 10 A.M., for continued hearing.

316-14-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for
United Talmudical Academy, owner.

SUBJECT – Application November 25, 2014 – Variance
(§72-21) to permit the enlargement of an existing Yeshiva
building (Talmudical Academy) for lot coverage (§24-11)
and rear yard (§24-36. R6 zoning district.

PREMISES AFFECTED – 115 Heyward Street, northern
side of Heyward Street between Lee Avenue and Bedford
Avenue, Block 02225, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Laid over to
September 1, 2015, at 10 A.M., for continued hearing.

9-15-BZ

APPLICANT – Francis R. Angelino, Esq., for West 62nd
Street LLC, owner; Bod Fitness NYC LLC, lessee.

SUBJECT – Application January 15, 2015 – Special Permit
(§73-36) to allow for a physical culture establishment (*Bod
Fitness*) at the building on a portion of the ground floor and
cellar of a new 54-story mixed use residential building. C4-7
Special Lincoln Square District.

PREMISES AFFECTED – 55 Amsterdam Avenue,
southeast corner of Amsterdam Avenue and West 62nd
Street, Block 1132, Lot 35, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to July 28,
2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

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*CORRECTION

This resolution adopted on May 19, 2015, under Calendar No. 303-14-BZ and printed in Volume 100, Bulletin No. 22, is hereby corrected to read as follows:

309-13-BZ

APPLICANT – Law office of Lyra J. Altman, for Miriam Josefovic and Mark Josefovic, owners.

SUBJECT – Application November 22, 2013 – Special Permit (73-622) for the enlargement of an existing single family home, contrary to floor area and open space (23-141); side yards (23-461) and less than the required rear yard (23-47). R2 zoning district.

PREMISES AFFECTED – 965 East 24th Street, east side of East 24th Street between Avenue I and Avenue J, Block 7588, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated October 23, 2013, acting on DOB Application No. 320551568, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141 in that the proposed floor area ratio exceeds the maximum permitted;
2. Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required;
3. Proposed plans are contrary to ZR 23-461 in that the proposed side yard is less than the minimum required;
4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, and side and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on February 3, 2015, after due notice by publication in *The City Record*, with continued hearings on March 3, 2015, March 24, 2015, and April 28, 2015, and then to decision on May 19, 2015; and

WHEREAS, Commissioner Montanez performed an inspection of the site and premises, as well as the surrounding neighborhood; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of East 24th Street, between Avenue I and Avenue J, within an R2 zoning district; and

WHEREAS, the site has 40 feet of frontage along East 24th Street and approximately 4,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story (with attic), single-family home with approximately 2,193 sq. ft. of floor area (0.55 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the building, resulting in an increase in the non-complying floor area from 2,193 sq. ft. (0.55 FAR) to 4,013 sq. ft. (1.0 FAR); the maximum permitted floor area is 2,000 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to reduce the non-complying open space ratio of the site from 128 percent to 60 percent; the minimum open space ratio is 150 percent; and

WHEREAS, the applicant seeks to maintain and extend its non-complying side yard and reduce the width of its complying side yard so that the existing widths of 4’-0” and 11’-0” respectively shall be reduced to 4’-0” and 9’-0”; the requirement is two side yards with a minimum total width of 13’-0” and a minimum width of 5’-0” each; and

WHEREAS, the applicant seeks to reduce its non-complying rear yard from 25’-0” to 23’-0”; the requirement is a minimum depth of 30’-0”; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, the applicant contends that the proposed FAR and rear yard are consistent with the neighborhood and submitted a land use study, photographic streetscapes and rear yard study in support of that contention; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, and side and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; on condition that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and

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marked “May 7, 2015”– (11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,013 sq. ft. (1.0 FAR), a minimum open space ratio of 60 percent, side yards with minimum widths of 4’-0” and 9’-0”, and a rear yard with a minimum depth of 23’-0”, as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by May 19, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 19, 2015.

*The resolution has been amended. **Corrected in Bulletin No. 27, Vol. 100, dated July 1, 2015.**

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Volume 100, Nos. 28-30

July 22, 2015

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139-15-BZ

10-24 154th Street, 154th Street between 10th and 11th Avenues, Block 04539, Lot(s) 061, Borough of **Queens, Community Board: 7**. Special Permit, (73-36) to allow the operation of a physical culture establishment (Life health Fitness) in the cellar within a two-story building with C2-2 commercial overlay, located within an R3-1/C2-2 zoning district. R3-1/C2-2 district.

140-15-BZ

118 West 27th Street, South side of West 27th Street, between Sixth and Seventh Avenue, Block 0802, Lot(s) 054, Borough of **Manhattan, Community Board: 5**. Variance (72-21) proposed to permit the residential conversion of a portion of the second floor, and the entirety of floors four, five and six of the twelve-story mixed-use building located within an M1-6 zoning district. M1-6 district.

141-15-A

219 Cheevers Lane, Bordered by Page Avenue, Block 07792, Lot(s) 0307, Borough of **Staten Island, Community Board: 3**. Proposed construction for fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 Section 36 of the General City Law, located within an R1-2 zoning district. R1-2 district.

142-15-A

215 Cheevers Lane, Bordered by Page Avenue, Block 07792, Lot(s) 0309, Borough of **Staten Island, Community Board: 3**. Proposed 15- single-family residential home not fronting on an legally mapped street, located within an R1-2 zoning district pursuant to Article 3 Section 36 of the General City Law. R1-2 district.

143-15-A

211 Cheevers Lane, Bordered by Page Avenue, Block 07792, Lot(s) 0310, Borough of **Staten Island, Community Board: 3**. Proposed construction for fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 of Section 36 of the General City Law, located within an R1-2 zoning district. R2-1 district.

144-15-A

207 Cheevers Lane, Bordered by Page Avenue, Block 07792, Lot(s) 0311, Borough of **Staten Island, Community Board: 3**. Proposed construction for fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 Section 36 of the General City Law, located within an R1-2 zoning district. R1-2 district.

145-15-A

205 Cheevers Lane, Boarder by Page Avenue, Block 07792, Lot(s) 0312, Borough of **Staten Island, Community Board: 3**. Proposed construction of fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 Section 36 of the General city Law, located within an dR11-2 zoning district. R2-1 district.

146-15-A

208 Cheevers Lane, Bordered by Page Avenue, Block 07792, Lot(s) 0314, Borough of **Staten Island, Community Board: 3**. Proposed construction for fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 Section 36 of the General City Law, located within an R1-2 zoning district. R2-1 district.

147-15-A

212 Cheevers Lane, Bordered by Page Avenue, Block 07792, Lot(s) 0315, Borough of **Staten Island, Community Board: 3**. Proposed construction for fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 Section 36 of the General City Law, located within an R1-2 zoning district. R2-1 district.

148-15-A

214 Cheevers Lane, Boarder by Page Avenue, Block 07792, Lot(s) 0316, Borough of **Staten Island, Community Board: 3**. Proposed construction for fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 Section 36 of the General City Law, located within an R1-2 zoning district. R1-2 district.

149-15-A

218 Cheevers Lane, Boarder by Page Avenue, Block 07792, Lot(s) 0317, Borough of **Staten Island, Community Board: 3**. Proposed construction for fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 Section 36 of the General City Law, located within an R1-2 zoning district. R1-2 district.

150-15-A

200 Cheevers Lane, Boarders by Page Avenue, Block 07792, Lot(s) 0436, Borough of **Staten Island, Community Board: 3**. Proposed construction for fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 Section 36 of the General city Law, Located within an R1-2 zoning district. R1-2 district.

DOCKETS

151-15-A

204 Cheevers Lane, Boarder by Page Avenue, Block 07792, Lot(s) 0437, Borough of **Staten Island, Community Board: 3**. Proposed construction for fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 of Section 36 of the General City Law, located within an R1-2 zoning district. R1-2 district.

152-15-A

77 Giegerich Avenue, Boarder by Page Avenue, Block 07792, Lot(s) 0438, Borough of **Staten Island, Community Board: 3**. Proposed construction for fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 Section 36 of the General City Law, located within an R1-2 district. R1-2 district.

153-15-A

73 Giegerich Avenue, Boarder by Page Avenue, Block 07792, Lot(s) 0439, Borough of **Staten Island, Community Board: 3**. Proposed construction for fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 of Section 36 of the General City Law, located within an R1-2 zoning district. R1-2 district.

154-15-A

69 Giegerich Avenue, Boarder by Page Avenue, Block 07792, Lot(s) 0440, Borough of **Staten Island, Community Board: 3**. GCL 36 Waiver: proposed construction of fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 of Section 36 of the General City Law located within an R1-2 zoning district. R1-2 district.

155-15-A

65 Giegerich Avenue, Boarder by Page Avenue, Block 07792, Lot(s) 0441, Borough of **Staten Island, Community Board: 3**. Proposed construction for fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 Section 36 of the general City Law, located within an R1-2 zoning district. R1-2 district.

156-15-BZ

18/20 East 50th Street, South side of East 50th Street, 70 feet west of Madison Avenue, Block 01285, Lot(s) 059, Borough of **Manhattan, Community Board: 5**. Special Permit (73-36) to reestablish a special permit to allow an existing physical culture establishment("PCE") within a portion of an existing eleven story commercial building located in a C5-2(MID) and C5-2(MID) zoning district. C5-3MID)C5-2.5 district.

157-15-BZ

3925 Bedford Avenue, East side of Bedford Avenue between Avenue R and Avenue S, Block 06831, Lot(s) 076, Borough of **Brooklyn, Community Board: 15**. Special Permit 73-622) to allow the enlargement of an existing single family residence located in a residential (R3-2) zoning district. R3-2 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

JULY 28, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, July 28, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

301-03-BZ

APPLICANT – Law Office of Lyra J. Altman, for 1103 East 22nd LLC., owner.

SUBJECT – Application April 29, 2014 – Extension of Time to Complete Construction and Waiver of the rules for a single family home enlargement under 73-622 approved on January 13, 2004. R2 Zoning district.

PREMISES AFFECTED – 1103 East 22nd Street, east side of East 22nd Street between Avenue J and Avenue K, Block 07604, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEALS CALENDAR

90-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP.,

SUBJECT – Application April 23, 2015 – Proposed construction of a building located partially within the bed of mapped unbuilt street, pursuant Article 3 Section 35 of the General City Law. M3-1 (SRD) zoning district.

PREMISES AFFECTED – 54 Industrial Loop, east side of Industrial Loop, approx. 483 ft. north of intersection with Arthur Kill Road, Block 07206, Lot 01191, Borough of Staten Island.

COMMUNITY BOARD #3SI

JULY 28, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, July 28, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

102-14-BZ

APPLICANT – Moshe M Friedman, P.E., for Cong. Tiferes Avraham D'Zidichov, owner.

SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the extension of house of worship (UG4) (*Congregation Tiferes Avraham D'Zidichov*) in an existing building on the lot of a three story brick building located within an R3-2zoning district.

PREMISES AFFECTED – 4017 Avenue P, northerly side of Avenue P 40' westerly from the corner of the Northerly side of Avenue and the Westerly side of Coleman Street, Block 07859, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #3BK

202-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Rochelle Beyda and Jack Yadid, owners.

SUBJECT – Application August 22, 2014 – Special Permit (§73-622) for the enlargement and existing two family home to be converted to a single family home contrary to floor area, lot coverage and open space (ZR 23-141); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R4 (OP) zoning district.

PREMISES AFFECTED – 2268 West 1st Street, west side of West 1st Street between Village Road South and Avenue West, Block 07151, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #15BK

55-15-BZ

APPLICANT – Elise Wagner, Kramer Levin Naftalis & Frankel LLP, for Alvin Alley Dance Foundation, lessee.

SUBJECT – Application March 13, 2015 – Variance (§72-21) to allow for the enlargement of a Alvin Alley Dance foundation's existing building to provide additional dance studios, classrooms, and offices, located within an R8/C1-5, C6-2 Clinton Preservation Area zoning district.

PREMISES AFFECTED – 405 West 55th Street, located on the northwest corner of Ninth Avenue and West 55th Street. Block 01065, Lot 29. Borough of Manhattan.

COMMUNITY BOARD #4M

Ryan Singer, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, JULY 14, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

268-03-BZ

APPLICANT – Eric Palatnik, P.C., for Park Circle Realty Associates, owner.

SUBJECT – Application October 9, 2014 – Extension of Term (§11-411) for the continued operation of an automotive service station which expired on January 27, 2014; Waiver of the Rules. C1-3/R3-2 zoning district.

PREMISES AFFECTED – 145-55 Guy Brewer Boulevard, south corner of Farmers Boulevard and Guy Brewer Boulevard, Block 13313, Lot 40 Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of term for a variance permitting the operation of an automotive service station, which expired on January 27, 2014, and to allow certain changes to the site plan; and

WHEREAS, a public hearing was held on this application on June 2, 2015 after due notice by publication in *The City Record*, and then to decision on July 14, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, the Board has exercised jurisdiction over the site since March 23, 1954, when, under BSA Cal. No. 704-53-BZ, it issued a resolution authorizing the use of the premises as an automotive service station; and

WHEREAS, the original grant expired on April 19, 1998 and was not renewed; and

WHEREAS, on January 27, 2004, under BSA Cal. No. 268-03-BZ, the Board granted an application to re-establish the variance to permit the automotive service station use, to legalize the then-existing air station, vacuum and beverage machines at the site, and to modify the then-existing signage at the site; and

WHEREAS, the term of the January 27, 2004 variance expired on January 27, 2014; and

WHEREAS, accordingly, the applicant now seeks a ten-year extension of the term; and

WHEREAS, at hearing, the Board directed the applicant to: (1) remove excess signage at the site; (2) provide a map

showing the distance between the subject carwash and neighboring residential uses; (3) provide photographs demonstrating that the site is well maintained; and (4) provide proof that open FDNY violations have been cured; and

WHEREAS, in response, the applicant removed the excess signage from the site; provided a map showing that the nearest residential uses to the site were located between 80 feet and 118 feet of the existing service station; provided photographs showing that the site is well maintained; and stated that the FDNY notice of violation dated March 14, 2014 was cured upon a system test on October 10, 2014; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made for an extension of term with certain changes to the site plan.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated January 27, 2004, so that as amended the resolution reads: “to permit an extension of the term of the variance for an additional ten years from the prior expiration, to expire on January 27, 2024 and to allow certain changes to the site plan; *on condition on condition* that all work will substantially conform to drawings, filed with this application marked ‘Received April 13, 2015’ – Three (3) sheets; and on further condition:

THAT the term of the variance shall expire on January 27, 2024;

THAT the signage shall comply with C1 zoning district regulations;

THAT the above conditions and the conditions from the prior approval shall be noted on the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by July 14, 2016;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s); and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, July 14, 2015.

1207-66-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Apple Art Supplies of New York, LLC., owner.

SUBJECT – Application December 10, 2014 – Extension of Term of a previously granted variance for the continued operation of a UG6 art supply and bookstore which expired July 5, 2012; Waiver of the Rules. R6 zoning district.

PREMISES AFFECTED – 305 Washington Avenue aka 321 DeKalb Avenue, northeast corner of Washington Avenue & DeKalb Avenue, Block 1918, Lot 7501, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for adjourned hearing.

MINUTES

173-92-BZ

APPLICANT – Simons & Wright LLC, for Bremen House, Inc., owner.

SUBJECT – Application January 17, 2014 – Extension of Term of a previously approved Special Permit (§73-36) permitting the operation of martial arts studio which expires on January 24, 2014; Amendment to permit the relocation of the facility from the 2nd floor to the cellar. C2-8A zoning district.

PREMISES AFFECTED – 220 East 86th Street, 86th Street between 2nd and 3rd Avenues, Block 01531, Lot 38, Borough of Manhattan

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

17-93-BZ

APPLICANT – Fox Rothschild, LLC., for Lincoln Square commercial Holding, owner; Equinox SC Upper West Side, Inc., lessee.

SUBJECT – Application January 15, 2015 – Extension of Term of a previously approved Special Permit (§73-36) which permitted the operation of a physical culture establishment which expired June 7, 2014; Amendment to reflect a change in ownership; Waiver of the Rules. C4-7 zoning district.

PREMISES AFFECTED – 160 Columbus Avenue aka 1992 Broadway, block bounded by Broadway, Columbus Avenue, West 67th Street and West 68th Street, Block 01139, Lot(s) 24, 7503, Borough of Manhattan.

COMMUNITY BOARD #7M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 1, 2015, at 10 A.M., for decision, hearing closed.

84-93-BZ

APPLICANT – Sheldon Lobel P.C., 671 Timpson Realty corp./Timpson Salvage Corp., owner.

SUBJECT – Application December 1, 2014 – Extension of Term of a previously Variance (§72-21) permitting the operation of a Use Group 18B scrap, metal, junk, paper or rags, storage sorting, and bailing facility, which expired on November 15, 2015. C8-3 zoning district.

PREMISES AFFECTED – 671-677 Timpson Place, West of the intersection formed by Timpson Place, Bruckner Boulevard and Leggett Avenue, Block 2603, Lot(s) 190, 192, Borough of Bronx.

COMMUNITY BOARD #2BX

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for continued hearing.

122-93-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 895 Broadway LLC, owner.

SUBJECT – Application September 24, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of physical culture establishment (*Equinox*) which expired on September 20, 2014; Amendment to permit the expansion of the use into the second floor. M1-5M zoning district.

PREMISES AFFECTED – 895 Broadway, west side of Broadway, 27.5’ south of intersection of Broadway and E. 20th Street, Block 00848, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for decision, hearing closed.

146-96-BZ

APPLICANT – Stroock & Stroock & Lavan, LLP., for Scholastic 557 Broadway, LLC., owner.

SUBJECT – Application February 19, 2015 – Amendment of a previously approved Variance (§72-21) to permit the relocation of the building lobby from Broadway to Mercer Street and the conversion of an existing office lobby to retail space. M1-5B zoning district.

PREMISES AFFECTED – 557 Broadway aka 128-130 Mercer Street, west side of Broadway, 101’ south of the corner formed by the intersection of Prince Street and Broadway, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Laid over to September 1, 2015, at 10 A.M., for continued hearing.

156-03-BZ

APPLICANT – Goldman Harris LLC., for Flushing Square, LLC., lessee.

SUBJECT – Application March 10, 2015 – Extension of Time to Complete Construction of a previously granted Variance (72-21) for the construction of a seventeen story mixed-use commercial/community facility/residential condominium building which expires on January 31, 2016; Amendment. R6/C2-2 zoning district.

PREMISES AFFECTED – 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard, Block 04958, Lot(s) 48,38, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for continued hearing.

MINUTES

127-15-BZ

APPLICANT – Goldman Harris LLC., for Flushing Square, LLC., owner.

SUBJECT – Application May 29, 2015 – Special Permit (§73-66) to permit the construction of building in excess of the height limits established pursuant Z.R. §§61-211 & 61-22. The proposed building was approved by the Board pursuant to BSA Calendar Number 156-03-BZ. C2-2/R6 zoning district

PREMISES AFFECTED – 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard, Block 04958, Lot(s) 48, 38, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

3-15-A

APPLICANT – Edward Lauria, for Jeff Schaffer, owner.

SUBJECT – Application January 7, 2015 – Proposed construction does not front on a legally mapped street contrary Section 36, of the General City Law, and 502.1 2008, building Code. M1-1SRD zoning district.

PREMISES AFFECTED – 47 Trioka Way, west side of Trioka Way, 124.11’ north of Winant Avenue, Block 7400, Lot 85, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”) dated December 15, 2014 acting on DOB Application No. 520211002, reads in pertinent part:

The street giving access to the proposed building is not duly placed the official map of the City of New York, therefore,

- A) No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 of the General City Law;
- B) Proposed construction does not have at least 8% of the total perimeter of building(s) fronting directly upon a legally mapped street or frontage space contrary to section 502.1 of the 2008 Building Code; and

WHEREAS, this is an application to allow the construction of a single-story commercial building which does not front on a mapped street, contrary to General City Law (“GCL”) § 36; and

WHEREAS, a public hearing was held on this application on June 2, 2015, after due notice by publication in *The City Record*, continued hearing, and then to decision on

July 14, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 3, Staten Island, recommended approval of this application; and

WHEREAS, the subject site is located south of Sharrots Road, north of Winant Place and east of Arthur Kill Road, within an M1-1 zoning district, within the Special South Richmond Development District; and

WHEREAS, the applicant proposes to construct a single-story concrete block with metal wall and roof commercial building with 15,120 sq. ft. of floor area, consisting of ten storage units / contractor’s establishments each of which will contain 1,512 sq. ft. of floor area; and

WHEREAS, by letter dated May 6, 2015, the Fire Department states that it has no objection to the proposal under the following conditions: (1) that all ten storage unit / contractor’s establishments are to be fully sprinklered in conformity with the sprinkler provisions found in the New York City Fire Code and the New York City Building Code; (2) that no parking shall be allowed at the entrance of each storage unit / contractor’s establishments indicated by yellow reflective paint diagonally stripped at a distance of 8’-0”; (3) that a 30’-0” wide fire apparatus access lane with no standing allowed shall be provided at both curb cut entrance ways travelling the distance of the parking area indicated by yellow reflective paint; (4) that a Siamese location shall be as indicated per F.D.N.Y. Site Plan A-001.00; and (5) that a fire hydrant shall be installed as per F.D.N.Y. Site Plan A-001.00 *Notes* in compliance with DEP regulations; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant approval of the application subject to certain conditions set forth herein.

Therefore it is Resolved, that the decision of the DOB, dated December 15, 2014, acting on DOB Application No. 520211002, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received June 9, 2015”-(1) sheet; that the proposal will comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT all ten storage unit / contractor’s establishments are to be fully sprinklered in conformity with the sprinkler provisions found in the New York City Fire Code and the New York City Building Code;

THAT no parking shall be allowed at the entrance of each storage unit / contractor’s establishments indicated by yellow reflective paint diagonally stripped at a distance of 8’-0”;

THAT a 30’-0” wide fire apparatus access lane with no standing allowed shall be provided at both curb cut entrance

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ways travelling the distance of the parking area indicated by yellow reflective paint;

THAT a Siamese location shall be as indicated per F.D.N.Y. Site Plan A-001.00;

THAT a fire hydrant shall be installed as per DEP requirements and as per F.D.N.Y. Site Plan A-001.00;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals July 14, 2015.

199-14-A

APPLICANT – Alfonso Duarte, for Hector Florimon, owner.

SUBJECT – Application August 20, 2014 – Proposed legalization of accessory parking in open portion of site that lies within a bed of mapped street pursuant to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 102-11 Roosevelt Avenue, North side 175.59’ west of 103rd Street, Block 01770, Lot 47, Borough of Queens.

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

271-14-A thru 282-14-A

APPLICANT – Eric Palatnik, P.C., for 91 Seguire Avenue LLC, owner.

SUBJECT – Application November 3, 2014 – To permit the proposed development consisting of seven one family homes and one-two family home, contrary Article 3 Section 36 of the General City Law. R3X zoning district.

PREMISES AFFECTED – 15, 25, 26, 35, 36, 45, 46, Patricia Court, bound by Seguire Avenue, MacGregor Avenue, Herbert Street, Holton Avenue, Block 06680, Lot (s) 80, 9, 6, 8, 7, 24, 25, 26 Herbert Court, Block 06680, Lot 23, Borough of Staten Island.

COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for decision, hearing closed.

325-14-A

APPLICANT – Eric Palatnik, P.C., for Michael Esposito, owner.

SUBJECT – Application December 15, 2014 – Proposed construction of a mixed use building located partly within the bed of a mapped street contrary to article 3, Section 35 of the General City Law. C4-2/R6 zoning district.

PREMISES AFFECTED –631 Bay Street, between Canal Street and Thompson Street, Block 00494, Lot 10, Borough of Staten Island.

COMMUNITY BOARD #1SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 1, 2015, at 10 A.M., for decision, hearing closed.

ZONING CALENDAR

171-14-A

APPLICANT – Law Office of Steven Simicich, for Dxngrnt2, LLC, owner.

SUBJECT – Application July 22, 2014 – Proposed construction of a single family detached home on the site which a portion is located within the bed of a mapped street, pursuant to the General City Law 35 and requires a waiver under ZR Section 72-01(g).

PREMISES AFFECTED – 235 Dixon Avenue, corner of Dixon and Granite Avenue, Block 1172, Lot 244, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Application withdrawn.

Adopted by the Board of Standards and Appeals, July 14, 2015.

1-15-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Manhattan Country School (contract vendee).

SUBJECT – Application January 2, 2015 – Variance (§72-21) proposed enlargement of an existing school structure to be used by the Manhattan Country School which will exceed permitted floor area and exceeds the maximum height. R8B zoning district.

PREMISES AFFECTED – 150 West 85th Street, southerly side of West 85th Street between Columbus Avenue and Amsterdam Avenue, Block 1215, Lot 53, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

MINUTES

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated March 26, 2015, acting on Department of Buildings Application No. 122142216, reads in pertinent part:

1. Proposed enlargement is not permitted – it creates new or increase existing degree of non-compliances . . . contrary to requirements of ZR 54-31:
 - a. Increase of existing degree of zoning non-compliance for zoning floor area is proposed from 5.8 to 6.3 (contrary to ZR 24-11 – the maximum floor area ratio for a community facility use shall not exceed 4.0)
 - b. Creating of new zoning non-compliance for the maximum building height is proposed (contrary to ZR 24-522(b) and ZR 23-633 – the maximum building height shall not exceed 75 feet)
 - c. The exterior stair is not permitted obstruction in the required rear yard (ZR 24-33); and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site located within an R8B zoning district, the proposed enlargement of an existing building which does not comply with zoning regulations for floor area, height and setback and rear yard, contrary to ZR §§ 24-11, 24-522, 23-633, and 24-33; and

WHEREAS, a public hearing was held on this application on April 28, 2015, after due notice by publication in the *City Record*, with continued hearings on June 2, 2015, and then to decision on July 14, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 7, Manhattan, recommended disapproval of the application; and

WHEREAS, certain members of the community, including members of the West 85th Street Block Association, testified at the hearing and provided testimony in opposition to the application (collectively, the “Opposition”), citing the following primary concerns: (1) the proposed increase in the height of the building; (2) the impact of the bulk of the proposed building on light and air; (3) the noise and traffic associated with the applicant’s use of the subject site; (4) the persistence of refuse and its attendant nuisances (odor, rodents, etc.) on the public sidewalks along West 85th Street and neighbors’ anticipation of increased refuse; and (5) the impact of the construction associated with the proposed enlargement; and

WHEREAS, this application is brought on behalf of the West 85th Street Owner LLC (the “Applicant”), and the subject building will be occupied by the Manhattan Country School (the “School”), a non-profit educational institution founded in 1966; and

WHEREAS, the Applicant represents that the School offers classes from pre-Kindergarten through 8th grade and is

recognized as a model of both progressive education and socioeconomic and racial diversity;

WHEREAS, the Applicant states that the School currently operates in a five-story townhouse located at 7 East 96th Street, in Manhattan, an individually designated New York City landmark which, as such, is under the jurisdiction of the New York City Landmarks Preservation Commission; and

WHEREAS, the Applicant notes that the School’s existing facility contains approximately 18,000 sq. ft. of floor area and cannot accommodate more than two classrooms per grade or support specialized classrooms for art and science and, as such, it is inadequate to meet the School’s programmatic needs; and

WHEREAS, the subject site is located within an R8B zoning district, with approximately 75 feet of frontage along the south side of West 85th Street, between Columbus Avenue and Amsterdam Avenue, and has approximately 6,564 sq. ft. of lot area; and

WHEREAS, the site is currently occupied by a four-story, three mezzanine building with a height equivalent to a seven-story building; it was initially constructed as a club house with four floors, three of which were double-height, and was enlarged in the 1980s to accommodate the Mannes College of Music; and

WHEREAS, the Applicant states that previous enlargement of the building included the splitting of two of the double-height floors, resulting in floor heights which are insufficient for a school; and

WHEREAS, the Applicant proposes to renovate the subject building to accommodate the School’s programmatic needs; and

WHEREAS, specifically, the Applicant proposes to divide the double-height interior spaces into single-height spaces; create a 20’-6” by 23’ cut out for an interior courtyard starting at the fourth floor of the building with skylights to the third floor; expand the sixth floor of the building and construct a penthouse; and extend the egress stair in the rear yard of the building; and

WHEREAS, the proposed enlargement will consist of 4,452 sq. ft. (5,394 sq. ft. will be added to the building but 942 sq. ft. of floor area will be removed); and

WHEREAS, the proposed building will have a total floor area of 39,539 sq. ft. (6.03 FAR) (the maximum permitted FAR is 4.0); a height of 85’-3 ½” (a maximum building height of 75’-0” is permitted) and no setback (a 15’-0” setback is required at 60 feet thus the degree of noncompliance with this requirement will be increased); and an exterior stair which is not a permitted obstruction into the rear yard of the building; and

WHEREAS, because the proposed enlargement does not comply with the applicable bulk regulations in the subject zoning district, the applicant seeks the requested variance; and

WHEREAS, the Applicant states that the variance is necessary to meet the School’s programmatic need to provide classroom space sufficient to fulfill the School’s curriculum; provide adequate light and air to classrooms; create a communal space necessary to advance the School’s mission; and provide for specialized spaces for the School’s Science,

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Technology, Engineering, Art and Math program (the “STEAM program”), which will enable the School to remain with similar institutions; and

WHEREAS, the Applicant asserts that an as-of-right alteration of the building would not satisfy the School’s programmatic needs; and

WHEREAS, specifically, the applicant states that the as-of-right configuration results in a building with 35,346 sq. ft. of floor area with inadequate classroom space, insufficient light and air and no pre-kindergarten or kindergarten classrooms; and

WHEREAS, the Applicant considered a lesser variance in which the floor area of the building was increased without enlarging the envelope of the building (the “Lesser Variance”) and notes that the Lesser Variance does not meet the School’s programmatic needs to have adequate light and air in the classrooms or a communal space in which students can participate in group activities; and

WHEREAS, thus, the Applicant contends that the requested waivers are both modest and essential to the School’s ability to meet its programmatic needs; and

WHEREAS, the Board acknowledges that the School, as an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in *Cornell Univ. v Bagnardi*, 68 NY2d 583 (1986), an educational institution’s application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the School along with the existing constraints of the site create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the School is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant represents that, pursuant to ZR § 72-21(c), the variance, if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the Applicant states that the use of the proposed building is permitted as-of-right in the subject zoning district and that the site has been used for community facility and school use since 1928;

WHEREAS, the Applicant notes that the proposed rooftop addition is set back from the street and has a sloping roof and states that, in response to opposition from neighbors, has been reduced to a height of 13’-6”;

WHEREAS, the Applicant states that the rooftop

enclosure for the play area at the rear of the proposed building’s roof will be constructed of a wire mesh that will impede neither light nor air, and that such enclosure shall not be lighted at night; and

WHEREAS, accordingly, the Applicant asserts that the proposal will have no negative impacts on the surrounding neighborhood; and

WHEREAS, the Board agrees with the applicant that the proposal will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Applicant states that, per ZR § 72-21(d), the hardship was not self-created; and

WHEREAS, the Board finds that the hardship herein was not created by the School or the Applicant; and

WHEREAS, the Applicant represents that, consistent with ZR § 72-21(e), the requested waivers are the minimum necessary to accommodate the School’s current and projected programmatic needs; and

WHEREAS, the Board notes that the Lesser Variance, in which the floor area of the existing building is increased without enlarging the envelope of the existing building, would not provide adequate light and air to the School’s classrooms and would not meet the School’s programmatic need for a courtyard space in which students can gather and work in groups; and

WHEREAS, the Board finds that the requested relief is the minimum necessary to allow the School to fulfill its programmatic needs; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action noted in the CEQR Checklist dated January 2, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R8B zoning district, the proposed enlargement of an existing building which does not comply with zoning regulations for floor area, height and setback and rear yard contrary to ZR §§ 24-11, 24-522, 23-633, and 24-33, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received July 9, 2015”—nineteen (19) sheets; and *on further condition*:

THAT the site shall be limited to a maximum floor area of 39,539 sq. ft. (6.03 FAR) and the total height of the building shall be limited to 85’-3 ½”, exclusive of bulkheads, parapets and play area enclosure, as illustrated on the BSA-approved

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plans;

THAT the penthouse shall be set back 11'-1" from the street wall; and

THAT any change in the use, occupancy, or operator of the School shall require the Board's approval;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by July 14, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 14, 2015.

222-13-BZ

APPLICANT – Eric Palatnik, P.C., for 2464 Coney Island Avenue, LLC, owner.

SUBJECT – Application July 23, 2013 – Special Permit (§73-44) to allow the reduction of required parking for the use group 4 ambulatory diagnostic treatment healthcare facility. C8-1/R5 zoning district.

PREMISES AFFECTED – 2472 Coney Island Avenue, southeast corner of Coney Island Avenue and Avenue V, Block 7136, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for decision, hearing closed.

322-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Gloria B. Silver, owner.

SUBJECT – Application December 18, 2013 – Reinstatement (§11-411) of a previously approved variance which permitted accessory parking on the zoning lot for the use Group 6 commercial building, which expired on September 23, 1990; Waiver of the Rules. R6/C1-2 and R6 zoning district.

PREMISES AFFECTED – 42-01 Main Street, southeast corner of the intersection of Main Street and Maple Avenue, Block 5135, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for continued hearing.

64-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Moshe Dov Stern & Goldie Stern, owners.

SUBJECT – Application April 29, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1320 East 23rd Street, west side of East 23rd Street between Avenue M and Avenue N, Block 7658, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for decision, hearing closed.

148-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 11 Avenue A Realty LLC, owner.

SUBJECT – Application June 24, 2014 – Variance (§72-21) to permit multi-family residential use at the premises. R8A/C2-5 zoning districts.

PREMISES AFFECTED – 11 Avenue A, west side of Avenue A between East 1st Street and East 2nd Street, Block 429, Lot 39, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for continued hearing.

172-14-BZ

APPLICANT – Law Office of Steven Simicich, for Dxngrnt2, LLC, owner.

SUBJECT – Application July 22, 2014 – Variance (§72-21) to allow for the reduction in the required front yard fronting from 10' to 4'. R3A zoning district.

PREMISES AFFECTED – 235 Dixon Avenue, corner of Dixon and Granite Avenue, Block 1172, Lot 244, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to July 28, 2015, at 10 A.M., for deferred decision.

260-14-BZ

APPLICANT – Goldman Harris LLC, for The Chapin School, Ltd., owner.

SUBJECT – Application October 17, 2014 – Variance (§72-21) to permit the construction of a three-story enlargement to the existing school, contrary to floor area, rear yard, height and setback requirements. (R8B/R10A) zoning districts.

PREMISES AFFECTED – 100 East End Avenue aka 106 East End Avenue, Block 1581, Lot 23, Borough of

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Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to September 1, 2015, at 10 A.M., for continued hearing.

270-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Carnegie Park land Holding LLC c/o Related Cos., owner; Equinox-East 92nd LLC, lessee.

SUBJECT – Application November 3, 2014 – Special Permit 73-36 to allow the physical culture establishment (*Equinox*) within portions of a new mixed use building, located within an C4-6 zoning district.

PREMISES AFFECTED – 203 East 92nd Street, north side of East 92nd Street, 80 ft. east of intersection with 3rd Avenue, Block 01538, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO REOPEN HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for continued hearing.

REGULAR MEETING TUESDAY AFTERNOON, JULY 14, 2015 1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

14-15-BZ

APPLICANT – Warshaw Burstein, LLP., for 1566 Westchester Avenue Associates, LLC., owner; 1560 Westchester Avenue Fitness Group, LLC.; lessee.

SUBJECT – Application January 22, 2015 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) within an existing building to be enlarged. C4-2 zoning district.

PREMISES AFFECTED – 1560 Westchester Avenue, southeast corner of Ward Avenue and Westchester Avenue, Block 03742, Lot 40, Borough of Bronx.

COMMUNITY BOARD #9BX

ACTION OF THE BOARD – Application withdrawn.

Adopted by the Board of Standards and Appeals, July 14, 2015.

15-15-BZ

APPLICANT – Warshaw Burstein, LLP., for 1160 Ward Avenue, LLC, owner; 1560 Westchester Avenue Fitness Group, LLC.; lessee.

SUBJECT – Application January 22, 2015 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) within an existing building to be enlarged. C4-2 zoning district.

PREMISES AFFECTED – 1160 Ward Avenue, southeast corner of Ward Avenue and Westchester Avenue, Block 03742, Lot 38, Borough of Bronx.

COMMUNITY BOARD #9BX

ACTION OF THE BOARD – Application withdrawn.

Adopted by the Board of Standards and Appeals, July 14, 2015.

108-14-BZ

APPLICANT – Sheldon Lobel, P.C., for UD 736 Broadway LLC, owner.

SUBJECT – Application May 22, 2014 – Variance (§72-21) to permit Use Group 6 commercial uses on the first floor and cellar of the existing building. M1-5B zoning district.

PREMISES AFFECTED – 736 Broadway, east side of Broadway approximately 117' southwest of the intersection formed by Astor Pace and Broadway, Block 00545, Lot 22, Borough of Manhattan.

COMMUNITY BOARD #2M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 1, 2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director

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*CORRECTION

This resolution adopted on May 19, 2015, under Calendar No. 186-14-BZ and printed in Volume 100, Bulletin No. 22, is hereby corrected to read as follows:

186-14-BZ

CEQR #15-BSA-043K

APPLICANT – Law Office of Lyra J. Altman, for Bond Street Owner, LLC, owners.

SUBJECT – Application August 15, 2014 – Variance (§72-21) to permit the construction of a new hotel building with ground floor retail contrary to allowable commercial floor area (ZR 33-122) located within C6-1/R6B District in the Special Downtown Brooklyn District.

PREMISES AFFECTED – 51-63 Bond Street, aka 252-270 Schermerhorn Street, southeast corner of Bond Street and Schermerhorn Street, Block 172, Lot(s) 5, 7, 10, 13, 14, 15, 109, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.....4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated August 7, 2014, acting on DOB Application No. 320914221, reads in pertinent part:

Commercial Floor Area in proposed building exceeds the maximum permitted 6.0 contrary to ZR 33-122; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within a C6-1 zoning district, and partially within an R6B zoning district, within the Special Downtown Brooklyn District, the construction of a 13-story hotel (Use Group 5) with ground floor retail (Use Group 6) that does not comply with the zoning requirements for floor area ratio (“FAR”), contrary to ZR § 33-122; and

WHEREAS, a public hearing was held on this application on February 10, 2015, after due notice by publication in the *City Record*, with continued hearings on March 24, 2015 and April 28, 2015, and then to decision on May 19, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 2, Brooklyn, recommends disapproval of this application, citing concerns regarding the extent of the floor area waiver, the number of hotel rooms, and the impact of the proposal on vehicular traffic; and

WHEREAS, certain members of the surrounding community testified in opposition to the application (the “Opposition”), citing the following concerns: (1) an increase in

pedestrian and vehicular traffic, refuse, and noise; (2) the proposed hotel entrance on Bond Street; (3) the proposed outdoor space on the south side of the building adjacent to the residential buildings; (4) the additional floor area for the hotel and number of hotel rooms, which are inconsistent with the low-rise, residential character of many surrounding streets; (5) the uniqueness of the subway tunnel below the site, which is common in the neighborhood; and (6) the depth of excavation adjacent to the residential buildings south of the site; and

WHEREAS, certain members of the surrounding community, including the Brooklyn Academy of Music, the Brooklyn Ballet, Urban Glass, and the Downtown Brooklyn Partnership, testified in support of the application; and

WHEREAS, the subject site is an irregular lot located on the southeast corner of the intersection of Bond Street and Schermerhorn Street, partially within a C6-1 zoning district, and partially within an R6B zoning district, within the Special Downtown Brooklyn District; the irregular shape of the site is due to its varying depths, which step down at right angles (corresponding in some cases to historic tax lot lines) and range from 51 feet (measured from the northeast corner of the site) to 105 feet (measured from the northwest corner of the site); and

WHEREAS, the site comprises Tax Lots 5, 7, 10, 13, 14, 15, and 109, has 105 feet of frontage along Bond Street and 210 feet of frontage along Schermerhorn Street, and has 17,960 sq. ft. of lot area; and

WHEREAS, the applicant notes that, per ZR § 77-11, the use and bulk regulations applicable in the C6-1 portion of the site are applicable within the R6B portion of the site, because: (1) the site existed as a zoning lot prior to the amendment that created the split-lot condition; and (2) the R6B portion of the site is both less than 50 percent of area of the entire site and less than 25 feet from the district boundary; thus, Use Group 5 and Use Group 6 uses are permitted as-of-right throughout the site; and

WHEREAS, the site is vacant; the applicant represents that it has been used for parking since at least 1968; and

WHEREAS, the applicant proposes to construct a 13-story hotel (Use Group 5) with ground floor retail (Use Group 6), with 154,947 sq. ft. of floor area (8.63 FAR), a building height of 139’- 4” (excluding bulkheads and parapets), 287 hotel rooms, a large event space (“Ballroom”), a restaurant and bar, and an accessory fitness center; and

WHEREAS, in order to construct the building as proposed, the applicant seeks a waiver of ZR § 33-122, which limits commercial floor area at the site to 6.0 FAR; and

WHEREAS, the applicant states that, in accordance with ZR § 72-21(a), the presence of an MTA subway tunnel and access mezzanine directly below approximately 70 percent of the site is a unique physical condition that creates practical difficulties and unnecessary hardships in developing the site in compliance with the floor area regulations; and

WHEREAS, the applicant states that an MTA subway tunnel and an access mezzanine (“MTA Encumbrances”) are located directly below 70 percent of the site; and

WHEREAS, the applicant submitted a diagram illustrating that the MTA Encumbrances occupy a trapezoidal portion of the site, with the trapezoid’s parallels running

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parallel to Bond Street, forming right angles with the northern lot line (along Schermerhorn Street) and the trapezoid's diagonal beginning approximately 66 feet south of the intersection of Bond and Schermerhorn and terminating approximately 50 feet south of the northeast corner of the site; thus, the MTA Encumbrances occupy the entire regular (rectangular) portion of the irregularly-shaped site; and

WHEREAS, in addition, the applicant states that the MTA Encumbrances occur at various depths; at the northwest corner of the site, the top of the mezzanine is seven feet below grade; the tunnel occupies the balance of the encumbered portion of the site and its top is located between 11 and 14 feet below grade (except for a small triangular portion along Schermerhorn Street, where the top of the tunnel is 16 feet below grade); and

WHEREAS, the applicant asserts that the extent and nature of the MTA Encumbrances is unique; in support of this assertion, the applicant submitted a land use study of nine development sites (along Schermerhorn Street between Jay Street-Smith Street and Flatbush Avenue) that are encumbered by MTA tunnels and related facilities; and

WHEREAS, the study reflects that none of the comparable sites have the site's substantial encumbrance at such shallow depths; and

WHEREAS, the applicant states that the MTA Encumbrances create practical difficulties and unnecessary hardship, because a traditional foundation system with a full cellar for the hotel cannot be constructed; as such, back-of-house hotel functions that would typically occupy the below-grade levels (hotel administration space, kitchen, and fitness center) must be provided above grade, thereby reducing the amount of floor area available for hotel rooms; and

WHEREAS, in addition, preserving and protecting the MTA property results in premium construction costs; and

WHEREAS, the applicant states that, according to its engineering consultants, the diagonal location and depth of the subway tunnel and mezzanine significantly increases the complexity of the subgrade construction, including the type of foundation system, how the loads are distributed, the depth of excavation, the volume of excavation, the pile type, and the quantity of piles, concrete and reinforcing bar; due to the diagonal orientation of the tunnel, major foundation structure can only be placed on one side of the tunnel and separate systems are required to transfer gravity loads and deliver lateral loads to the portion of the foundation adjacent to the tunnel; and

WHEREAS, the applicant's consultant opines that the proposed foundation system is unique to the site and not found in any other building in the city; and

WHEREAS, in addition, the applicant states that the MTA: (1) prohibits driven piles in the vicinity of the tunnel; instead, drilled piles (which are more expensive) must be utilized; (2) requires extensive monitoring for noise and vibration during construction; and (3) requires elastomeric pads beneath all vertical load carrying element that rest on the tunnel (to isolate the lateral loads from the tunnel structure); and

WHEREAS, the applicant estimates its premium construction costs related to the MTA Encumbrances to be

\$20,522,000; and

WHEREAS, to illustrate the effect of the site's unique hardship, the applicant studied the feasibility of: (1) a complying development at the site with the MTA Encumbrances; and (2) a complying development at the site without the MTA Encumbrances; and

WHEREAS, the applicant concluded that developing the site with the MTA Encumbrances and without the floor area waiver resulted in a nine-story building with 107,196 sq. ft. of floor area (6.0 FAR), a building height of 100'-8" (excluding bulkheads and parapets), and 169 hotel rooms; in contrast, developing the site without the MTA Encumbrances and without the floor area waiver resulted in a nine-story building with 107,196 sq. ft. of floor area (6.0), a building height of 100'-8" (excluding bulkheads and parapets), and 178 hotel rooms; thus, the unencumbered site would yield nine more hotel rooms, because back-of-house functions could be placed in the cellar, and the additional space above grade could be devoted to hotel rooms; and

WHEREAS, at hearing, the Board questioned whether locating the Ballroom on the second story contributed significantly to the premium construction costs and directed the applicant to explore a design that located the Ballroom on the 12th story and a design that omitted the Ballroom entirely; in addition, the Board requested additional information regarding the back-of-house operations; and

WHEREAS, in response, the applicant provided plans showing the relocation of the Ballroom; such plans reflect that two additional elevators would be required, resulting in a loss of 28 hotel rooms; as for the no-Ballroom scheme, the applicant contends (and supports with financial analysis) that the hotel rooms would, on average, rent for substantially less without the Ballroom; as such, the applicant asserts and the Board agrees that neither relocating the Ballroom, nor eliminating it completely yields a feasible development;

WHEREAS, the applicant also provided the programming for the back-of-house spaces within the hotel; and

WHEREAS, based upon the above, the Board finds that the MTA Encumbrances are a unique physical condition that create unnecessary hardship in developing the site in compliance with the floor area regulations; and

WHEREAS, the applicant contends that, per ZR § 72-21(b), there is no reasonable possibility of development of the site in compliance with the Zoning Resolution; and

WHEREAS, as noted above, the applicant studied the feasibility of: (1) a complying hotel at the site; (2) a complying hotel at the site without the MTA Encumbrances; (3) the proposal with the Ballroom on the 12th story instead of the second story; (4) a 12-story hotel with 149,589.27 sq. ft. of floor area (8.33 FAR) and no Ballroom; and (5) the proposal; and

WHEREAS, the applicant states that only the proposal would realize a reasonable rate of return on investment; and

WHEREAS, based upon its review of the applicant's economic analysis, the Board has determined that because of the site's unique physical conditions, there is no reasonable possibility that development in compliance with the floor area

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regulations would provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by two general typologies; along Schermerhorn Street and other wide streets, medium- to high-density mixed commercial, residential, and community facility buildings predominate; along Bond Street south of the site and other narrow streets (e.g., State Street) the prevailing character is low-density residential (townhouses) and community facility buildings; and

WHEREAS, as to adjacent uses, the applicant states that directly west of the site (across Bond Street) is a six-story office building, directly north of the site (across Schermerhorn Street) is a five-story parking garage; a playground abuts the site to the east and a series of residential buildings abut the site to the south; and

WHEREAS, the applicant notes that the proposed hotel use is as-of-right in the subject C6-1 district and contends that the building has been designed to be sensitive to adjacent residential uses; and

WHEREAS, specifically, and in response to the Opposition's and the Board's concerns, the hotel entrance was relocated from Bond Street to Schermerhorn Street and the outdoor terrace connected to the Ballroom and adjacent to the residences to the south was removed; and

WHEREAS, turning to bulk, the applicant states that within 400 feet of the site, the buildings range in height from one to 14 stories; beyond 400 feet but within two blocks of the site, Schermerhorn Street includes two buildings with 25 or more stories and 333 Schermerhorn, which, upon completion, will rise to 577 feet (44 stories), making it one of the tallest buildings in the borough; and

WHEREAS, at hearing, the Board directed the applicant to provide additional information demonstrating that the proposed height is contextual; and

WHEREAS, in response, the applicant provided a height study and a photomontage of the streetscape (including buildings under construction and proposed), which, together, demonstrate that the building height is in keeping with the bulk of the surrounding neighborhood; and

WHEREAS, the applicant also notes that, aside from the requested floor area waiver, the proposal complies in all respects with the applicable bulk regulations, including building height, yards, and setbacks; and

WHEREAS, as to the Opposition's concerns regarding vehicular traffic and refuse collection, the applicant has agreed to: (1) limit all deliveries to the Schermerhorn Street loading dock; (2) limit food deliveries to Monday through Friday, from 8:00 a.m. to 4:00 p.m.; (3) coordinate and monitor all other delivery traffic (e.g., laundry) so as to mitigate traffic impacts; and (4) store refuse in a refrigerated room within the building until immediately prior to collection; and

WHEREAS, as to the Opposition's remaining concerns,

the Board observes that: (1) hotel use is as-of-right at the subject site; therefore City Planning has determined that it is an appropriate use at the site, notwithstanding the proximity of residence districts; (2) the requested floor area waiver is necessary for the owner to realize a reasonable return on investment, as extensively analyzed above; and (3) ensuring that safe construction measures are undertaken (including protecting adjacent, occupied residential buildings during excavation) is primarily within the purview of DOB; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is due to the peculiarities of the site; and

WHEREAS, the Board also finds that this proposal is the minimum necessary to afford the owner relief, in accordance with ZR § 72-21(e); and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the EAS CEQR 15-BSA-043K, dated April 19, 2015; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the New York City Landmarks Preservation Commission ("LPC") reviewed the project for potential archaeological impacts and requested that an archaeological documentary study be submitted for review and approval; and

WHEREAS, a Restrictive Declaration for an archaeological study was executed and filed for recording on May 12, 2015; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of

MINUTES

1977, as amended, and makes each and every one of the required findings under ZR § 72-21 to permit, on a site partially within a C6-1 zoning district, and partially within an R6B zoning district, within the Special Downtown Brooklyn District, the construction of a 13-story hotel (Use Group 5) with ground floor retail (Use Group 6) that does not comply with the zoning requirements for floor area ratio, contrary to ZR § 33-122; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received May 14, 2015”– seventeen (17) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed building: a maximum of 13 stories, a maximum floor area of 154,947 sq. ft. (8.63 FAR), a maximum building height of 139’- 4” (excluding bulkheads and parapets), and a maximum of 287 hotel rooms, as reflected on the BSA-approved drawings;

THAT the building façade abutting sites with residential buildings shall be consistent with the character and appearance of such buildings;

THAT all service pickups and deliveries to the site shall occur on the Schermerhorn Street frontage;

THAT refuse shall be stored within the building until immediately prior to collection;

THAT the above conditions shall be noted on the certificate of occupancy;

THAT a permit shall not be issued for any grading, excavation, foundation or other permit which involves soil disturbance until, pursuant to the Restrictive Declaration, the LPC has issued to DOB, as applicable, either a Notice of No Objection, Notice to Proceed, Notice of Satisfaction, or Final Notice of Satisfaction;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by May 19, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 19, 2015.

*The resolution has been amended. **Corrected in Bulletin Nos. 28-30, Vol. 100, dated July 22, 2015.**

BULLETIN

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July 29, 2015

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**MINUTES of Regular Meetings,
Tuesday, July 21, 2015**

Morning Calendar413

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340-41-BZ	72-09 Main Street, Queens
584-55-BZ	699 Morris Avenue, Bronx
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278-13-A	121 Varick Street, Manhattan
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193-13-BZ	4770 White Plains Road, Bronx
303-13-BZ	506-510 Brook Avenue, Bronx
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DOCKETS

New Case Filed Up to July 21, 2015

158-15-BZ

125 Park Avenue, Northwest corner of intersection of Park Avenue and East 42nd Street, Block 01296, Lot(s) 01, Borough of **Manhattan, Community Board: 5**. Special Permit (73-36) to allow a physical culture establishment ("PCE") to be operated as (Blink Fitness) within an existing twenty-four story commercial building located in a C5-3(MID) zoning district. C5-3(MID) district.

159-15-BZ

260 Norman Avenue, Norman Avenue between Monitor Street and Kingsland Avenue, Block 2657, Lot(s) 9, Borough of **Brooklyn, Community Board: 1**. Variance (72-21) to allow the legalization of the existing residential use on a portion of the ground floor, entire second and third floors at the subject premises, located within an M1-2 zoning district.. M1-2 district.

160-15-BZ

186 Montague Street, The Premises is located on the south side of Montague Street between Clinton Street and Court Street, Block 0250, Lot(s) 034, Borough of **Brooklyn, Community Board: 2**. Special Permit (73-36): to permit the operation of a Physical Culture Establishment ("PCE") in the existing building at the Premises, which is located in a C5-2A zoning district. C5-2A district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

AUGUST 18, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, August 18, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

826-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartments, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 269-10 Grand Central Parkway, northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

827-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartments, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 270-10 Grand Central Parkway, northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

828-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartment, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 269-10 Grand Central Parkway, northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

APPEALS CALENDAR

89-14-A

APPLICANT –Kramer Levin Naftalis & Frankel LLP, for 215 East 64th St. Co. LLC c/o Deniham Hospitality, owner. SUBJECT – Application April 30, 2014 – Extension of Time to obtain a Class B Certificate of Occupancy to legalize a Gardens Hotel under MDL Section 120(b) (3), as provided under recent amendments under Chapters 225 and 566 of the Laws of New York 2010. R8B zoning district. PREMISES AFFECTED – 215 East 64th Street, north side of East 64th Street between Second Avenue and Third Avenue, Block 01419, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #8M

234-14-A

APPLICANT – Law Offices of Marvin B. Mitzner, for Ohmni Properties, owners.

SUBJECT – Application September 29, 2014 – Appeal of the NYC Department of Buildings' determination to not revoke a Certificate of Occupancy issued in 1989 and reinstate the Certificate of Occupancy issued in 1985.

PREMISES AFFECTED –738 East 6th Street, south side of East 6th Street between Avenue C and Avenue D, Block 00375, Lot 0028, Borough of Manhattan.

COMMUNITY BOARD #3M

AUGUST 18, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, August 18, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

156-14-BZ

APPLICANT – Lewis E. Garfinkel, for Harold Feder, owner.

SUBJECT – Application July 3, 2014 – Special Permit (§73-621) for the enlargement of an existing single family home contrary to floor area, lot coverage and open space (ZR 23-141(b)). R4 zoning district.

PREMISES AFFECTED – 1245 East 32nd Street, east side of East 32nd Street 350', Block 07650, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #18BK

CALENDAR

179-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Lillian Romano and Elliot Romano, owners.

SUBJECT – Application July 29, 2014 – Special Permit (§73-622) for the enlargement and conversion of an existing two family residence to single family residence contrary to the rear yard requirement (ZR 23-47). R5 zoning district.

PREMISES AFFECTED – 1937 East 14th Street, east side of East 14th Street between Avenue S and Avenue T, Block 07293, Lot 74, Borough of Brooklyn.

COMMUNITY BOARD #15BK

229-14-BZ

APPLICANT – Jeffery A. Chester/GSHLLP, for Marmel Realty Associates Corp., owner; Lucille Roberts Health Club, Queens, LLC, lessee.

SUBJECT – Application September 23, 2015 – Special Permit (§73-36) to seek the legalization of an existing physical culture establishment (*Lucille Roberts*). C4-3A zoning district.

PREMISES AFFECTED – 55-05 Myrtle Avenue, corner of Madison Street and St. Nicholas Avenue, Block 03450, Lot 01, Borough of Queens.

COMMUNITY BOARD #5Q

239-14-BZ

APPLICANT – Eric Palatnik, P.C., for Peter Haskopoulos, owner.

SUBJECT – Application October 1, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area (ZR 23-141) and side yards (ZR 23-461). R-2 Special Bay Ridge zoning district.

PREMISES AFFECTED – 8008 Harber View Terrace, between 80th Street and 82nd Street, Block 05975, Lot 0076, Borough of Brooklyn.

COMMUNITY BOARD #10BK

318-14-BZ

APPLICANT – Walter T. Gorman, P.E., P.C., for Leemilts Petroleum Inc., owner; Capitol Petroleum Group, lessee.

SUBJECT – Application December 5, 2014 – Re-Instatement (§11-411) previously approved variance which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses which expired on October 27, 1987; Waiver of the Rules. C1-2 in R5 zoning district.

PREMISES AFFECTED – 1672-1680 86th Street aka 1-17 Bay 14th Street, south East Corner of Bay 14th Street, Block 06365, Lot 33, Borough of Brooklyn.

COMMUNITY BOARD #11BK

31-15-BZ

APPLICANT – Snyder & Snyder, LLP, for City University of New York, owner; Sprint Spectrum L.P., lessee.

SUBJECT – Application February 19, 2015 – Special Permit (§73-30) to permit the modification of an existing wireless facility. R3-2 zoning district.

PREMISES AFFECTED – 2800 Victory Boulevard, Canterbury Avenue and Victory Boulevard on Loop Road, Block 02040, Lot 0001, Borough of Staten Island.

COMMUNITY BOARD #2SI

75-15-BZ

APPLICANT – Sheldon Lobel, PC, for TEP Charter School Assistance, Inc., owner.

SUBJECT – Application April 3, 2015 – Variance (§72-21) to permit the construction of a school (UG 3) (*TEP Charter School*) contrary to front setback requirements (§24-522). C1-4/R7-2 zoning district.

PREMISES AFFECTED – 153-157 Sherman Avenue, 100' east of the intersection of Academy Street and Sherman Avenue, Block 02221, Lot 0005, Borough of Manhattan.

COMMUNITY BOARD #12M

Ryan Singer, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JULY 21, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

169-91-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP., for New York University, owner.

SUBJECT – Application November 15, 2015 – Extension of Term of a previously approved Special Permit (§73-36) permitting the operation of a physical culture establishment which expired on May 18, 2013; Amendment to reflect a change in the operator and to permit a new interior layout; Waiver of the Rules. M1-5B zoning district.

PREMISES AFFECTED – 404 Lafayette Street aka 708 Broadway, Lafayette Street and East 4th Street, Block 00545, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, an extension of the term for a previously granted special permit for a physical culture establishment (PCE), which expired on May 18, 2013, and an amendment to BSA-approved plans to reflect a new proposed interior layout for the PCE; and

WHEREAS, a public hearing was held on this application on June 16, 2015, after due notice by publication in *The City Record*, and then to decision on July 21, 2015; and

WHEREAS, Community Board 2, Manhattan, recommends denial of this application; and

WHEREAS, certain members of the community, including members of Community Board 2, the NoHo Neighborhood Association, the Greenwich Village Society for Historic Preservation and certain members of the faculty of New York University testified at the hearing and provided testimony in opposition to the application (collectively, the “Opposition”), citing the following primary concerns: (1) the PCE will be utilized by significantly more people than represented by the applicant because it is intended to be a temporary replacement of the university’s Jerome S. Coles Sports and Recreation Center (the “Recreation Center”); (2) the operation of the PCE by New York University will negatively impact the character of the surrounding neighborhood; and (3) the operation of the PCE by NYU renders the use of the subject site a prohibited, non-commercial Use Group 3a university use, and not a PCE use; and

WHEREAS, the subject site is a through-block with

approximately 96.67 feet of frontage on the west side of Lafayette Street and 25.04 feet of frontage along the east side of Broadway, between Astor Place and East 4th Street, in Manhattan, within an M1-5B zoning district and also within the NoHo Historic District; and

WHEREAS, the site is occupied by an eight-story with cellar commercial building, the cellar and first and second floors of which are occupied by an existing PCE, which was authorized under the subject BSA Calendar Number upon an application under sections 73-03 and 73-36 of the Zoning Resolution of the City of New York; and

WHEREAS, as stated, on May 18, 1993, the underlying special permit was granted on May 18, 1993, pursuant to which World Gym New York, Inc. was to operate the PCE on the cellar and first floor of the Lafayette Street portion of the subject building;

WHEREAS, On October 8, 1996, prior to the expiration of the underlying special permit, which was set to expire on May 18, 2003, the Board granted an amendment to permit a change in the operator of the PCE to 708 Gym Corp., d/b/a Crunch, and also permitted an increase in the cellar space occupied by the PCE, an extension of time to obtain a certificate of occupancy and a change in the hours of operation of the PCE; and

WHEREAS, on August 9, 2005, the Board granted an extension of the term of the special permit (from May 18, 2003), an amendment to the cellar and first floor plans and the legalization of an enlargement of the PCE onto the second floor of the subject building, so that the total floor area occupied by the PCE was increased to 29,726 sq. ft.; and

WHEREAS, a certificate of occupancy for the PCE was issued on May 11, 2006; and

WHEREAS, the underlying special permit expired on May 18, 2013; and

WHEREAS, New York University acquired the subject property on October 28, 2014; and

WHEREAS, the applicant seeks to extend the term of the special permit for an additional ten years, to change the operator of the PCE to New York University, and to amend the approved plans to reflect a new layout for the PCE (the applicant does not seek an increase in the floor area of the PCE, nor does it seek to relocate the PCE within the building); and

WHEREAS, the Landmarks Preservation Commission has approved the proposed alterations of the building by Certificate of No Effect No. 17-785, dated May 21, 2015; and

WHEREAS, the applicant states that it intends to operate the PCE primarily for the benefit of its students, faculty and staff, but notes that a limited number of memberships will be made available for purchase by eligible residents within Manhattan Community Board 2; and

WHEREAS, in response to the Opposition’s concerns about the volume of visitors, the applicant provided testimony and written submissions stating that the PCE will not be utilized by more than approximately 1,000 guests per day notwithstanding that the website for the Recreation Center, which is being closed, states that it is used by approximately 3,500 members per day; the applicant represents that the

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average number of daily users of the Recreation Center is 1,471 and that the number on the website reflects the maximum number of individuals who could be accommodated in a single day at the Recreation Center, and further represents that the university expects fewer than 1,471 daily users of the PCE because the PCE cannot accommodate all of the activities, and does not house all of the facilities, available at the Recreation Center; and

WHEREAS, the Board notes that the ZR § 12-10 provides that “[a] ‘physical culture or health establishment’ is any establishment or facility, including *commercial* and *non-commercial* clubs, which is equipped and arranged to provide instruction, services, or activities which improve or affect a person's physical condition by physical exercise or by massage” and, thus, does not require that the operator be a commercial entity; and

WHEREAS, further the Board notes that the proposed facility's uses are consistent with (and will use the same space) as those that have occupied the site for more than 20 years and that the uses are also consistent with Use Group 9 gymnasium uses, which are permitted in the subject zoning district; and

WHEREAS, accordingly, the Board finds that the proposed use is within the definition of physical culture establishment and meets the criteria of the special permit, just as the prior use did; and

WHEREAS, the applicant proposes to maintain the hours of operation of the prior PCE, which are 24 hours per day, Monday through Friday; Saturdays, from 6:00 a.m. to 10:00 p.m. and Sundays, from 8:00 a.m. to 10:00 p.m.; and

WHEREAS, at hearing the Board asked the applicant to address open DOB and Environmental Control Board (“ECB”) violations; and

WHEREAS, in response, the applicant submitted a statement into the record indicating that five of eleven DOB violations and three of fourteen ECB violations were issued against New York University and that a number of the violations relate to scaffolding which was erected at the subject building prior to the applicant's purchase thereof, but also that the applicant is taking all necessary steps and paying all fines to remove all of the violations issued against the property, regardless of whether they were issued to the applicant or a predecessor owner; and

WHEREAS, at hearing the Board asked the applicant to address discrepancies between the previously approved drawings and the drawings of the proposed PCE; and

WHEREAS, in response, the applicant states that (1) an inadvertent omission from the drawing of the proposed cellar of the boundary between the PCE and certain mechanical space was corrected; (2) the stairs and elevators located in the areas labeled “Stair B” and “Stair C” are intended to provide emergency egress from the PCE and other portions of the subject building, and are not otherwise associated with the PCE; and (3) the elevator of “Stair C” will be used to provide access to the cellar level of the PCE as required; and

WHEREAS, accordingly, the Board finds that the proposed extension of term, change in operator and amendment of the BSA-approved plans to reflect a new interior layout of

the PCE are appropriate, with the conditions set forth below; and

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, dated May 18, 1993, so that as amended this portion of the resolution shall read: “to grant an extension of the special permit for a term of ten years from the expiration of the last grant, to change the operator of the PCE to New York University, and to permit the legalization of interior layout modifications, *on condition* that all work and site conditions shall comply with drawings marked “Received July 2, 2015”–(6) sheets; and *on further condition*:

THAT there shall be no change in ownership or operating control of the PCE without prior approval from the Board;

THAT this grant shall be limited to a term of ten years from May 18, 2013, expiring May 18, 2023;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT a certificate of occupancy shall be obtained within one year of the date of this grant;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 122416769)

(DOB Application No. 122416769)

Adopted by the Board of Standards and Appeals, July 21, 2015.

340-41-BZ

APPLICANT – Nasir J. Khanzada, PE, for Paul Sinanis, owner; S & J Service Station, Incorporated, lessee.

SUBJECT – Application June 27, 2014 – Extension of Term (§11-411) of a previously approved variance permitting the operation of an Automotive Service Station (UG 16B), with accessory uses, which expired on May 1, 2012; Amendment to permit the enlargement of an existing canopy, the addition of a fuel dispenser and small convenience sales area; Waiver of the Rules. C1-2/R4 zoning district.

PREMISES AFFECTED – 72-09 Main Street, Block 06660, Lot 1, Borough of Queens.

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Laid over to September 1, 2015, at 10 A.M., for continued hearing.

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584-55-BZ

APPLICANT – Nasir J. Khanzada, PE, for Gurnam Singh, owner.

SUBJECT – Application June 11, 2014 – Amendment (§11-412) of a previously approved variance which permitted the alteration of an existing Automotive Service Station (UG 16B). The amendment seeks to permit the conversion of the accessory auto repair shop to a convenience store and alter the existing building. C2-4/R7-2 zoning district.

PREMISES AFFECTED – 699 Morris Avenue, southwest corner of East 155th Street and Park Avenue, Block 2422, Lot 65, Borough of Bronx.

COMMUNITY BOARD #2BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4

Negative:.....0

ACTION OF THE BOARD – Laid over to September 1, 2015, at 10 A.M., for decision, hearing closed.

110-99-BZ

APPLICANT – Law Office of Jay Goldstein, for Lessiz Realty, LLC., owner; 14-18 Fulton servicing, lessee.

SUBJECT – Application March 2, 2015 – Extension of Term of a previously approved Variance (§72-21) to permitted the legalization of an existing garage and automotive repair shop (Use Group 16B), which expired on June 27, 2010; Amendment to permit minor modifications to the interior layout; Waiver of the Rules. R6B zoning district.

PREMISES AFFECTED – 56-58 Kosciuszko Street, south side of Kosciuszko Street between Nostrand and Bedford Avenues, Block 01783, Lot 0034, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to September 1, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

278-13-A

APPLICANT – Isaac Szpilzinger, Esq., for 121 Varick St. Corp., owner.

SUBJECT – Application September 27, 2013 – Appeal of Department of Buildings’ determination that the advertising sign was not established as a lawful non-conforming use. M1-6 zoning district/SHSD.

PREMISES AFFECTED – 121 Varick Street, southwest corner of Varick Street and Dominick Street, Block 578, Lot 67, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application Denied.

THE VOTE TO GRANT –

Affirmative:0

Negative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

THE RESOLUTION –

WHEREAS, on March 5, 1998, under application No. 101835221, the New York City Department of Buildings (“DOB”) issued a permit (the “Permit”) for a 75’ x 75’ illuminated advertising sign located at a point approximately fifty feet above curb level on the south-facing wall of the twelve-story building known as and located at 121 Varick Street, in Manhattan (the “Sign,” located on the “Building”), which occupies the subject site at the southwest corner of the intersection of Varick Street and Dominick Street, in an M1-6 zoning district within the Special Hudson Square District (the “Site”); and

WHEREAS, DOB revoked the Permit upon the issuance of the Borough Commissioner’s Revocation of Approvals and Permits, dated June 13, 2011 (the “Revocation”); and

WHEREAS, the subject appeal comes before the Board in response to a Final Determination, dated August 28, 2013, by DOB First Deputy Commissioner Thomas J. Fariello (the “Final Determination”), which was issued in response to the appellant’s submission of a Zoning Resolution Determination Form (the “ZRD1”) in which the appellant sought a rescission of the Revocation; and

WHEREAS, the Final Determination states, in pertinent part, that:

The request for a rescission of the Borough Commissioner’s Revocation of Approval and the reinstatement of Permit No. 101835221 is hereby denied... the advertising sign is within view of multiple “approaches” to an arterial highway (the Holland Tunnel), and is, therefore, not permitted pursuant to ZR 42-55...; and

WHEREAS, this appeal is brought on behalf of 121 Varick St. Corp., the owner of the subject Building and Site (the “Appellant”); and

WHEREAS, this appeal turns on whether the Sign is located within 200 feet of, and within view of, an arterial highway such that the Permit was unlawful when it was issued; and

WHEREAS, as discussed in greater detail below, the Board concludes that the Sign is within 200 feet of, and within view of a point north of Broome Street, between Varick Street and Hudson Street, with a latitude of 40.724658 and a longitude of -74.007033 (the “Vantage Point”), which the Board finds to be located on an approach to the Holland Tunnel which has been designated as an arterial highway for purposes of ZR § 42-55 (previously § 42-53); as such, the Permit was properly revoked and this appeal is denied; and

WHEREAS, a public hearing was held on this application on September 9, 2014, after due notice by publication in *The City Record*, with a continued hearings on January 27, 2015, April 14, 2015, and May 19, 2015, and then to decision on July 21, 2015; and

WHEREAS, the premises and surrounding area had site

1 Both the Appellant and DOB have been represented by counsel throughout this appeal.

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and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

BACKGROUND AND PROCEDURAL HISTORY

WHEREAS, the Board notes that the Holland Tunnel consists of a central subaqueous portion and enclosed approach tunnels at either side of the central subaqueous portion; the enclosed approach tunnels are connected to the street grade by open-cut approach ramps; and

WHEREAS, on the Manhattan side of the subaqueous portion of the Holland Tunnel, the enclosed approach tunnel diverges into two tubes; the "South Tube" (Manhattan bound), which leads to St. John's Rotary, located south of Laight Street, between Varick Street and Hudson Street; and the "North Tube" (New Jersey bound) which is accessed via a series of entrance roadways bounded by Canal Street and Watts Street, to the south, Hudson Street, to the west, Varick Street, to the east, and Broome Street, to the north (the "Entrance Roadways");

WHEREAS, the property on which the Entrance Roadways are located is owned by the Port Authority of New York and New Jersey (the "Port Authority"); and

WHEREAS, the Site is located on the northeast quadrant of the block north of the Entrance Roadways, which is bounded by Dominick Street, to the north, Varick Street, to the east, Broome Street, to the south and Hudson Street, to the west; and

WHEREAS, the subject block is bisected by the open-cut approach which connects the North Tube to the Entrance Roadways; and

WHEREAS, the entrance onto the open-cut approach into the North Tube is located on the north side of Broome Street, between Varick Street and Hudson Street (the "Broome Street Entrance"), the Vantage Point is located north of the Broome Street Entrance, on the open-cut approach to the North Tube; and

WHEREAS, DOB issued the Permit on March 5, 1998, under Application No. 101835221 for an illuminated advertising wall sign; and

WHEREAS, at the time the Permit was issued, ZR § 42-53, effective February 21, 1980 and applicable in the subject M1-6 zoning district, prohibited advertising signs located within 200 feet of and within view of an arterial highway; and

WHEREAS, the Permit was revoked on June 13, 2011, upon DOB's determination that the Sign is "within view of multiple 'approaches' to an arterial highway (the Holland Tunnel), and is, therefore, not permitted pursuant to ZR 42-55"; and

WHEREAS, DOB issued the Final Determination, in which it denied the Appellant's request that it rescind its revocation of the Permit, on August 28, 2013; and

WHEREAS, the Appellant seeks a reversal of the Final Determination on the grounds that (1) there are no approaches to the Holland Tunnel and, as such, the Final Determination was issued in error; (2) even if the Holland Tunnel has an approach, such approach is not a "designated arterial highway," for the purpose of ZR § 42-55, which is

the basis of the Final Determination; and (3) even if the Holland Tunnel and its approaches constitute a "designated arterial highway," for the purpose of ZR § 42-55, the Sign is not within 200 feet of or within view of any such "designated arterial highway"; and

WHEREAS, DOB appeared and made submissions in opposition to this appeal; and

WHEREAS, the Board notes that for the purpose of this appeal it is examining the narrow issues of whether the Sign is within 200 feet of and within view of the Vantage Point and whether the Tunnel Approach, defined below, is, based on the Board's examination of the Vantage Point, a roadway or approach which constitutes an arterial highway for purposes of ZR § 42-55; the Board need not, and does not, reach a conclusion as to whether the Sign is within view of and within 200 feet of the remainder of the Entrance Roadways or whether the remainder of the Entrance Roadways constitute arterial highways for purposes of ZR § 42-55; and

RELEVANT STATUTORY PROVISIONS and the MASTER PLAN

ZR § 42-53

Additional Regulations for Advertising Signs

M1 M2 M3

In all districts, as indicated no *advertising sign* shall be located, nor shall an existing *advertising sign* be structurally altered, relocated, or reconstructed, within 200 feet of an arterial highway or of a *public park* with an area of one-half acre or more, if such *advertising sign* is within view of such arterial highway or *public park*. For the purposes of this Section, arterial highways shall include all highways which are shown on the Master Plan of Arterial Highways and Major Streets, as "principal routes", "parkways", or "toll crossings", and which have been designated by the City Planning Commission as arterial highways to which the provisions of this Section shall apply. Beyond 200 feet from such arterial highway or *public park*, an *advertising sign* shall be located at a distance of at least as many linear feet therefrom as there are square feet of *surface area* on the face of such *sign*...

* * *

ZR § 42-55

Additional Regulations for Signs Near Certain Parks and

Designated Arterial Highways

M1 M2 M3

In all districts, as indicated, the provisions of paragraphs (a), (b) and (c), or paragraph (d), of this Section, shall apply for *signs* near designated arterial highways or certain *public parks*.

(a) Within 200 feet of an arterial highway or a *public park* with an area of one-half acre or more, *signs* that are within view of such arterial highway or *public park* shall be subject to the following provisions:

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- (1) no permitted *sign* shall exceed 500 square feet of *surface area*; and
- (2) no *advertising sign* shall be allowed; nor shall an existing *advertising sign* be structurally altered, relocated or reconstructed.
- (b) Beyond 200 feet from such arterial highway or *public park*, the *surface area* of such *signs* may be increased one square foot for each linear foot such sign is located from the arterial highway or *public park*...

For the purposes of this Section, arterial highways shall include all highways that are shown on the Master Plan of Arterial Highways and Major Streets as “principal routes,” “parkways” or “toll crossings,” and that have been designated by the City Planning Commission as arterial highways to which the provisions of this Section shall apply.

* * *

ZR Appendix H

Designation of Arterial Highways

Pursuant to the provisions of Section 32-66 and 42-55 (Additional Regulations for Signs Near Certain Parks and Designated Arterial Highways) of the Zoning Resolution of the City of New York, the City Planning Commission has designated as arterial highways to which the provisions of Sections 32-66 and 42-55 apply, the following arterial highways which appear on the City Map and which are also indicated as Principal Routes, Parkways and Toll Crossings on the duly adopted Master Plan of Arterial Highways and Major Streets. . . .

TOLL CROSSINGS . . . Holland Tunnel and Approaches;

* * *

1 RCNY 49-01 Definitions

Approach. The term “approach” as found within the description of arterial highways indicated within Appendix C2 of the Zoning Resolution, shall mean that portion of a roadway connecting the local street network to a bridge or tunnel and from which there is no entry or exit to such network; and

WHEREAS, the New York City Planning Commission Master Plan of Arterial Highways and Major Streets (the “Master Plan”) was adopted on April 11, 1945 and last modified in 1963 (Map No. 04-CH-1); the City Planning Commission report associated with the Master Plan is CP 3493, report no. 3254, April 11, 1945 (the “CPC Report”);²

² The Board notes that “Appendix H” to the Zoning Resolution was formerly known as “Appendix C”, and that Rule 49 does not reflect the change, which took effect on February 27, 2001, and was purely administrative and had no substantive effect on the designation of any arterial highway.

and

WHEREAS, the Board notes that ZR § 42-53, which was in effect at the time the Permit was issued, was recodified as ZR § 42-55 on February 27, 2001; the Board notes further that in the context of this appeal, the relevant portions of the two provisions are identical; and

THE APPELLANT’S POSITION

WHEREAS, in support of its argument that the DOB’s revocation of the Permit was in error, the Appellant asserts that the Sign is not within 200 feet of an arterial highway as defined in ZR § 42-55, which states, in pertinent part, that:

For the purposes of this Section, arterial highways shall include all highways which are shown on the Master Plan of Arterial Highways and Major Streets, as “principal routes”, “parkways”, or “toll crossings”, and which have been designated by the City Planning Commission as arterial highways to which the provisions of this Section shall apply...

and, as such, DOB’s revocation of the Permit was in error; and

WHEREAS, specifically, the Appellant contends that the Final Determination should be reversed because (1) the roadways identified by DOB as “approaches” to the Holland Tunnel are neither approaches nor “arterial highways,” thus the Sign was not erected in contravention of ZR § 42-53 (and is not in violation of § 42-55); and (2) the Sign is not within 200 feet of nor “within view” of any of the purported approaches to the Holland Tunnel; and

1. The Appellant’s Argument that the “Approaches” Identified by DOB Do Not Constitute Arterial Highways for the Purposes of ZR § 42-53

a. The Appellant Maintains that the Holland Tunnel Does Not Have any Approaches

WHEREAS, the Appellant argues that the New York State enabling legislation for toll crossings between New York and New Jersey is silent as to the boundaries of the approaches to the Holland Tunnel, but describes the approaches to certain other toll crossings, suggesting that the Holland Tunnel has no designated approaches and, as such, no such approaches can be the basis of DOB’s revocation of the Permit; and

WHEREAS, specifically, the Appellant maintains that the Port Authority has exclusive jurisdiction over the vehicular crossings between New York and New Jersey, including the Holland Tunnel, and that the locations of the approaches to New York City toll crossings, if any, are set forth in the Port Authority’s enabling legislation and the New York Codes, Rules and Regulations; and

WHEREAS, the Appellant notes that Title 21 of the New York Codes, Rules and Regulations, Chapter XXVI, Subchapter A, Article 1, Section 1200.3 states that a tunnel

³ The Master Plan superseded the “New York City Planning Commission Master Plan of Express Highway, Parkways and Major Streets” which was adopted by the City Planning Commission in 1940 and last modified in 1941.

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is defined as “any tunnel within the jurisdiction of the Port Authority between the portals thereof, but shall not include the plazas, approaches and highway connections thereto”; and

WHEREAS, the Appellant argues that, taken in conjunction with the fact that the Port Authority’s enabling legislation references approaches to the George Washington Bridge and the then un-built Lincoln Tunnel, but not the already existing Holland Tunnel, the foregoing definition imposes boundaries of the Holland Tunnel that do not include anything beyond the portals of said tunnel; and

- b. The Appellant Maintains that there are not any Approaches to the Holland Tunnel Shown on the Master Plan

WHEREAS, the Appellant argues that none of the purported “approaches” identified by DOB, located at the Entrance Roadways, meet the statutory definition of “arterial highway” because they are not shown on the Master as a “principal route,” “parkway,” or “toll crossing”; and

WHEREAS, in support of this argument, the Appellant highlights that the Holland Tunnel is clearly identified on the Master Plan, depicted by a series of circles which represent a “Toll Crossing Under Authorities” as indicated on the legend of the Master Plan; and

WHEREAS, the Appellant maintains that the Master Plan does not depict, and, therefore, has not shown, an entrance roadway to the Holland Tunnel anywhere in Manhattan; and

WHEREAS, the Appellant argues that the CPC Report further evidences that the Master Plan does not show an approach to the Holland Tunnel at the entrance to the North Tube; and

WHEREAS, specifically, the Appellant argues that the CPC Report provides a list, with description, of each of the arterial routes shown on the Master Plan, and that the Holland Tunnel, listed under “Toll Crossings” is described as the facility which connects lower Manhattan with New Jersey and also will connect with the proposed Lower Manhattan Expressway; and

WHEREAS, the Appellant notes that the CPC Report does not list an “entrance roadway” to the Holland Tunnel, but does reference the then-proposed Lower Manhattan Expressway, which was never constructed, and argues that the omission of any other description of a connection between the tunnel and an entrance roadway establishes that there simply is no approach to the Holland Tunnel; and

WHEREAS, the Appellant argues that the two elements of the § 42-53 definition of “arterial highway” are conjunctive and, where the first is not met (i.e., where the subject roadway is not shown on the Master Plan) there is no need to consider the second (i.e., whether the subject roadway has been designated by the City Planning Commission as an arterial highway); and

WHEREAS, in support of its argument that both elements of the ZR § 42-53 definition of “arterial highways” must be satisfied and that, upon failing to meet the first element the second element need not be addressed, the Appellant refers to ZR § 12-10(h), which states, in relevant

part, that:

Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and”, “or”, or “either or”, the conjunction shall be interpreted as follows: (1) “and” indicates that all the connected items, conditions, provisions or events shall apply...

and ZR § 12-10(c), which states, in relevant part, that:

The word “shall” is always mandatory and not discretionary...; and

- c. The Appellant Maintains that the City Planning Commission has Not Designated any of the Entrance Roadways as Arterial Highways

WHEREAS, Appellant contends that because the first prong of ZR § 42-55 is not met, the second prong, need not be considered; and

WHEREAS, notwithstanding the foregoing, the Appellant maintains that there are no roadways which have been designated by the CPC as arterial highways and, as such, the Permit should not have been revoked as unlawful under ZR § 42-55; and

WHEREAS, the Appellant notes that the “designation” text of Appendix C, now Appendix H, provides, in pertinent part, that:

...the City Planning Commission has designated as arterial highways to which the provisions of Sections 32-66 and 42-55 apply, the following arterial highways which appear on the City Map and which are also indicated as Principal Routes, Parkways and Toll Crossings on the duly adopted Master Plan of Arterial Highways and Major Streets; and

WHEREAS, the Appellant notes that there are no approaches to the Holland Tunnel shown on the City Map or Master Plan; and

WHEREAS, the Appellant argues that the foregoing text does not contemplate the designation of “approaches” and provides only for the designation of “arterial highways” and that a roadway must, therefore, have been mapped as an “arterial highway” on the Master Plan and the City Map in order to be “designated” by CPC as an arterial highway to which the provisions of ZR § 42-53 apply; and

WHEREAS, in support of its argument that absent placement on the Master Plan and City Map as an arterial highway, none of the Entrance Roadways, or any other purported approach to the Holland Tunnel, could be designated by CPC as an arterial highway to which the provisions of ZR § 42-53 apply, Appellant cites to the CPC Report, which states, in pertinent part, that:

Pursuant to Article V, § 21-B of the Zoning Resolution of the City of New York, effective June 28, 1940, the City Planning Commission hereby designates, as Express Highways to which provisions of § 21-B of the Zoning Resolution shall apply, all those streets which appear on the

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City Map and which are also indicated as “express highway – legally mapped” and “express parkway – legally mapped” on the Master Plan of Express Highways, Parkways and Major Streets, duly adopted January 22, 1941...;4 and

WHEREAS, the Appellant argues that because none of the Entrance Roadways were ever placed on the City Map or Master Plan, that is, they were never legally mapped as a “principal route,” “parkway,” or “toll crossing,” they cannot be designated as arterial highways; and

WHEREAS, the Appellant maintains that the inclusion of “Holland Tunnel and Approaches” in the Appendix H list of arterial highways to which ZR § 42-55 applies is in contravention of both the CPC Report as well as ZR § 42-55; and

WHEREAS, the Appellant argues further that the purported inconsistencies between the language of ZR § 42-55 and the list in Appendix H must be understood in light of ZR § 12-10(b), which states that:

In case of any difference of meaning or implication between the text of this Resolution and any caption, illustration, summary table or illustrative table, the text shall control...

thus, the Appellant argues, the list in Appendix H does not support a finding that certain approaches to the Holland Tunnel are within the ambit of “arterial highways” to which ZR § 42-55 applies; and

WHEREAS, the Appellant further argues that even if the list in Appendix H did suggest that there are certain approaches to the Holland Tunnel which constitute “arterial highways” to which the provisions of ZR § 42-55 apply, ZR § 42-55 requires that such approaches be shown on the Master Plan, and, to the extent that such approaches are not shown on the Master Plan, their inclusion within Appendix H is irrelevant; and

d. The Appellant Maintains that DOB Impermissibly Relied on Rule 49 in Determining What Constitutes an Approach in this Instance

WHEREAS, the Appellant claims that the Final Determination is based, in part, upon DOB’s reliance on the definition of “approach” codified in 1 RCNY 49-01 (“Rule

4 Article V, § 21-B of the Zoning Resolution of the City of New York, effective June 28, 1940, is a precursor to ZR § 42-53 and states, in pertinent part, that:

No advertising sign shall hereafter be erected, placed or painted, nor shall any existing advertising sign be structurally altered, in any use district within 200 feet of an arterial highway shown as a “principal route”, “parkway” or “toll crossing” on the “Master Plan of Arterial Highways and Major Streets”, provided such arterial highway has been designated by the City Planning Commission as an arterial highway to which the provisions of this section shall apply ... if such advertising sign is within view of such arterial highway ...

49”); and

WHEREAS, the Appellant argues that Rule 49, which went into effect on August 25, 2006, eight years after the Permit was issued, is inapplicable to the instant matter; and

e. The Appellant’s Argument that ZR § 12-10(i) is Inapplicable to the Board’s Analysis of ZR § 42-55 and Cannot Extend the Scope of Arterial Highways to Include Approaches

WHEREAS, the Appellant maintains that ZR § 12-10(i), which states that:

The word “includes” shall not limit a term to the specified examples but is intended to extend its meaning to all other instances or circumstances of like kind or character.

has no bearing on the instant analysis, and does not extend the scope of ZR § 42-55 because ZR § 42-55 is clear on its face; and

WHEREAS, the Appellant maintains that the language of ZR § 42-55 is clear and unambiguous and as such it is inappropriate to resort to rules of construction “to broaden the scope and application of a statute, because no rule of construction gives [a] court discretion to declare the intent of the law when the words are unequivocal” (citing *Raritan Development Corp. v. Silva*, 91 NY2d 107 [1997]); and

WHEREAS, the Appellant further maintains that ZR § 12-10(i) is inapplicable because ZR § 42-55 does not provide a list of specified roadways which might constitute “specified examples” as contemplated in ZR § 12-10(i) but instead limits its applicability to those highways which are shown on the Master Plan, be they “principal routes”, “parkways”, or “toll crossings”; the Appellant concludes that ZR § 42-55 does not, therefore, provide a list of “examples” which could be extended upon an application of ZR § 12-10(i) to the word “includes”; and

WHEREAS, the Appellant also argues that extending the scope of ZR § 42-53 would lead to an irrational result because there are no approaches shown on the Master Plan; the Appellant maintains that employing a cannon of statutory construction to reach an irrational result is contrary to law; and

2. The Appellant’s Argument that the Sign is not Within View of an Arterial Highway

a. The Appellant Maintains that the Sign is Not Within View of an Arterial Highway Because it is Not Visible to a Traveler in a Vehicle at the Vantage Point or any Other Point along the Entrance Roadways

WHEREAS, the Appellant maintains that the Sign is not perceptible from the eye of a driver or passenger (a traveler) in a vehicle at the Vantage Point and, therefore, the Sign is not visible from an arterial highway even if the Vantage Point qualifies as such; and

WHEREAS, the Appellant argues that the Sign is not visible to a traveler in a vehicle because of the obstruction of the roof of the vehicle; and

b. The Appellant Maintains that the Sign is Not Within View of an Arterial Highway Because only a Portion of the Display is Visible from the

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Vantage Point

WHEREAS, notwithstanding its contention that the Sign is not visible from the Vantage Point, the Appellant argues that to the extent that it is visible, only the upper left portion of the Sign can be perceived by travelers in a vehicle at the Vantage Point; and

WHEREAS, the Appellant argues that ZR § 42-55 regulates advertising signs within view of arterial highways and, as such, is not applicable when the only portion of a sign visible from such arterial highway is a patch of color without the other indicia of an advertising sign; and

- c. The Appellant Maintains that DOB's Evidence that the Sign is Visible from the Broome Street Entrance is Inadmissible and Does Not Establish that the Sign is Within View to a Person Traveling in a Vehicle

WHEREAS, the Appellant argues that DOB's evidence that the sign is within view of the Vantage Point, images taken from "Google Street View" is inadmissible and does not speak to whether the Sign is perceivable by the eye of a driver or passenger in vehicle, but only reveals what can be seen from outside a vehicle; and

3. The Appellant's Argument that the Sign is not Within 200 Feet of the Vantage Point

WHEREAS, the Appellant states that the methodology employed by DOB in measuring the distance between the Sign and the Vantage Point is not dispositive because that measurement, in that it reflects the distance from the Vantage Point to a point at the base of the wall of the Building to which the Sign is affixed, is based on Rule 49's directive that the distance "shall be calculated as the length of a horizontal plane extending between a vertical plane reflecting the edge of the sign, sign structure or sign location closest to the ... arterial highway and a vertical plane reflecting the portion of the ... highway closest to the sign..."; and

WHEREAS, the Appellant argues that the foregoing standard cannot be the standard by which the distance between the Sign and the Broome Street Entrance is measured because Rule 49 was enacted after the Permit was issued and the Sign was erected; and

WHEREAS, the Appellant argues further that measuring the distance from the base of the Building to the Vantage Point prejudices the Appellant and is contrary to the Zoning Resolution definition of sign, which contemplates a writing or pictorial representation on a building or structure, not at the base of a building; and

WHEREAS, lastly, the Appellant maintains that the distance from the Sign to the Vantage Point was 207 feet; and

DOB'S POSITION

WHEREAS, DOB asserts that it properly revoked the Permit because the Sign violated regulations in effect at the time the Permit was issued and maintains that because the Sign was unlawful when erected it is not eligible to continue as a non-conforming use; and

WHEREAS, specifically, DOB argues that (1) the City Planning Commission designated the "Holland Tunnel and

Approaches" as an arterial highway to which ZR § 42-53, now ZR § 42-55, applies; (2) the Entrance Roadways are approaches to the Holland Tunnel which constitute part of an arterial highway for the purposes of § 42-55; and (3) that the Sign is within view of and within 200 feet of three distinct approaches to the Holland Tunnel; and

1. DOB's Argument that the Master Plan shows the Holland Tunnel Toll Crossing, Including its Approaches

WHEREAS, DOB asserts that the Holland Tunnel and its approaches constitute a single arterial highway which is shown on the Master Plan; and

WHEREAS, DOB states that the Master Plan depicts a series of small circles labeled "Holland Tunnel" running from New Jersey across the Hudson River and ending at the Miller Highway; DOB states that the Master Plan identifies the small circles as "toll crossings under authorities" and concludes that the Holland Tunnel is, therefore, a highway which is shown on the Master Plan in satisfaction of the first prong of the two-prong definition of "arterial highway" provided in ZR § 42-53; and

WHEREAS, DOB refers the Board to the word "include" in ZR § 42-53, which states that "[f]or the purposes of this Section, arterial highways shall include all highways which are shown on the Master Plan...", and claims that the word "include" is, as per ZR § 12-10(i), intended to extend the meaning of the term "arterial highways" beyond specified examples (i.e., beyond those shown on the Master Plan) to all other instances or circumstances of like kind and character; and

WHEREAS, thus, DOB argues that, notwithstanding its position that the Holland Tunnel is clearly shown on the Master Plan, the Holland Tunnel and its approaches are, by virtue of the rules of construction which govern the Zoning Resolution, included among those highways contemplated in ZR § 42-53 even if the approaches themselves are not shown on the Master Plan; and

2. DOB's Argument that the City Planning Commission Designated the Approaches to the Holland Tunnel as Part of the Arterial Highway to which ZR § 42-55 Applies

WHEREAS, DOB argues that Appendix H to the Zoning Resolution provides a list of arterial highways to which ZR § 42-55 applies, and that such list includes approaches to the Holland Tunnel; and

WHEREAS, in support of its argument, DOB notes that Appendix H provides, in pertinent part, that:

Pursuant to the provisions of ... Section 42-53 (Additional Regulations for Advertising Signs) ..., the City Planning Commission has designated as arterial highways which appear on the City Map and which are also indicated as Principal Routes, Parkways and Toll Crossings on the duly adopted Master Plan of Arterial Highways and Major Streets; and

WHEREAS, DOB notes further that Appendix H, under the heading "Toll Crossings," lists "Holland Tunnel and Approaches"; and

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WHEREAS, DOB also notes that the CPC Report is consistent with the City Planning Commission's Appendix C list of arterial highways to which ZR § 42-53 applies in that the CPC Report states, in its description of "toll crossings" that "[t]he water crossings, provided as toll facilities by specially constituted Authorities, which *together with their approaches* are essential links in the arterial highway and major street system, are listed below according to the Authority having jurisdiction" (emphasis supplied by DOB); and

3. DOB's Argument that the Entrance Roadways are the Approaches to the Holland Tunnel Listed in Appendix C and Designated by CPC for the Purposes of ZR § 42-55

WHEREAS, DOB states that the Master Plan is intended as a macroscopic framework for development that does not show precise lines for routes in order to depict general plans for future growth and development; and

WHEREAS, DOB maintains that in light of the foregoing, the Master Plan shows only the general locations of the approaches to the Holland Tunnel, and that the precise locations of the approaches to the Holland Tunnel are to be determined in accordance with longstanding DOB practice, which is reflected in the definition of approach set forth in Rule 49 which states, in pertinent part, that

...an approach as found within the description of arterial highways indicated within appendix C of the Zoning Resolution shall mean that portion of a roadway connecting the local street network to a bridge or tunnel and from which there is no entry or exit to such network; and

WHEREAS, DOB argues that there are multiple approaches along the Entrance Roadways; and

WHEREAS, specifically, DOB maintains that there are three points along the Entrance Roadways which, consistent with Rule 49 and the longstanding DOB practice upon which that rule is based, constitute an approach to the Holland Tunnel; the first approach identified by DOB is that roadway which begins at the intersection of Varick Street and Broome Street (the "Broome Approach"); the second approach identified by DOB is that roadway which begins at the Broome Entrance and continues to the North Tube, which DOB identifies as the "Tunnel Approach" (the Vantage Point is located on the roadway which DOB labels the Tunnel Approach); and the third approach identified by DOB is that roadway which begins at the intersection of Watts Street and Varick Street (the "Watts Approach"); and

WHEREAS, DOB maintains that Rule 49 codifies its longstanding administrative interpretation of Appendix C, and notes that the Appellant has not presented any evidence that DOB has ever recognized another interpretation of the term "approaches" as presented in that Appendix; and

4. DOB's Argument that the Sign is Within 200 feet of the Tunnel Approach

WHEREAS, DOB states that the Appellant has conceded that the Sign is within 200 feet of the Holland Tunnel and argues that it is therefore within 200 feet of the Broome Approach and the Tunnel Approach; and

WHEREAS, moreover, DOB states that the Sign is located approximately 140 feet from the Tunnel Approach and submitted a Pictometry analysis to the Board in support of this contention; and

WHEREAS, DOB states that it is its longstanding practice to measure the distance of signs from an arterial highway horizontally from the nearest point on the sign to the arterial highway's nearest street line; and

WHEREAS, in support of the foregoing contention, DOB cites a number of its official notifications, including: (1) Technical Policy and Procedure Notice # 1/97 (1997) (requiring a site survey which shows the distance between a sign and an arterial highway if the sign is within view of said arterial highway); (2) Operations Policy and Procedure Notice # 10/99 (1999) ("Distance is to be measured horizontally, from the nearest street line of the arterial highway ... to the nearest point on the sign or sign structure."); and (3) 1 RCNY 49-15(d)(1) (2006) ("Such distance shall be calculated as the length of a horizontal plane extending between a vertical plane reflecting the edge of the sign ... closest to the ... arterial highway and a vertical plane reflecting the portion of the Arterial highway closest to the sign..."); and

WHEREAS, DOB maintains that assuming that the distance between the Sign and the middle of the Broome Entrance was 207 feet, as the Appellant contends, and using a three-dimensional measurement, as opposed to a horizontal plane measurement, as Appellant maintains is proper, a measurement of the nearest point on the Sign to the nearest point on the Tunnel Approach places the Sign within 200 feet of the arterial highway as long as the Sign was less than 142 feet above curb level, based upon the horizontal distance between the Sign and the Tunnel Approach and the Pythagorean Theorem; and

WHEREAS, DOB notes that the Sign was approximately 100 feet above curb level; and

5. DOB's Argument that the Sign is Within View of the Tunnel Approach

WHEREAS, DOB maintains that an advertising sign is "within view" of an arterial highway when it can be viewed from a specific point on said arterial highway in any direction within 360 degrees; and

WHEREAS, DOB notes that the Board previously recognized the 360-degree standard as an objective standard to determine whether a sign is "within view" for purposes of ZR § 42-55 in BSA Cal Nos. 88- and 89-12-A (*462 Eleventh Avenue, Manhattan*, decided December 11, 2012) (upheld on appeal in *Van Wagner v BSA*, 2014 WL 461074) and 134-13-A (*538 Tenth Avenue, Manhattan*, decided October 22, 2013); and

WHEREAS, DOB argues that the Sign is visible from the Tunnel Approach, among other approaches along the Entrance Roadways; and

WHEREAS, DOB challenges the Appellant's argument that the view of the Sign from the Vantage Point is substantially obstructed and, therefore, the Sign is not "within view" for the purposes of ZR § 42-55 on the grounds that the standard advanced by the Appellant is a

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subjective standard based on whether the message on the subject sign is effectively communicated to a traveler in a vehicle located on an arterial highway within 200 feet of said sign and, therefore, should be rejected; and

CONCLUSION

WHEREAS, the Board finds that the Sign is within 200 feet of, and within view of, an arterial highway such that the Permit was unlawful when issued and, therefore, that DOB's revocation of the Permit was proper; as such, the Final Determination is affirmed and the subject appeal is denied; and

The Sign is Within 200 Feet of the Vantage Point, Tunnel Approach and Holland Tunnel

WHEREAS, the Board notes that the Appellant concedes, by letter dated April 23, 2013, that the Sign is within 200 feet of the Holland Tunnel; and

WHEREAS, the Board credits DOB's argument that the Sign is within 200 feet of the Vantage Point and, therefore, the Tunnel Approach, using both the DOB's horizontal plane measurement as well as the Appellant's preferred three-dimensional calculation; and

The Sign is Within View of the Vantage Point and, therefore, the Tunnel Approach

WHEREAS, the Board finds that the Sign is within view of the Vantage Point and, therefore, the Tunnel Approach; and

WHEREAS, the Board rejects the Appellant's argument that the Sign is not visible to a traveler within a vehicle located at the Vantage Point and, as such, is not "within view" of the Tunnel Approach; and

WHEREAS, the Board notes its well-established endorsement of the "360 Degrees Standard" for what constitutes "within view" for the purpose of ZR § 42-55; specifically, the Board has ruled that a sign is within view if it can be viewed from a specific point on an arterial highway in any direction, 360 degrees (i.e., by a driver in the front seat of a convertible car with the top down facing forward, or a passenger in the back seat of a convertible car with the top down facing backward, or to the side); and

WHEREAS, the Board notes that it previously examined the proper standard for "within view" in BSA Cal. No. 134-13-A (538 Tenth Avenue, Manhattan, decided October 22, 2013), in which it ruled that the 360 Degrees Standard was the "proper standard in interpreting the meaning of the term 'within view'" and found that the 360 Degrees Standard "is the only objective measurement of whether a sign is within view of a motorist traveling along an arterial highway"; and

WHEREAS, the Board notes that the 360 Degrees Standard furthers the intent of the arterial highway restrictions on signs, which include reducing driver distraction and beautifying public spaces; and

WHEREAS, the Board notes, as it did in BSA Cal. No. 134-13-A, that the 360 Degrees Standard is consistent with its decision in BSA Cal. Nos. 88-12-A and 89-12-A (462 Eleventh Avenue, Manhattan, decided December 11, 2012), in which the Board held that the meaning of "within view" is an objective standard deliberately calculated to be without nuance so as to best effect the statutory goal to regulate signs within

view of arterial highways; and

WHEREAS, the Board rejects the Appellant's argument that DOB impermissibly applied a definition of "within view" based on Rule 49, and notes that there is no evidence in the record contrary to DOB's assertion that Rule 49 is consistent with and merely codified an existing Departmental practice; and

WHEREAS, in determining whether a sign is visible, the Board employs objective, clear-cut standards and as such, rejects the Appellant's argument that the Sign is not visible from the Vantage Point because, to the extent that it is visible, only a portion of the Sign can be seen; and

WHEREAS, in rejecting the Appellant's argument, the Board notes that the Appellant's reliance on BSA Cal. No. 90-12-A (111 Varick Street, Manhattan, decided January 15, 2013) to support that argument is misplaced; in 111 Varick Street, the Board concluded that in order to qualify as an "advertising sign," painted plywood affixed to a building must meet all criteria of the ZR § 12-10 definition of sign in that it must direct attention to or advertise a business, profession, commodity, service or entertainment conducted, sold, or offered elsewhere than upon the same zoning lot; the Board did not consider, and certainly did not conclude, that a writing, pictorial representation, emblem, flag or other figure of similar character only constituted a sign when the entirety of its message was communicated to a person viewing such writing, pictorial representation, emblem, flag or other figure of similar character; and

WHEREAS, the Board notes that viewing a portion of a sign can have the same deleterious impact as viewing the entirety of a sign as contemplated in the arterial highway restrictions on signs and, consistent with those restrictions, finds that if any portion of a sign is within view of an arterial highway, the "within view" element of ZR § 42-55 is met; and

WHEREAS, the Board notes that the foregoing is consistent with its determination in BSA Cal. No. 101-12-A (13-17 Laight Street, Manhattan, decided January 8, 2013) (upheld on appeal in *Take Two Outdoor Media v Board of Standards and Appeals*, 128 AD3d 563 (1st Dept 2015)), in which it stated that, for the purposes of whether a sign is "within view," the intended audience for the sign is irrelevant; and

WHEREAS, having concluded that the Sign is within view of and within 200 feet of the Vantage Point and, by extension, the Tunnel Approach, the Board must consider whether the Tunnel Approach qualifies as an arterial highway to which the provisions of ZR § 42-55 apply; and

The Tunnel Approach is an Approach to the Holland Tunnel to which the Provisions of ZR § 42-55 Apply

WHEREAS, the Board finds that the Tunnel Approach is an approach to the Holland Tunnel; and

WHEREAS, in so finding that the Tunnel Approach is an approach to the Holland Tunnel, the Board notes that the instant appeal does not require it to find that all of the roadways which make up the Entrance Roadways are approaches to the Holland Tunnel; however, the Board finds that it is beyond

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dispute that the Tunnel Approach, an open cut approach ramp that connects the North Tube to the street grade at Broome Street and which is bordered by high walls on both sides and which feeds exclusively into the North Tube of the Holland Tunnel, is an “approach” using any reasonable interpretation of the word, and that it has been so since the Holland Tunnel began operating; and

WHEREAS, in addition to the fact that the Tunnel Approach is an approach by any reasonable interpretation, the Board finds that the Appellant failed to refute DOB’s arguments that (1) the Rule 49 definition of an “approach” is consistent with the Department’s long-standing, pre-Rule 49, interpretation of the term and was such at the time the Permit was issued or that (2) the Tunnel Approach does indeed qualify as an approach under such definition; and

The Tunnel Approach Constitutes an Arterial Highway For the Purpose of ZR § 42-55

WHEREAS, having determined that the Tunnel Approach is an approach to the Holland Tunnel and that the Sign is within 200 feet and within view of the Tunnel Approach, the Board must consider whether the Tunnel Approach constitutes an arterial highway for the purpose of ZR § 42-53 (and current ZR § 42-55), i.e., (1) whether it is shown on the City Map and the Master Plan as a principal route, parkway or toll crossing, and (2) whether it has been designated by the City Planning Commission as an arterial highway; and

WHEREAS, the Board finds that it does; and

WHEREAS, the Board notes that it is uncontested that the Master Plan depicts the Holland Tunnel; and

WHEREAS, additionally, the Board credits DOB’s argument that the Master Plan, a macroscopic document, need not depict the Tunnel Approach, or any approach, in order for such approach to be subject to the regulations set forth in ZR § 42-55 where, as here, the accompanying CPC Report designated approaches to the Holland Tunnel and such designation is consistent with Appendix H; and

WHEREAS, the Board notes that its conclusion that the macroscopic Master Plan signifies the designation of the Holland Tunnel and, by extension, the Tunnel Approach, is consistent with the CPC Report, which lists the Holland Tunnel as a “toll crossing” and describes toll crossings as “...water crossings, provided as toll facilities by specially constituted Authorities, which together with their approaches are essential links in the arterial highway and major street systems” (emphasis added); and

WHEREAS, the Board further notes its obligation to give effect to the language of the CPC Report cited above; and

WHEREAS, moreover, the Board finds that in the absence of the Tunnel Approach it would be impossible to access the North Tube and, by extension the Holland Tunnel itself, thus, the existence of an approach to the Holland Tunnel is not only grounded in the text but is also self-evident, and the Appellant’s position that there are no approaches to the Holland Tunnel defies logic; and

WHEREAS, the Board finds that the CPC Report’s characterization of toll crossings as including their

approaches, coupled with its statement that “[t]hose crossings, constructed and operated as toll facilities by specific Authorities created by law, are shown as distinctive symbols on the modified Plan” suggests that City Planning intended that the Master Plan show the toll crossings themselves while recognizing that the approaches thereto could be designated but need not be depicted; and

WHEREAS, additionally, the Board cites City Planning Commission report CP 3606, report no. 3254 (“CPC Report 3606”), issued with the CPC Report on April 11, 1945, and notes that in considering changes to § 21-B of the 1916 Zoning Resolution, the precursor to ZR § 42-53 and ZR § 42-55, the City Planning Commission included, among the toll crossings to which § 21-B applies, the “Holland Tunnel and Approaches,” further evidencing the City Planning Commission’s intent to designate both the Holland Tunnel and its approaches while depicting only the tunnel itself on the Master Plan; and

WHEREAS, the Board notes further that Appendix C, now Appendix H, also has continued to list “Holland Tunnel and Approaches” under the “Toll Crossings” to which ZR § 42-53 and ZR § 42-55 applies; and

WHEREAS, the Board notes its obligation to give effect to the plain language of the CPC Report, CPC Report 3606, Appendix H, and ZR § 42-55, and notes that its decision herein harmonizes and effectuates the intent of those texts; and

WHEREAS, thus, the ZR § 42-55 criteria are met in that the Holland Tunnel and Tunnel Approach are effectively shown on the Master Plan and are designated in the CPC Report as an arterial highway, consistent with Appendix H of the Zoning Resolution, which lists the Holland Tunnel and Approaches as a designated arterial highway; and

WHEREAS, therefore, the Board has determined that the Tunnel Approach is an approach to the Holland Tunnel the existence of which is implied on the Master Plan and which has been designated by the City Planning Commission, in addition to being listed in Appendix H, hence it is an “arterial highway” to which ZR § 42-55 applies; the Board has further determined that the Sign is within 200 feet of the Holland Tunnel and Tunnel Approach, based on the Board’s examination of the Vantage Point thereupon, and within view from the Vantage Point and, by extension, the Tunnel Approach; and

Therefore it is resolved that the subject appeal, seeking a reversal of the Final Determination of the Department of Buildings, dated August 28, 2013, is hereby denied.

Adopted by the Board of Standards and Appeals, July 21, 2015.

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37-15-A

APPLICANT – Jeffrey Geary, for Louis Devivo, owner.
SUBJECT – Application February 26, 2015 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-2 zoning district.
PREMISES AFFECTED – 2020 Demerest Road, Van Brunt Road and Demerest Road, Block 15485, Lot 0007, Borough of Queens.

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for deferred decision.

ZONING CALENDAR

94-14-BZ

APPLICANT – Dennis D. Dell'Angelo, for Rivka Shapiro, owner.
SUBJECT – Application May 5, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-141) and less than the required rear yard (ZR 23-47). R2 zoning district.
PREMISES AFFECTED – 1150 East 22nd Street, west side of East 22nd Street, 140' north of Avenue "K", Block 7603, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated April 28, 2014, acting on DOB Application No. 320951680, reads in pertinent part:

1. The proposed F.A.R. and O.S.R. constitutes an increase in the degree of existing non-compliance contrary to Sec.23-141 of the N.Y.C. Zoning Resolution;
2. Proposed horizontal enlargement provides less than the required rear yard contrary to Sec. 23-47 of the N.Y.C. Zoning Resolution; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family three-story with cellar detached home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, and rear yards, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on November 18, 2014, after due notice by publication in *The City Record*, with continued hearings on December 16, 2014, January 30, 2015, February 24, 2015, March 24, 2015, April 21, 2015 and June 2, 2015, and then to

decision on July 21, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the west side of East 22nd Street, between Avenue J and Avenue K, within an R2 zoning district; and

WHEREAS, the site has 40 feet of frontage along East 22nd Street and 4,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a non-complying, detached, three-story with cellar, single-family home with 2,038 sq. ft. of floor area (0.51 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the building, resulting in an increase in the floor area from 2,038 sq. ft. (0.51 FAR) to 3,813.3 sq. ft. (0.95 FAR); the maximum permitted floor area is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant also seeks to decrease its non-complying rear yard from 24'-2" to 20'-0", with a 24'-0" setback to the rear lot line at the second and third floors of the proposed building; the requirement is a minimum rear yard depth of 30'-0"; and

WHEREAS, the applicant also seeks to decrease its non-complying open space ratio from 149 percent to 63 percent; a minimum open space ratio of 150 percent is required; and

WHEREAS, the applicant represents that the proposed enlargement will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, the applicant initially proposed an enlargement that would have resulted in a building with 3,920 sq. ft. of floor area (0.98 FAR), a rear yard of 20'-0" with no setback to the rear lot line at the second and third floors, and an open space ratio of 61 percent; and

WHEREAS, at a hearing, the Board directed the applicant to: (1) reduce the amount of floor area requested; and (2) provide an analysis of the surrounding rear yard conditions to support the assertion that a rear yard with a depth of 20'-0" is consistent with neighborhood character and, upon consideration of the applicant's analysis, lessen the impact of the reduction in the depth of the rear yard by setting the second and third floors of the building back from the rear lot line; and increasing the open space ratio of the site; and

WHEREAS, the applicant argued to the Board that the proposed reduction in the rear yard of the building must be permitted by virtue of the fact that other sites within 400 feet of the subject site benefitted from special permits pursuant to which the depths of the rear yards of such sites were reduced; and

WHEREAS, the Board explicitly rejects the applicant's argument, and notes that under ZR § 73-01, in each specific case for which a special permit is requested of the Board,

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the requirement for findings as set forth in ZR § 73-00 et. seq. are a condition precedent to the grant of such special permit, and notes further that the foregoing requirement is applicable notwithstanding the issuance of similar special permits in the vicinity of any particular site; and

WHEREAS, the Board also notes that its authority under ZR § 73-622 includes the ability to prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the area surrounding a site for which an application under ZR § 73-622 has been made; and

WHEREAS, in response to the Board's comments, the applicant reduced the floor area of the proposed building; increased the open space ratio of the site; and provided a 24'-0" set back from the rear lot line of the site at the second and third floors of the building; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family three-story with cellar detached home, which does not comply with the zoning requirements for floor area ratio ("FAR"), open space ratio, and rear yards, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received June 23, 2015"-(12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,813.3 sq. ft. (0.95 FAR), one side yard (to the north) with a minimum width of 5'-0", one side yard (to the south) with a minimum width of 10'-2", a minimum open space ratio of 63 percent, a rear yard with a minimum depth of 20'-0", and a building height of 29'-6" with a perimeter wall height for rear wall and side walls of 28'-6" and a minimum setback of 24'-0" from the rear lot line of the site at the second and third floors of the building, all as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by July 21, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 21, 2015.

264-14-BZ

CEQR #15-BSA-093X

APPLICANT – Eric Palatnik, P.C., for GS 149 LLC, owner; Crunch LLC, lessee.

SUBJECT – Application October 24, 2014 – Special Permit (§73-36) to permit a physical culture establishment (*Crunch Fitness*) within portions of the existing commercial building, C4-4 zoning district.

PREMISES AFFECTED – 436 East 149th Street, south side of East 149th Street, approximately 215' west of intersection with Brook Avenue, Block 02293, Lot 46, Borough of Bronx.

COMMUNITY BOARD #1BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated July 1, 2015, acting on DOB Application No. 210049516, reads, in pertinent part:

Proposed Physical Culture Establishment in a C4-4 zoning district is contrary to Section 32-10 Zoning Resolution and requires a special permit from the BSA pursuant to Section 73-36 Zoning Resolution; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C4-4 zoning district, a physical culture establishment (the "PCE") which currently operates in the cellar, first and second floors of a four-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on June 2, 2015 after due notice by publication in the *City Record*, and then to decision on July 21, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed site and neighborhood inspections of the premises and surrounding area; and

WHEREAS, Community Board 1, Bronx, recommends approval of this application; and

WHEREAS, the subject site is located on a through lot with approximately 90.69 feet of frontage along the south side of East 149th Street and 100 feet of frontage on the north side of East 148th Street, between Bergen Avenue and Brook Avenue, in the Bronx;

WHEREAS, the site contains approximately 20,226 sq. ft. of lot area and is located within a C4-4 zoning district, it is

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occupied by a four-story commercial building containing approximately 75,497 sq. ft. of floor area; and

WHEREAS, the PCE occupies 1,644 sq. ft. of floor space in the cellar of the building, 6,128 sq. ft. of floor area on the first floor of the building, and 10,292 sq. ft. of floor area on the second floor of the building; and

WHEREAS, the PCE operates and shall continue to operate as Crunch Fitness; and

WHEREAS, the hours of operation for the PCE will be Monday through Saturday, from 5:00 a.m. to 11:00 p.m., and Sunday from 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-093X, dated October 24, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site within a C4-4 zoning district, a physical culture establishment which currently operates in the cellar, first and second floors of a four-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received June 11, 2015," - Five (5) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on March 20, 2025;

THAT there shall be no change in ownership or

operating control of the PCE without prior application to and approval from the Board;

THAT fire safety measures shall be installed and/or maintained as shown on the BSA-approved plans;

THAT noise abatement measures shall be implemented and maintained as reflected on the BSA-approved plans;

THAT the operator of the PCE shall ensure that no nuisance results from vibrations resulting from activity within the PCE;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by July 21, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 21, 2015.

193-13-BZ

APPLICANT – Eric Palatnik, Esq., for Centers FC Realty LLC, owner.

SUBJECT – Application July 2, 2013 – Special Permit (§73-44) for the reduction in parking from 190 to 95 spaces to facilitate the conversion of an existing building to UG 6 office and retail use. C2-2/R6A & R-5 zoning districts
PREMISES AFFECTED – 4770 White Plains Road, White Plains Road between Penfield Street and East 242nd Street, Block 5114, Lot 14, Borough of Bronx.

COMMUNITY BOARD #12BX

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

303-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for SoBro Development Corporation, owner.

SUBJECT – Application November 15, 2013 – Variance (§72-21) to allow a new mixed use building with 36 residential units and community facility space. R6 & C1-4 zoning districts.

PREMISES AFFECTED – 506-510 Brook Avenue, east side of Brook Avenue between 147th and 148th Street, Block 2274, Lot(s) 6, 7 and 8, Borough of Bronx.

COMMUNITY BOARD #1BX

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for adjourned hearing.

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98-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 404-414 Richmond Terrace Inc., owner.

SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the reestablishment of a banquet facility (catering hall -UG 9) with accessory parking. Located in an R5 and R3A zoning districts within the St. George Historic District. PREMISES AFFECTED – 404 Richmond Terrace, southeast corner of Richmond Terrace and Westervelt Avenue, Block 3, Lot(s) 40, 31, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to September 1, 2015, at 10 A.M., for adjourned hearing.

182-14-BZ

APPLICANT – Eric Palatnik, PC, for Izhak Lati, owner. SUBJECT – Application August 5, 2014 – Special Permit (§73-622) for the enlargement of an existing single family, two story dwelling contrary to floor area (ZR 23-141(b); side yards (ZR 23-461) and less than the minimum rear yard (ZR 23-47). R5 zoning district.

PREMISES AFFECTED – 1977 Homecrest Avenue, between Avenue "S" and Avenue "T", Block 7291, Lot 136, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

231-14-BZ

APPLICANT – Sheldon Lobel, PC, for Orangetheory Fitness, owner; OTF Man One, LLP, lessee.

SUBJECT – Application September 26, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Orangetheory Fitness*) within a portion of an existing commercial building. C6-3X zoning district.

PREMISES AFFECTED – 124 West 23rd Street, south side of West 23rd Street, between Avenue of the Americas and 7th Avenue, Block 00798, Lot 7507, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to September 1, 2015, at 10 A.M., for continued hearing.

319-14-BZ

APPLICANT – Eric Palatnik, P.C., for Shore Plaza LLC, owner; Staten Island MMA1, Inc., lessee.

SUBJECT – Application December 5, 2014 – Special Permit (§73-36) to permit the legalization of a physical culture establishment (*UFC Gym*). C43 zoning district.

PREMISES AFFECTED – 1781 South Avenue, within West Shore Plaza 1745-1801 South Avenue, Block 02800, Lot 37, Borough of Staten Island.

COMMUNITY BOARD #2SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 28, 2015, at 10 A.M., for decision, hearing closed.

REGULAR MEETING TUESDAY AFTERNOON, JULY 21, 2015 1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

213-14-BZ

APPLICANT – Law Office of Steven Simicich, for Wayne Bilotti, owner.

SUBJECT – Application August 29, 2014 – Variance (§72-21) for the construction of a single family detached home contrary to ZR 23-32 for minimum lot area. R2 zoning district.

PREMISES AFFECTED – 165 Wooley Avenue, Woolley Avenue between Lathrop and Garrison Avenues, Block 00419, Lot 13, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to September 1, 2015, at 10 A.M., for postponed hearing.

219-14-BZ

APPLICANT – Slater & Beckerman, P.C., for People 4 Parks LLC., owner.

SUBJECT – Application September 4, 2014 – Variance (§72-21) to permit the construction of a three-story, single-family residence with one parking space. M1-1 zoning district.

PREMISES AFFECTED – 64 DeGraw Street, south side of DeGraw Street between Columbia and Van Brunt Streets, Block 00329, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

220-14-BZ and 221-14-BZ

APPLICANT – Slater & Beckerman, P.C., for Post Industrial Thinking, LLC, owner.

SUBJECT – Application September 4, 2014 – Variance (§72-21) to permit the construction of two 3-story single family residences. M1-1 zoning district.

PREMISES AFFECTED – 8 & 10 Underhill Avenue, west side of Underhill Avenue between Atlantic Avenue and Pacific Street, Block 01122, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #8K

MINUTES

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

236-14-BZ

APPLICANT – Law Office of Stuart Klein, for The 5th Street Dorchester, Inc. c/o Brown Harris, owner; BLT Steak, LLC, lessee.

SUBJECT – Application October 1, 2014 – Special Permit (§73-241) to legalize the operation of an eating and drinking establishment (UG 6C) with entertainment, but not dancing, with a capacity of 200 persons or fewer. C5-3 (MID) zoning district.

PREMISES AFFECTED – 106 East 57th Street aka 104-114 East 57th Street, south side of East 57th Street, 90’ from Park Avenue, Block 01311, Lot 0065, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4

Negative:.....0

ACTION OF THE BOARD – Laid over to August 18, 2015, at 10 A.M., for decision, hearing closed.

18-15-BZ

APPLICANT – Frances R. Angelino, Esq., for 90 Fifth Owner, LLC, owner; Peak Performance NYC. LLC, lessee.

SUBJECT – Application January 28, 2015 – Special Permit (§73-36) to permit a physical culture establishment (*Peak Performance*) on 10th & 11th floors of an 11- story commercial building. C6-4M zoning district.

PREMISES AFFECTED – 90 5th Avenue, northwest corner of West 14th Street and Fifth Avenue, Block 00816, Lot 37, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4

Negative:.....0

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for decision, hearing closed.

61-15-BZ

APPLICANT – Deirdre A. Carson, Esq., for 540 W. 26th St. Property Investors IIA, LLC., owner; Avenue World Holdings LLC., lessee.

SUBJECT – Application March 19, 2015 – Special Permit (§73-19) to permit the operation of a portion of a school known as Avenues (*The School*) Use Group 3A, located in a M1-5 zoning district.

PREMISES AFFECTED – 540 West 26th Street, an interior lot on the south side of West 26th Street, 100’ east of intersection of 11th Avenue and West 26th Street, Block 0697, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4

Negative:.....0

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director

BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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August 5, 2015

DIRECTORY

MARGERY PERLMUTTER, *Chair*

SUSAN M. HINKSON, *Vice-Chair*

DARA OTTLEY-BROWN

EILEEN MONTANEZ

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Tuesday, July 28, 2015**

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202-14-BZ	2268 West 1 st Street, Brooklyn
55-15-BZ	405 West 55 th Street, Manhattan

DOCKETS

New Case Filed Up to July 28, 2015

161-15-BZ

621 East 216th Street, located on the corner of the intersection formed by Bronx Boulevard and East 216th Street, Block 04649, Lot(s) 0001, Borough of **Bronx, Community Board: 12**. Variance (§72-21) to permit the enlargement of an existing house of worship (UG 4) contrary to lot coverage and rear yard requirements. R6A/R5A zoning district R6A/R5A district.

162-15-A

139-48 88th Road, premises is located on the south side of 88th Road between 80th Street and 85th Street, Block 09683, Lot(s) 0013, Borough of **Queens, Community Board: 13**. Application seeks a determination that the applicant has vested rights in the continued development of the proposed residential building at the premises. R5 zoning district R5 district.

163-15-A

88-30 144th Street, premises is located on the south side of 88th Road between 80th Street and 85th Street, Block 09683, Lot(s) 0014, Borough of **Queens, Community Board: 13**. Application seeks a determination that the applicant has vested rights in the continued development of the proposed residential building at the premises. R5 zoning district R5 district.

164-15-A

88-34 144th Street, premises is located on the south side of 88th Road between 80th Street and 85th Street, Block 09683, Lot(s) 0114, Borough of **Queens, Community Board: 13**. Application seeks a determination that the applicant has vested rights in the continued development of the proposed residential building at the premises. R5 zoning district R5 district.

165-15-A

88-36 144th Street, premises is located on the south side of 88th Road between 80th Street and 85th Street, Block 09683, Lot(s) 0015, Borough of **Queens, Community Board: 13**. Application seeks a determination that the applicant has vested rights in the continued development of the proposed residential building at the premises. R5 zoning district R5 district.

166-15-A

88-35 144th Street, premises is located on the south side of 88th Road between 80th Street and 85th Street, Block 09683, Lot(s) 0016, Borough of **Queens, Community Board: 13**. Application seeks a determination that the applicant has vested rights in the continued development of the proposed residential building at the premises. R5 zoning district R5 district.

167-15-A

137 West 86th Street, north side of West 86th Street between Columbus and Amsterdam Avenues, Block 01217, Lot(s) 0017, Borough of **Manhattan, Community Board: 7**. Application filed pursuant to Section 310 of the Multiple Dwelling Law ("MDL") requesting to vary MDL 171(2)(a) to permit a partial one story vertical enlargement of an existing building. R10A zoning district R10A district.

168-15-BZ

58 Grattan Street, south side of Grattan Street between Knickerbocker Avenue and Vandervoort Place, Block 03008, Lot(s) 0015, Borough of **Brooklyn, Community Board: 1**. Variance (§72-21) to permit the development of a four-story commercial building contrary to height, setback and parking requirements. M1-1 zoning district. M1-1 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

AUGUST 25, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, August 25, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

182-95-BZ

APPLICANT – Rothkrug & Spector LLP, for 2465 Broadway Associates LLC., owner.

SUBJECT – Application October 14, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a PCE (*Equinox Fitness Club*) which expires on November 1, 2015; Amendment to expand the PCE into the cellar and the full third floor; Waiver of the Rules. C4-6A/R8 zoning district.

PREMISES AFFECTED – 2465 Broadway, West side of Broadway, 50' south of southwest corner of intersection of Broadway and West 92nd Street, Block 01239, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #7M

183-95-BZ

APPLICANT – Rothkrug & Spector LLP, for Haymes Broadway LLC, owner.

SUBJECT – Application October 14, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a PCE (*Equinox Fitness Club*) which expires on November 1, 2015; Amendment to expand the PCE into the cellar and the full third floor; Waiver of the Rules. C4-6A/R8 zoning district.

PREMISES AFFECTED – 2473 Broadway, southwest corner of intersection of Broadway and West 92nd Street, Block 01239, Lot 55, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEALS CALENDAR

297-12-A

APPLICANT – Law Office of Fredrick A. Becker, for 28-20 Astoria Blvd LLC., owner.

SUBJECT – Application April 6, 2015 – Extension of Time to complete construction in connection with a previously approved common law vested rights application. R6-A (C1-1) zoning district.

PREMISES AFFECTED – 28-18/20 Astoria Boulevard, south side of Astoria Boulevard, approx. 53.87' west of 29th Street, Block 00596, Lot 0045, Borough of Queens.

COMMUNITY BOARD #1Q

91-15-A

APPLICANT – Edward Lauria, for Gerard Petri, owner.
SUBJECT – Application April 23, 2015 – Proposed construction of building that does not front on a legally mapped street, pursuant Article 3 Section 36 of the General city Law. M1-1 zoning district.

PREMISES AFFECTED – 55 Englewood Avenue, 593.35' east of Arthur Kill Road, Block 07380, Lot 0029, Borough of Staten Island

COMMUNITY BOARD #3SI

AUGUST 25, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, August 25, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

19-15-BZ

APPLICANT – Herrick, Feinstein LLP, for Andon Investment LP, owner; Retro Fitness of NY LLC, lessee.

SUBJECT – Application January 29, 2015 – Special Permit (73-36) to permit a physical culture establishment (*Retro Fitness*) to be located at second-story level (plus entrance at ground-floor level) of a new two-story building. R7-1/C2-2 zoning district.

PREMISES AFFECTED – 92-77 Queens Boulevard, Through-block site with frontage on Queens Boulevard and 93 Street, between 62 Avenue and Harding Expressway, Block 02075, Lot 39, Borough of Queens.

COMMUNITY BOARD #6Q

29-15-BZ

APPLICANT – Law Office of Stuart Klein, for 3rd and 60th Associates, LP, owner; Flywheel Sport, Inc., lessee.

SUBJECT – Application February 18, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Flywheel Sports*) at the cellar level of an existing building. C6-4 zoning district.

PREMISES AFFECTED – 200-204 East 61st Street aka 1011-102 3rd Avenue, east side of 3rd Avenue between East 60th and East 61st Street, Block 01415, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #8M

Ryan Singer, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JULY 14, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

545-56-BZ

APPLICANT – Eric Palatnik, P.C., for Williamsbridge Road Realty corporation, owner.

SUBJECT – Application June 12, 2014 – Extension of Term (§11-411) to seek the term of a previously granted variance for a gasoline service station and maintenance which expired October 19, 2012; Waiver of the Rules. C2-4/R5D zoning district.

PREMISES AFFECTED – 2001-2007 Williamsbridge Road, aka 1131 Neil Avenue, southeast corner of Williamsbridge Road and Neil Avenue, Block 4306, Lot 20, Borough of Bronx.

COMMUNITY BOARD #11BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown and Commissioner Montanez.....3

Absent: Vice-Chair Hinkson.....1

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a reinstatement of a prior variance authorizing a gasoline service station (Use Group 16) contrary to use regulations and an amendment to BSA-approved plans to reflect existing curb cuts at the site; and

WHEREAS, a public hearing was held on this application on October 28, 2014, after due notice by publication in *The City Record*, with continued hearings on February 3, 2015, April 14, 2015, and June 23, 2015, and then to decision on July 28, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown; and

WHEREAS, Community Board 11, Bronx, recommends approval of this application, subject to certain conditions; and

WHEREAS, the subject site is located on the southeast corner of the intersection of Williamsbridge Road and Neill Avenue, within an R5D (C2-4) zoning district, in the Bronx; and

WHEREAS, the site has 100 feet of frontage along Williamsbridge Road and 100 feet of frontage along Neill Avenue, and approximately 10,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story building with approximately 1,800 sq. ft. of floor area (0.18 FAR); the building is occupied by a gasoline service station (Use Group 16);

WHEREAS, the Board has exercised jurisdiction over the site since October 29, 1957, when, under the subject calendar number, it granted a variance authorizing the operation of a gasoline service station, with accessory uses, contrary to the use regulations of the 1916 Zoning Resolution, for a term of 15 years, to expire on October 29, 1972; this grant was amended and the term of the variance was extended at various times; the term of the subject variance last expired on August 6, 2012; and

WHEREAS, pursuant to 2 RCNY § 1-07.3(b)(3)(i), the Board may reinstate a use variance granted under the 1916 Zoning Resolution, provided that: (i) the use has been continuous since the expiration of term; (ii) substantial prejudice would result without such reinstatement; and

WHEREAS, the applicant states that the use has been continuous at the site since the expiration of the term in 2012; in support of this statement, the applicant provided various records from Consolidated Edison, the New York Department of Environmental Protection, the New York State Department of State Division of Corporations, and New York City Department of Consumer Affairs; and

WHEREAS, the applicant asserts that substantial prejudice would result without the requested reinstatement of the variance, in that absent such reinstatement, the owner of the site will not be able to obtain a certificate of occupancy (“CO”) for the gasoline service station from the Department of Buildings; if the owner does not obtain a CO, it may be subject to violations from DOB and it may encounter difficulties in financing, leasing, or selling the site; and

WHEREAS, the applicant contends that the subject gasoline service station is compatible with the surrounding neighborhood and does not substantially impair the appropriate use and development of adjacent properties; and

WHEREAS, additionally, the applicant submitted a vehicle circulation plan, which demonstrates that the operation of the site will not negatively impact traffic in the neighborhood, and agreed to direct all lighting at the site downward and away from adjacent residential uses; and

WHEREAS, based on the applicant’s representations, the Board accepts the proposed application as a request for a reinstatement of a pre-1961 use variance; and

WHEREAS, at hearing, the Board directed the applicant to: (1) install landscaping at the site, including a planter at the gas station pole; and (2) remove all excessive signage from the site; and

WHEREAS, in response, the applicant provided photos showing the installation landscaping, including the required planters; and

WHEREAS, the subject site has four curb cuts, two on Neill Avenue and two on Williamsbridge Road; the BSA-approved plans for the site show that all four curb cuts are 30’-0” wide but the applicant represents that the easterly curb cut on Neill Avenue is 28’-0” wide and the northerly curb cut is 39’-0” wide, a non-compliance with the aforesaid plans; and

WHEREAS, the applicant provided the Board with a traffic assessment study which demonstrates that the non-

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complying 39'-0" curb cut does not have a negative impact on traffic or pedestrians on Williamsbridge Road; and

WHEREAS, based upon the above, the Board finds that the evidence in the record supports the findings required to be made under ZR § 11-411, and the requested reinstatement of the variance for a term of ten years is appropriate, with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, and, pursuant to ZR § 11-411, *reinstates* a previously-granted variance to permit, on a site located within an R5D (C2-4) zoning district, the operation of a gasoline service station (Use Group 16), contrary to use regulations; *on condition* that all work will substantially conform to plans, filed with this application marked 'Received July 9, 2015' - (5) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years, to expire on July 28, 2025;

THAT signage, fencing, and landscaping will be maintained in accordance with the BSA-approved plans;

THAT all conditions from prior resolutions not specifically waived by the Board shall remain in effect;

THAT the site shall be maintained free of debris and graffiti;

THAT the above conditions shall be noted in the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by July 28, 2016;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s); and

THAT DOB shall ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 28, 2015.

174-04-BZ

APPLICANT – Kramer Levin Naftalis & Franked LLP, for 124 West 24th Street Condominium, owner.

SUBJECT – Application October 31, 2014 – Amendment to approve conveyance of unused development rights appurtenant to the subject site previously granted by the Board. M1-5 zoning district.

PREMISES AFFECTED – 124 West 24th Street, location on the south side of West 24th Street, between Sixth and Seventh Avenues. Block 799, Lots 1001, 1026. Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown and Commissioner Montanez.....3

Absent: Vice-Chair Hinkson.....1

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application to reopen and amend the variance granted by the Board under BSA Cal. No. 174-04-BZ (the "Variance"), which permitted the conversion, from commercial to residential use, of the second through sixth floors of the building known as and located at 124 West 24th Street, in Manhattan (the "Building"); and

WHEREAS, the purpose of this application is to facilitate the transfer of unused development rights appurtenant to the subject site (Block 799, Lots 1001-1026) by the owner of the site, 124 West 24th Street Condominium (the "Condominium") to the owner of a development site (the "Development Site") within a zoning lot to be created upon the merger of the subject site with contiguous parcels located on Block 799 (the "Proposed Zoning Lot Merger"); and

WHEREAS, a public hearing was held on this application on March 10, 2015, after due notice by publication in *The City Record*, with a continued hearing on June 23, 2015, and then to decision on July 28, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Ottley-Brown; and

WHEREAS, Community Board 4, Manhattan, recommends that the Board deny this application; and

WHEREAS, the application is brought on behalf of the Condominium, which owns the subject site and wishes to enter into the Proposed Zoning Lot Merger, for which it seeks the Board's authorization; and

WHEREAS, the subject site is an interior lot located on the south side of West 24th Street, between Avenue of the Americas and Seventh Avenue, in Manhattan, within an M1-6 zoning district; and

WHEREAS, the subject site has a lot area of approximately 6,606 sq. ft. and the Building contains approximately 32,027 sq. ft. of floor area (4.83 FAR); and

WHEREAS, the Board notes that the Variance limited the FAR of the Building to a maximum of 4.81 FAR, a ratio believed to reflect the then-existing amount of FAR in the Building; the maximum permitted FAR was amended by Letter of Substantial Compliance dated February 24, 2006, to reflect the actual as-built condition of the Building; and

WHEREAS, the Building contains retail use on the ground floor and, as authorized by the Variance, residential uses on the second through sixth floors; and

WHEREAS, the Board notes that the Variance involved the change of use of certain floors within the existing Building with no impact on bulk; and

WHEREAS, the Condominium represents that there are not any changes to the Building associated with the Proposed Zoning Lot Merger and development rights transfer; and

WHEREAS, in addition, the applicant contends that the proposed transfer of development rights is consistent with the Court's decision in *Bella Vista v. Bennett*, 89 N.Y. 2d 565 (1997), setting forth the parameters of Board review

MINUTES

of requests for the transfer of development rights from sites for which a variance has been granted; and

WHEREAS, the applicant asserts that a transfer of the unused development rights from the subject site is not in conflict with the Variance; and

WHEREAS, the applicant notes that the economic feasibility analysis submitted in support of the Variance incorporated the value of the subject site's unused development rights, thus the Board considered the value of such rights when it determined that a conforming use of the Building could not generate a reasonable return; and

WHEREAS, the applicant asserts that the valuation of the unused floor area at the subject site at the time of the Variance, \$45 per square foot, reflected the fact that unused floor area could be utilized at the site, but that such utilization was constrained by the presence of the Building, as well as the fact that the market for a transfer of the site's unused floor area was, at the time of the Variance, limited; and

WHEREAS, the applicant notes that, in considering the underlying Variance, the Board articulated its concern that the \$45 per square foot value was too high, but concluded that a conforming development would not yield a reasonable rate of return at the site; and

WHEREAS, thus, the applicant states that an amendment of the Variance to facilitate the transfer of the unused development rights from the subject site to the Development Site does not undermine the integrity of the Board's earlier findings concerning ZR §§ 72-21(b) or 72-21(e) because the facts of the instant application are readily distinguishable from those underlying the Court's holding in *Bella Vista*; and

WHEREAS, the applicant concludes that the use of the development rights as a result of the Proposed Zoning Lot Merger is therefore not inconsistent with the Variance; and

WHEREAS, the Board notes that *Bella Vista* concerned a permit request for a new as-of-right residential building proposed to be built through the transfer of development rights—from a site in which the Board granted a use variance to permit the operation of a movie theater in a residential zoning district, to a separate adjacent site under common ownership—for development of a complying residential building; and

WHEREAS, the Court held that review and approval of such transfers by the Board was required, *inter alia*, because the basis for the original grant, particularly with respect to the findings of financial hardship under ZR § 72-21(b) and minimum variance needed to provide relief under ZR § 72-21(e), may be implicated by the proposed transfer; and

WHEREAS, the Board notes that, unlike in *Bella Vista*, the subject site and the Development Site have been under separate, unrelated ownership since the Board's grants; therefore, the Condominium lacked control over the timing and nature of the development of the Development Site; and

WHEREAS, the Board also notes that a brief period of time elapsed between the issuance of the variance

underlying the *Bella Vista* decision and the date of the permit application in which the owner proposed to use floor area transferred from the variance site, further distinguishing that case from the instant application and the Proposed Zoning Lot Merger; and

WHEREAS, the Board notes that in *Bella Vista*, the permit application proposing to use floor area transferred from the variance site was filed only three years after the Board grant, while the subject Variance was issued in 2005 (approximately ten years before the filing of the instant application); and

WHEREAS, the Board agrees that the differences in timing and in the health of the respective real estate markets distinguish the *Bella Vista* case from the instant case and supports the conclusion that the use of the subject site's unused development rights was not foreseeable by the owner of the Development Site or the Board; and

WHEREAS, the Board finds that the proposed transfer of development rights does not implicate or affect the basis for its findings in general, and specifically the (b) and (e) finding, at the time that they were made; and

WHEREAS, the Board observes that this finding is based on both the infeasibility of assemblage at the time of the Variance and on the changing real estate market conditions in the neighborhood surrounding the subject site; and

WHEREAS, based upon its review of the record, the Board does not object to the Proposed Zoning Lot Merger or transfer of unused development rights from the subject site, but notes that any further changes to the subject site that are inconsistent with prior approvals are subject to the Board's review and approval; and

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolutions, having been adopted on June 14, 2005, so that as amended this portion of the resolutions shall read: "to permit the merger of the subject site with contiguous parcels located on Block 799, Manhattan, and the associated modifications to the BSA-approved site plan; and *on condition*:"

THAT the zoning calculations, including any transfer of development rights, shall be subject to DOB's review and approval and shall be in full compliance with underlying bulk regulations;

THAT the site shall remain subject to the Board's jurisdiction, including modifications to the buildings on the site;

THAT all conditions from the prior resolution not specifically waived by the Board shall remain in effect;

THAT DOB shall ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, July 28, 2015.

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705-81-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Fraydun Enterprises, LLC, owner; Fraydun Enterprises, LLC, lessee.

SUBJECT – Application November 10, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the operation of a physical culture establishment which expired on May 10, 2013; Extension of Time to obtain a Certificate of Occupancy; Waiver of the Rules. R10 zoning district.

PREMISES AFFECTED – 1433 York Avenue, northeast corner of intersection of York Avenue and East 76th Street, Block 01471, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

35-10-BZ

APPLICANT –Sheldon Lobel, P.C., for Torath Haim Ohel Sara, owner.

SUBJECT – Application September 24, 2014 – Extension of Time to Obtain a Certificate of Occupancy of a previously approved Variance (§72-21) which permitted the legalization of an existing synagogue (Congregation Torath Haim Ohel Sara), contrary to front yard (§24-34), side yard (§24-35) and rear yard (§24-36), which expired on March 8, 2012; Amendment to permit minor changes to the construction; Waiver of the rules. R4 zoning district.

PREMISES AFFECTED – 144-11 77th Avenue, between Main Street and 147th Street, Block 6667, Lot 45, Borough of Queens.

COMMUNITY BOARD #8Q

ACTION OF THE BOARD – Off-Calendar.

301-03-BZ

APPLICANT – Law Office of Lyra J. Altman, for 1103 East 22nd LLC., owner.

SUBJECT – Application April 29, 2014 – Extension of Time to Complete Construction and Waiver of the rules for a single family home enlargement under 73-622 approved on January 13, 2004. R2 Zoning district.

PREMISES AFFECTED – 1103 East 22nd Street, east side of East 22nd Street between Avenue J and Avenue K, Block 07604, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

90-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP
SUBJECT – Application April 23, 2015 – Proposed construction of a building located partially within the bed of mapped unbuilt street, pursuant Article 3 Section 35 of the General City Law. M3-1 (SRD) zoning district.

PREMISES AFFECTED –54 Industrial Loop, east side of Industrial Loop, approx. 483 ft. north of intersection with Arthur Kill Road, Block 07206, Lot 01191, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown and Commissioner Montanez.....3

Absent: Vice-Chair Hinkson.....1

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated March 30, 2015, acting on DOB Application No. 520216686 reads, in pertinent part:

The street giving access to the proposed building is not duly placed on the official map of the City of New York, therefore:

A) No certificate of occupancy can be issued pursuant to Article 3, Section 36 of the General City Law.

B) Proposed construction does not have at least 8% of the total perimeter of building fronting directly upon a legally mapped street or frontage space contrary to sec 502.1 of the 2008 NYC Building Code; and

WHEREAS, this is an application, filed pursuant to General City Law §36, to allow the proposed construction not fronting on a mapped street; and

WHEREAS, a public hearing was held on this application on July 28, 2015, after due notice by publication in *The City Record*, and then to decision on the same date; and

WHEREAS, Community Board 3, Staten Island, recommends approval of this application; and

WHEREAS, the site, which does not front on a mapped street, is located on the west side of the eastern portion of Industrial Loop, approximately 424 feet north of the intersection of eastern intersection of Industrial Loop and Arthur Kill Road within an M3-1 zoning district and also within the Special South Richmond Development District, in Staten Island; and

WHEREAS, the applicant seeks to construct a one-story warehouse on the site with 11,063 sq. ft. of floor area (0.59 FAR), 14 accessory parking spaces and a loading berth, all of which complies with or exceeds applicable zoning regulations; and

WHEREAS, the applicant states that Industrial Loop (a private road) is a one-way road not placed on the official New York City Map, and can be accessed by the New York City

MINUTES

Fire Department via Arthur Kill Road, approximately 424 feet from the site; and

WHEREAS, the applicant notes that, in compliance with section 503.2.10, the proposed warehouse will be fully sprinklered; and

WHEREAS, by letter dated July 23, 2015, the FDNY stated that it has no objections or recommendations related to the instant application; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the decision of the Department of Buildings (“DOB”), dated March 30, 2015, acting on DOB Application No. 520216686, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction will substantially conform to the drawings filed with the application marked “June 28, 2015” - (1) sheet; and *on further condition*

THAT the proposal will comply with all applicable zoning district requirements and all other applicable laws, rules, and regulations;

THAT the proposed buildings shall be fully sprinklered in accordance with BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on July 28, 2015.

ZONING CALENDAR

343-12-BZ

APPLICANT – Akerman Senterfitt, LLP., for Ocean Ave Education Support, Inc., owner.

SUBJECT – Application December 19, 2012 – Variance (§72-21) to permit the construction of a Use Group 3 school (*Brooklyn School for Medically Frail Children*) with dormitory facilities in a split zoning lot, contrary to lot coverage(§24-11), yard requirements (§24-382, §24-393, §24-33) and use regulations (§22-13). R1-2/R7A zoning district.

PREMISES AFFECTED – 570 East 21st Street, between Dorchester Road and Ditmas Avenue, Block 5184, Lot(s) 39, 62, 66, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown and Commissioner Montanez.....3

Absent: Vice-Chair Hinkson.....1

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated July 16, 2015, acting on Department of Buildings Application No. 320581438, reads in pertinent part:

1. ZR 24-35 Proposed School (Use Group 3) does not provide the required side yards and requires a variance from the Board of Standards and Appeals pursuant to ZR 72-21;
2. ZR 24-382 Proposed School (Use Group 3) does not provide the required rear yard equivalent and requires a variance from the Board of Standards and Appeals pursuant to ZR 72-21;
3. ZR 24-393 Proposed School (Use Group 3) does not provide the required rear yard and requires a variance from the Board of Standards and Appeals pursuant to ZR 72-21;
4. ZR 24-11 Proposed School (Use Group 3) exceeds maximum lot coverage and requires a variance from the Board of Standards and Appeals pursuant to ZR 72-21;
5. ZR 22-13 Proposed School Dormitory (Use Group 3) is not permitted in R1-2 district per ZR 22-13 and requires a variance from the Board of Standards and Appeals pursuant to ZR 72-21;
6. ZR 24-33 Proposed School (Use Group 3) does not comply with permitted obstructions in required yards per ZR 24-33 and requires a variance from the Board of Standards and Appeals pursuant to ZR 72-21; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R1-2 zoning district, and also within an R7A zoning district, comprised of three separate tax lots, the construction of a Use Group 3 school that does not comply with the zoning requirements for side yards, rear yard equivalent, rear yards, lot coverage, dormitory use and permitted obstructions in required yards, contrary to ZR §§ 24-35, 24-382, 24-393, 24-11, 22-13, and 24-33; and

WHEREAS, the application is brought on behalf of the Brooklyn School for Medically Frail Children (the “School”), a non-profit educational institution chartered by the Board of Regents of the State of New York; and

WHEREAS, a public hearing was held on this application on September 9, 2014, after due notice by publication in the *City Record*, with continued hearings on October 28, 2014, December 16, 2014, February 24, 2015, May 19, 2015, June 23, 2015 and then to decision on July 28, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown;

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and

WHEREAS, Community Board 14 Brooklyn, recommends approval of this application; and

WHEREAS, certain neighbors testified in opposition to the application, including residents of adjacent buildings who were represented by counsel, as well as the Ditmas Park East Association; and

WHEREAS, those in opposition to the project are referred to collectively herein as the "Opposition"; and

WHEREAS, the Opposition's primary concerns are that: (1) the Site is not burdened by unique physical conditions; (2) that the waivers sought herein will alter the essential character of the surrounding neighborhood; (3) that the School created the subject hardship upon purchasing the Site because the Site is partially within an R1-2 zoning district; (4) that the proposed building is not going to be used as a school but as a nursing facility; and (5) that because the proposed building is not a school but a nursing facility, the applicant must obtain a Certificate of Need from New York State before commencing the development contemplated herein; and

WHEREAS, the School represents that it is constructing a school, and not a nursing facility, and that DOB has determined that the proposed development constitutes a school under the Zoning Resolution; and

WHEREAS, in support of its position, the School notes that it is chartered by the New York State Board of Regents as a New York not-for-profit education corporation comprised of a day and residential program with a projected enrollment of 50 students, 20 of whom are projected as residential students; and

WHEREAS, the School notes that it will enroll students consistent with the New York Education Law and regulations promulgated by the New York State Commissioner of Education, and that only students who are referred to the School by Committees on Special Education (established pursuant to Article 89 of the New York Education Law) or Committees on Preschool Education may be enrolled at the School; and

WHEREAS, the School represents that it will operate on a 12-month school year (five days per week, at least six hours per day) in order to accommodate the needs of its students who, owing to their disabilities, require year-round intensive and individualized special education services to prevent a regression of skills and knowledge during a traditional summer recess; and

WHEREAS, the Board notes that no Certificate of Need is required where, as here, the proposed development is a school and not a health care facility or nursing home, and notes further that while the School need not obtain a Certificate of Need the nursing services provider with which it will contract may do so without prejudice to the School's status as a New York not-for-profit education corporation; and

WHEREAS, the site consists of three tax lots (lots 39, 62 and 66) located on Block 5814 in Brooklyn (the "Site");

Block 5814, Lot 39 is a 5,000 sq. ft. lot with 50 feet of frontage along East 21st Street, between Dorchester Road and Ditmas Avenue, located within an R7A zoning district; Block 5814, Lots 62 and 66 are adjacent 5,500 sq. ft. lot lots each with 50 feet of frontage along Ocean Avenue, between Dorchester Road and Ditmas Avenue, located within an R1-2 zoning district, thus the Site has an area of 16,000 sq. ft. and is located partially within an R1-2 zoning district and partially within an R7A zoning district; and

WHEREAS, Block 5814, Lots 9 and 62 are each occupied by a single-family residence; Block 5814, Lot 66 is vacant; and

WHEREAS, the School proposes to construct, at the Site, a private residential and day school for medically frail students who require breathing ventilation and/or respiratory care during all our part of the school day; and

WHEREAS, the School proposes to construct the proposed building to accommodate its programmatic needs; and

WHEREAS, the proposed building will have a total floor area of 22,897 sq. ft. (1.46 FAR); a height of 35'-0"; side yards of 5'-0" and 8'-7 1/2" (two side yards of 8'-7 1/2" each are required in the R1-2 portion of the Site, pursuant to ZR § 24-35); lot coverage of 67-percent in the R1-2 zoning district (lots 62 and 66) (a maximum lot coverage of 55-percent is permitted in the R1-2 zoning district) and 100-percent in the R7A zoning district (lot 39) (a maximum lot coverage of 65-percent is permitted); an obstruction in the rear yard which is not permitted under ZR § 24-33; a 10'-0" rear yard (a 30'-0" rear yard is required pursuant to ZR § 24-393); 13 Use Group 3 dormitory rooms (containing a total of 21 nursing home beds) for non-ambulatory students and students who are not able to travel safely (which are not permitted as-of-right within the R1-2 portion of the Site pursuant to ZR § 22-13); and will not provide a rear yard equivalent (a 60'-0" rear yard equivalent is required on the subject lots which collectively constitute a through lot is required pursuant to ZR § 24-382); and

WHEREAS, because the proposed enlargement does not comply with the applicable bulk and use regulations in the subject zoning districts, the School seeks the requested variance; and

WHEREAS, the School states that the variance sought herein is necessary to meet its programmatic need, and mission, to provide high quality, individualized education to students who are ventilated and too medically frail to be educated in traditional school environments; and

WHEREAS, the School notes that in order to meet its programmatic needs, the proposed building has been designed as per NYC Codes, American with Disabilities Act Standards, Department of Education regulations and the Facilities Guidelines Institute 2010 Guidelines for Design and Construction of Health Care Facilities (the "FGI Guidelines") and will include, *inter alia*, 13 Use Group 3 dormitory rooms (containing a total of 21 nursing home beds) for non-ambulatory students and students who are not able to travel safely, which are not permitted as-of-right within the R1-2

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portion of the Site; and

WHEREAS, the School notes further that in addition to the foregoing regulations and guidelines, instructional and clinical services specific to medically frail students requires a non-traditional approach to classroom design and configuration, including “learning centers” which have been incorporated into the proposed building in order to provide both group and individualized instruction and which are proposed to be staffed by up to one teacher, one paraprofessional and two aides per center; and

WHEREAS, the School also notes that its programmatic needs also include the provision of speech, occupational and physical training within the learning centers, as well as adaptive physical education and occupational and physical therapy, which requires specialized equipment; and

WHEREAS, lastly, the School notes that the design of the proposed building allows for interior flexibility such that the School will be able to cater certain services to individual student needs; and

WHEREAS, the School asserts that an as-of-right development would not satisfy the School’s programmatic needs; and

WHEREAS, specifically, the School states that the as-of-right development precludes the maintenance of a continuous horizontal plan for the building, which is integral to the School’s mission to serve medically frail school-age children who require special breathing equipment; and

WHEREAS, the School notes that all of the bulk waivers requested herein are sought in order to achieve a continuous horizontal plan for the proposed building, which will enable the School to provide the safest and most rational handicap accessible learning environment for its students; absent a horizontal plan, students would have to be moved in their hospital beds and/or respirators, thereby interfering with the School’s programmatic need to provide high quality individualized and group education to ventilated and medically frail students; and

WHEREAS, thus, an as-of-right development is inadequate to meet the School’s programmatic need of provide a learning environment that is tailored to its medically frail students; and

WHEREAS, the School notes that, in addition to the foregoing, an as-of-right development would, by virtue of a vertical separation of services, be more costly to construct and maintain and would require additional staff dedicated solely to the movement of students throughout the School buildings; and

WHEREAS, thus, the School contends that the requested waivers are both modest and essential to its ability to meet its programmatic needs; and

WHEREAS, the Board acknowledges that the School, as an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in *Cornell Univ. v Bagnardi*, 68 NY2d 583 (1986), an educational institution’s application is to be permitted unless it can be shown to have an

adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the School along with the existing constraints of the Site create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the School is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the School represents that, pursuant to ZR § 72-21(c), the variance, if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the School states that with the exception of the proposed student dormitories, the use of the proposed building is permitted as-of-right in the subject zoning districts; and

WHEREAS, the School states that proposed building has been designed to be contextual with the surrounding neighborhood to the extent possible in light of the School’s programmatic requirements, and notes that, in an attempt to minimize impact on the surrounding neighborhood, (1) there will not be any pedestrian or vehicular ingress at the Ocean Avenue frontage of the proposed building; (2) side yards are being provided along the lot line within the R1-2 zoning district; and (3) the primary ingress and egress for the building, including the entrance to the subsurface parking located on the Site, will be located at the East 21st Street frontage and located within the R7 zoning district; and

WHEREAS, accordingly, the School asserts that the proposal will have no negative impacts on the surrounding neighborhood; and

WHEREAS, the Board agrees with the School that the proposal will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the School states that, per ZR § 72-21(d), the hardship was not self-created; and

WHEREAS, the Board finds that the hardship herein was not created by the School; and

WHEREAS, the School represents that, consistent with ZR § 72-21(e), the requested waivers are the minimum necessary to accommodate its current and projected programmatic needs; and

WHEREAS, the Board finds that the requested relief is the minimum necessary to allow the School to fulfill its programmatic needs; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

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WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 13-BSA-071K, dated June 2, 2015; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues Appeals issues a Negative declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R1-2 zoning district, and also within an R7A zoning district, the construction of a Use Group 3 school that does not comply with the zoning requirements for side yards, rear yard equivalent, rear yards, lot coverage, dormitory use and permitted obstructions in required yards, contrary to ZR §§ 24-35, 24-382, 24-393, 24-11, 22-13, and 24-33, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received June 2, 2015”– sixteen (16) sheets; and *on further condition*:

THAT the site shall be limited to a maximum floor area of 22,897 sq. ft. (1.46 FAR) and the total height of the building shall be limited to 35’-0”, exclusive of permitted obstructions, as illustrated on the BSA-approved plans, side yards of 5’-0” (north) and 8’-7 ½” (south); lot coverage of 67-percent in the R1-2 zoning district (lots 62 and 66) and 100-percent in the R7A zoning district (lot 39); an obstruction in the rear yard which is not permitted under ZR § 24-33; a 10’-0” rear yard; no rear yard equivalent; and 13 Use Group 3 dormitory rooms (containing a total of 21 nursing home beds);

THAT any change in the use, occupancy, or operator of the School shall require the Board’s approval;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by July 28, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction

objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 28, 2015.

172-14-BZ

APPLICANT – Law Office of Steven Simicich, for Dxngrnt2, LLC, owner.

SUBJECT – Application July 22, 2014 – Variance (§72-21) to allow for the reduction in the required front yard fronting from 10’ to 4’. R3A zoning district.

PREMISES AFFECTED – 235 Dixon Avenue, corner of Dixon and Granite Avenue, Block 1172, Lot 244, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown and Commissioner Montanez.....3

Absent: Vice-Chair Hinkson.....1

Negative:.....0

THE RESOLUTION –

WHEREAS, the Department of Buildings (“DOB”) objection, dated July 14, 2015, and acting on DOB Application No. 520197885 reads, in pertinent part:

Proposed new building has non-compliant front yard on Granite Avenue, contrary to ZR 23-45;

Proposed new building has non-compliant side yard, contrary to ZR 23-461; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R3A zoning district, the construction of a two-story, with cellar, single-family detached home which does not provide the required front or side yards, contrary to ZR §§ 23-45 and 23-461; and

WHEREAS, a public hearing was held on this application on March 31, 2015 after due notice by publication in *The City Record*, with continued hearings on April 21, 2015, June 2, 2015, and July 14, 2015, and then to decision on July 28, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed site and neighborhood examinations of the premises and surrounding area; and

WHEREAS, Community Board 1, Staten Island, recommends approval of this application; and

WHEREAS, the subject site is a vacant, narrow, corner lot with located at the northwest intersection of Dixon Avenue and Granite Avenue, within an R3A zoning district, in Staten Island; and

WHEREAS, the site has approximately 25 feet of

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frontage along Dixon Avenue and approximately 130 feet of frontage along Granite Avenue, with a lot area of approximately 3,247 sq. ft.; and

WHEREAS, the applicant proposes to develop a two-story, with cellar, single-family detached home with a complying floor area of 1,726.9 sq. ft. (.53 FAR), but non-complying front and side yards;

WHEREAS, specifically, the applicant proposes a single front yard of 32'-0" on Dixon Avenue (two front yards are required; a 15'-0" front yard on Dixon Avenue and 10'-0" front yard on Granite Avenue, as per ZR § 23-45) and side yards of 2'-0" and 45'-0" (two side yards 5'-0" and 20'-0" are required, as per ZR § 23-461); the applicant notes that the proposed development complies in all other respects with the applicable bulk and parking regulations; and

WHEREAS, because the proposed development does not comply with the applicable R3A zoning regulations, a variance is requested; and

WHEREAS, the applicant states that, in accordance with ZR § 72-21(a), the following are unique physical conditions that create practical difficulties and unnecessary hardships in developing the site in compliance with applicable regulations: (1) the narrow width of the site; (2) the existence of a widening area on the site; (3) that fact that the site is a corner lot and, therefore, must have two front yards; and (4) the fact that the site is vacant; and

WHEREAS, the applicant states that there are only two vacant corner lots within the vicinity of the subject site, both of which are significantly larger than the subject site and are used in conjunction with sports fields; and

WHEREAS, the applicant states that of the 40 corner lots within the study area, only 12 lots have a width of 30'-0" or less, and all of those lots are occupied by buildings which were constructed under the prior R3-2 zoning; and

WHEREAS, the applicant states further that of the 12 lots built under the prior R3-2 zoning, 11 were built with semi-detached or attached buildings, obviating the requirement for a side yard requiring only one front yard of 10'-0", and notes that semi-detached and attached buildings are not permitted under the current zoning and that there is no building abutting the side lot line to which the proposed building might connect; and

WHEREAS, the applicant states further that the only corner lot within the study area which was constructed under the current zoning has a width of 35'-0" and, therefore, was able to comply with the requirements relating to front yards; and

WHEREAS, the applicant concludes that for the foregoing reasons, the site is unique in that it is the only site in the study area which is a vacant, narrow, corner lot burdened by a widening area and required to provide two front yards; and

WHEREAS, based upon the above, the Board finds that the fact that the site is a vacant, narrow, corner lot burdened by a widening area and subject to the requirement that it maintain two front yards, in the aggregate, constitute unique physical conditions that create unnecessary hardships in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant contends that, per ZR § 72-

21(b), there is no reasonable possibility of development of the site in compliance with the Zoning Resolution; and

WHEREAS, specifically, the applicant provided the Board with an as-of-right development scheme and states that an as-of-right development which complied with the front yard requirement along Granite Avenue would result in a residence with a width of 3.55 feet; and

WHEREAS, based upon its review of the submitted material, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in compliance with applicable zoning requirements would provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, specifically, the applicant states that the neighborhood and surrounding area features an array of residences, including detached single-family homes like that which the applicant proposes to construct, and notes that the proposed detached home is permitted under the current zoning and will not be out of place among the neighboring structures; and

WHEREAS, the applicant further states that the proposed elimination of the front yard on Granite Avenue will not impact adjacent homes on Granite Avenue, which are located approximately 70 feet further down Granite Avenue; and

WHEREAS, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is due to the peculiarities of the site; and

WHEREAS, the Board also finds that this proposal is the minimum necessary to afford the owner relief, in accordance with ZR § 72-21(e); and

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

MINUTES

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 to permit, on a site within an R3A zoning district, the construction of a two-story, with cellar, single-family detached home which does not provide the required front or side yards, contrary to ZR §§ 23-45 and 23-461; *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received May 14, 2015”– (11) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: 1,726.9 sq. ft. of floor area (.53 FAR); a single front yard with a depth of 32’-0”, two side yards with widths of 2’-0” and 45’-0”, as reflected on the BSA-approved drawings;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by July 28, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 28, 2015.

5-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Israel Ashkenazi & Racquel Ashkenazi, owner.

SUBJECT – Application January 9, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141); side yards (§23-461) and rear yard (§23-47) regulations. R3-2 zoning district.

PREMISES AFFECTED – 1807 East 22nd Street, east side of East 22nd Street between Quentin Road and Avenue R, Block 6805, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

29-14-BZ

APPLICANT – Lewis Garfinkel for Leon Goldenberg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-14a); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1255 East 27th Street, East side of East 27th Street, 325 feet from the North corner of Avenue M. Block 7645, Lot 25. Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

30-14-BZ

APPLICANT – Eli Katz of Binyan Expediting, for Cong. Machine Chaim, owner; Yeshiva Bais Sorah, lessee.

SUBJECT – Application February 11, 2014 – Variance (§72-21) proposed enlargement to an existing school (Use Group 3) is contrary to §§42-00 & 43-43. M1-1 zoning district.

PREMISES AFFECTED – 6101 16th Avenue aka 1602 61st Street aka 1601 62nd Street, north east corner of 62nd Street and south east side of 16th Avenue, Block 5524, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #11BK

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for adjourned hearing.

31-14-BZ

APPLICANT – Moshe M. Friedman, PE, for Bnos Square of Williamsburg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-19) to allow a conversion of an existing Synagogue (*Bnos Square of Williamsburg*) building (Use Group 4 to (Use Group 3). M1-2 zoning district.

PREMISES AFFECTED – 165 Spencer Street, 32’6” Northerly from the corner of the northerly side of Willoughby Avenue and easterly side of Spencer Street, Block 1751, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #3BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for decision, hearing closed.

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59-14-BZ

APPLICANT – Caroline G. Harris, for School Settlement Association Ink., owner.

SUBJECT – Application April 10, 2014 – Variance (§72-21) to permit the construction of a four-story plus penthouse community facility (UG 4), contrary to (24-11). R6B zoning district.

PREMISES AFFECTED – 114-122 Jackson Street, located on the SW corner of the Intersection of Jackson Street and Manhattan Avenue. Block 2748, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for adjourned hearing.

244-14-BZ

APPLICANT – Eric Palatnik, PC, for Chong Duk Chung, owner.

SUBJECT – Application October 9, 2014 – Special Permit (§73-36) to operate a physical culture establishment (*K-Town Sauna*) within an existing building. C6-4 zoning district.

PREMISES AFFECTED – 22 West 32nd Street, 32nd Street between Fifth and Sixth Avenues, Block 00833, Lot 57, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for decision, hearing closed.

319-14-BZ

APPLICANT – Eric Palatnik, P.C., for Shore Plaza LLC, owner; Staten Island MMA1, Inc., lessee.

SUBJECT – Application December 5, 2014 – Special Permit (§73-36) to permit the legalization of a physical culture establishment (*UFC Gym*). C43 zoning district.

PREMISES AFFECTED – 1781 South Avenue, within West Shore Plaza 1745-1801 South Avenue, Block 02800, Lot 37, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

9-15-BZ

APPLICANT – Francis R. Angelino, Esq., for West 62nd Street LLC, owner; Bod Fitness NYC LLC, lessee.

SUBJECT – Application January 15, 2015 – Special Permit (§73-36) to allow for a physical culture establishment (*Bod Fitness*) at the building on a portion of the ground floor and cellar of a new 54-story mixed use residential building. C4-7 Special Lincoln Square District.

PREMISES AFFECTED – 55 Amsterdam Avenue,

southeast corner of Amsterdam Avenue and West 62nd Street, Block 1132, Lot 35, Borough of Manhattan.

COMMUNITY BOARD #7M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to August 18, 2015, at 10 A.M., for decision, hearing closed.

REGULAR MEETING TUESDAY AFTERNOON, JULY 14, 2015 1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

102-14-BZ

APPLICANT – Moshe M Friedman, P.E., for Cong. Tiferes Avraham D'Zidichov, owner.

SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the extension of house of worship (UG4) (*Congregation Tiferes Avraham D'Zidichov*) in an existing building on the lot of a three story brick building located within an R3-2zoning district.

PREMISES AFFECTED – 4017 Avenue P, northerly side of Avenue P 40' westerly from the corner of the Northerly side of Avenue and the Westerly side of Coleman Street, Block 07859, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for continued hearing.

202-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Rochelle Beyda and Jack Yadid, owners.

SUBJECT – Application August 22, 2014 – Special Permit (§73-622) for the enlargement and existing two family home to be converted to a single family home contrary to floor area, lot coverage and open space (ZR 23-141); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R4 (OP) zoning district.

PREMISES AFFECTED – 2268 West 1st Street, west side of West 1st Street between Village Road South and Avenue West, Block 07151, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for continued hearing.

MINUTES

55-15-BZ

APPLICANT – Elise Wagner, Kramer Levin Naftalis & Frankel LLP, for Alvin Alley Dance Foundation, lessee.

SUBJECT – Application March 13, 2015 – Variance (§72-21) to allow for the enlargement of a Alvin Alley Dance foundation's existing building to provide additional dance studios, classrooms, and offices, located within an R8/C!-5, C6-2 Clinton Preservation Area zoning district.

PREMISES AFFECTED – 405 West 55th Street, located on the northwest corner of Ninth Avenue and West 55th Street. Block 01065, Lot 29. Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director

BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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August 26, 2015

DIRECTORY

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Tuesday, August 18, 2015**

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827-86-BZ	270-10 Grand Central Parkway, Queens
828-86-BZ	269-10-Grand Central Parkway, Queens
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Affecting Calendar Numbers:

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179-14-BZ	1937 East 14 th Street, Brooklyn
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239-14-BZ	8008 Harber View Terrace, Brooklyn
318-14-BZ	1672-1680 86 th Street, aka 1-17 Bay 14 th Street, Brooklyn
75-15-BZ	153-157 Sherman Avenue, Manhattan

DOCKETS

New Case Filed Up to August 18, 2015

169-15-BZ

93 Worth Street, northwest corner of Broadway and Worth Street, Block 00173, Lot(s) 7504, Borough of **Manhattan, Community Board: 1**. Special Permit (§73-36) to allow a physical culture establishment ("PCE") to be operated within an existing building. district.

170-15-BZ

59 Thompson Street, westerly side of Thompson Street 137' 6" notherly of Broome Street, Block 00489, Lot(s) 0036, Borough of **Manhattan, Community Board: 2M**. Special Permit (§73-36) to allow a physical culture establishment ("PCE") to be operated within an existing building. M1-5B zoning district. M1-5B district.

171-15-BZ

281 Broadway, Broadway between Reade Street and Chambers Street, Block 00149, Lot(s) 7502, Borough of **Manhattan, Community Board: 1**. Special Permit (§73-36) to allow a physical culture establishment ("PCE") to be operated within an existing building. C6-4A zoning district. C6-4A district.

172-15-BZ

146-45 22nd Avenue, northwest corner of 22nd Avenue and 147th Street, Block 04637, Lot(s) 0047, Borough of **Queens, Community Board: 7**. Variance (§72-21) to permit the development of a 1,796 square foot two-story with cellar two (2) family dwelling contrary to underlying bulk regulations. R3A zoning district. R3A district.

173-15-BZ

157 Kent Avenue, The premises is an irregular shaped through lot on the south side of North 4th Street with frontage on Kent Avenue, Wythe Avenue and North 4th Street, Block 02349, Lot(s) 0015, Borough of **Brooklyn, Community Board: 1**. Special Permit (§73-36) to allow a physical culture establishment ("PCE") to be operated within an existing building. M1-2/R6A, MX-8 zoning district. M1-2/R6A, MX-8 district.

174-15-A

27 Johnson Street, northeast side of Johnson Street, northwest of Arthur Kill Road., Block 07207, Lot(s) 0305, Borough of **Staten Island, Community Board: 3**. Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. M3-1 (SRD) zoning district. M3-1 (SRD) district.

175-15-A

100 Mila Way, northeast side of Johnson Street, northwest of Arthur Kill Road., Block 07207, Lot(s) 0034, Borough of **Staten Island, Community Board: 3**. Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. M3-1 (SRD) zoning district. M3-1 (SRD) district.

176-15-A

101 Mila Way, northeast side of Johnson Street, northwest of Arthur Kill Road., Block 07207, Lot(s) 0035, Borough of **Staten Island, Community Board: 3**. Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. M3-1 (SRD) zoning district. M3-1 (SRD) district.

177-15-BZ

432 Albourne Avenue, Albourne Avenue, s/s distance 0' from the intersection of Lenevar Avenue, Block 06942, Lot(s) 0015, Borough of **Staten Island, Community Board: 3**. Variance (§72-21) to permit the development of a new two family dwelling contrary to required side yards and permit a 3rd parking space to be located between the building wall and the street wall. R3-X, SRD, GMD zoning district. R3-X, SRD, GMD district.

178-15-BZ

99-47 Davenport Court, 730 ft. west of intersection with 104th Street, Block 14243, Lot(s) 1110, Borough of **Queens, Community Board: 10**. Variance (§72-21) to permit the legalization of a two-family dwelling that exceeds permitted FAR and does not provide required front, side and rear yards. R3-1 zoning district. R3-1 district.

179-15-BZ

129 Taaffe Place, E/s of Taaffe Place distant 192' - 3 1/2" northerly from the intersection of Taaffe Place & Myrtle Avenue, Block 1897, Lot(s) 6, Borough of **Brooklyn, Community Board: 3**. Construct a new 4 story residential building (UG 2) on a historically residential lot in an M 1-1 district. M1-1 district.

DOCKETS

180-15-A

605-615 East 9th Street, Property is bounded by E 9th St. and E 10th St., 93 feet east of Avenue B, Block 392, Lot(s) 3, Borough of **Manhattan, Community Board: 10**. Challenge to DOB issuance of a permit that allows the conversion of an existing building to a UG 3 "College Student Dormitory" that fails to meet the requirements under 1 RCNY Section 51-01 in establishing a sufficient institutional nexus. R7 & R8B district.

181-15-A

7 Carriage Court, , Block 866, Lot(s) 389, Borough of **Staten Island, Community Board: 2**. Proposed construction of single family residences not fronting on a legally mapped street, contrary to General City Law Section 36. R1-1 district.

182-15-A

11 Carriage Court, , Block 866, Lot(s) 388, Borough of **Staten Island, Community Board: 2**. Proposed construction of single family residences not fronting on a legally mapped street, contrary to General City Law Section 36. R1-1 district.

183-15-A

15 Carriage Court, , Block 866, Lot(s) 387, Borough of **Staten Island, Community Board: 2**. Proposed construction of single family residences not fronting on a legally mapped street, contrary to General City Law Section 36. R1-1 district.

184-15-A

19 Carriage Court, , Block 866, Lot(s) 386, Borough of **Staten Island, Community Board: 2**. Proposed construction of single family residences not fronting on a legally mapped street, contrary to General City Law Section 36. R1-1 district.

185-15-A

23 Carriage Court, , Block 866, Lot(s) 385, Borough of **Staten Island, Community Board: 2**. Proposed construction of single family residences not fronting on a legally mapped street, contrary to General City Law Section 36. R1-1 district.

186-15-A

27 Carriage Court, , Block 866, Lot(s) 384, Borough of **Staten Island, Community Board: 2**. Proposed construction of single family residences not fronting on a legally mapped street, contrary to General City Law Section 36. R1-1 district.

187-15-BZ

500-514 Lexington Ave., City block bounded by Lexington Ave, E 47th St., Park Ave, and E 48th St., Block 1302, Lot(s) 7501, Borough of **Manhattan, Community Board: 5**. Proposed operation of a physical culture establishment on a portion of the ground floor of the premises. C5-3/C6-6, MID, district.

188-15-BZ

100 West 72nd Street, Southwest Corner of West 72nd Street and Columbus Avenue, Block 1143, Lot(s) 7503, Borough of **Manhattan, Community Board: 7**. This application seeks a special permit pursuant to ZR section 73-36 to permit a Physical Culture Establishment in the cellar level of the Premises. C4-6A district.

189-15-BZ

7311 3rd Avenue, Located along 3rd Avenue, between 73rd and 74th Streets, Block 5918, Lot(s) 5, Borough of **Brooklyn, Community Board: 10**. This application seeks to permit the enlargement of the existing mixed use building at the Premises pursuant to ZR section 73-621. R6B/C1-3 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

SEPTEMBER 1, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, September 1, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

69-95-BZ

APPLICANT – Fox Rothschild, LLP., for Hudson River Park Trust, owner; Chelsea Piers Management, Incorporated, lessee.

SUBJECT – Application May 18, 2015 – Extension of Term of a previously approved Special Permit (73-36) permitting the operation of a physical culture establishment (*The Sports Center at Chelsea Piers*) which expires on August 6, 2015. M2-3 zoning district.

PREMISES AFFECTED – 111B Eleventh Avenue, west side of West Street between West 19th and West 20th Streets, Block 00662, Lot 0016, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEALS CALENDAR

35-15-A

APPLICANT – Herrick Feinstein, LLP, for Baychester Retail III, LLC, owner.

SUBJECT – Application February 25, 2015 – An administrative appeal challenging the Department of Buildings' final determination dated January 26, 2015, to permit the installation of 54 individual signs at the subject property. C7 zoning district.

PREMISES AFFECTED – 2001 Bartow Avenue, Block 05141, Lot 0101, Borough of Bronx.

COMMUNITY BOARD #10BX

65-15-BZ and 66-15-A

APPLICANT – Akerman, LLP, for 361 Central Park West, LLC., owner.

SUBJECT – Application March 25, 2015 – Variance (§72-21) to permit the conversion of an existing vacant church building into a 39 unit residential building. Companion case: 66-15-A for an Appeal pursuant to MDL 310 of MDL 30.2. R10A zoning district.

PREMISES AFFECTED – 361 Central Park West, northwest corner of Central Park West and West 96th Street, Block 01832, Lot 0029, Borough of Manhattan.

COMMUNITY BOARD #7M

SEPTEMBER 1, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, September 1, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

213-14-BZ

APPLICANT – Law Office of Steven Simicich, for Wayne Bilotti, owner.

SUBJECT – Application August 29, 2014 – Variance (§72-21) for the construction of a single family detached home contrary to ZR 23-32 for minimum lot area. R2 zoning district.

PREMISES AFFECTED – 165 Wooley Avenue, Woolley Avenue between Lathrop and Garrison Avenues, Block 00419, Lot 13, Borough of Staten Island.

COMMUNITY BOARD #1SI

32-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 2857 West 8th Street Associates, LLC., owner; Blink West 8th Street, Inc., lessee.

SUBJECT – Application February 19, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Blink Fitness*) within portions of an existing building. C8-2 (OP) zoning district

PREMISES AFFECTED – 2847 West 8th Street, east side of West 8th Street, 125.67' south of the intersection of West 8th Street and Sheepshead Bay Road, Block 07279, Lot 0162, Borough of Brooklyn.

COMMUNITY BOARD #13BK

33-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Equity One (Northeast Portfolio) Inc., owner; Blink 5510-5530 Broadway, Inc., lessee.

SUBJECT – Application February 19, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Blink Fitness*) within a new commercial building. C8-2 (OP) zoning district.

PREMISES AFFECTED – 5510 Broadway, north east corner of Broadway and West 230th Street, Block 03266, Lot(s) 21 & 23, Borough of Bronx.

COMMUNITY BOARD #8BX

CALENDAR

40-15-BZ

APPLICANT – Francis R. Angelino, Esq., for 465 Lexington Avenue, LLC., owner; 8 Fit Strategies, LLC, lessee.

SUBJECT – Application March 3, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment within portions of an existing building. C5-3 zoning district. Companion case 41-15-BZ

PREMISES AFFECTED – 465 Lexington Avenue, east side between East 46th and 47th Streets, Block 01300, Lot 0020, Borough of Manhattan.

COMMUNITY BOARD #6M

41-15-BZ

APPLICANT – Francis R. Angelino, Esq., for 140 East 46th Street, LLC., owner; 8 Fit Strategies, LLC, lessee.

SUBJECT – Application March 3, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment within portions of an existing building. C5-3 & C5-2.5 zoning district. Companion case 40-15-BZ

PREMISES AFFECTED – 140 East 46th Street, south east corner of East 47th Street and Lexington Avenue, Block 01300, Lot 0050, Borough of Manhattan.

COMMUNITY BOARD #6M

71-15-BZ

APPLICANT – 548 W 22 Holding LLC., for 548 W 22nd Holding LLC., owner.

SUBJECT – Application March 31, 2015 – Variance (§72-21) the conversion and enlargement of the existing 4-story building, build around 1920 on a fragile foundation system for manufacturing use and later converted to an art Museum to a 20-story mixed-use building with commercial uses on the ground floor and residential use. M1-5/SWCD zoning district.

PREMISES AFFECTED – 548 West 22nd Street, south side of West 22nd Street between Tenth Avenue and Eleventh Avenue, Block 0693, Lo 59, Borough of Manhattan.

COMMUNITY BOARD #4M

Ryan Singer, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, AUGUST 18, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

42-08-BZ

APPLICANT – Eric Palatnik, P.C., for David Nikchemny, owner.

SUBJECT – Application July 22, 2014 – Extension of Time to Complete Construction of a previously granted Special Permit (73-622) for the enlargement of an existing two family home to be converted into a single family home which expired on January 27, 2013; Waiver of the Rules. R3-1 zoning district.

PREMISES AFFECTED – 182 Girard Street, between Oriental Boulevard and Hampton Street, Block 8749, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for decision, hearing closed.

826-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartments, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 269-10 Grand Central Parkway, northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for continued hearing.

827-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartments, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 270-10 Grand Central Parkway,

northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for continued hearing.

828-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartment, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 269-10 Grand Central Parkway, northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

89-14-A

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for 215 East 64th St. Co. LLC c/o Deniham Hospitality, owner.

SUBJECT – Application April 30, 2014 – Extension of Time to obtain a Class B Certificate of Occupancy to legalize a Gardens Hotel under MDL Section 120(b) (3), as provided under recent amendments under Chapters 225 and 566 of the Laws of New York 2010. R8B zoning district.

PREMISES AFFECTED – 215 East 64th Street, north side of East 64th Street between Second Avenue and Third Avenue, Block 01419, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.....3
Negative:.....0

Abstain: Chair Perlmutter.....1

THE RESOLUTION –

WHEREAS, this is an application for an extension of time to obtain a certificate of occupancy for use of certain dwelling units within Class A multiple dwelling for other than permanent residence purposes pursuant to Multiple Dwelling Law § 120; and

WHEREAS, a public hearing was held on this appeal on July 29, 2014, after due notice by publication in *The City Record*, with continued hearings on October 28, 2014, and then to decision on August 18, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed site

MINUTES

and neighborhood inspections of the premises and surrounding area; and

WHEREAS, the subject site is located on the north side of East 64th Street between Third Avenue and Second Avenue, within an R8B zoning district; and

WHEREAS, the site has 125 feet of frontage along East 64th Street and approximately 12,552 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 11-story multiple dwelling; the building is known as the Affinia Gardens and, according to the last-issued temporary certificate of occupancy (the “TCO”) for the building (CO No. 121588969T001, expired July 30, 2014), the building contains 132 Class A dwelling units; and

WHEREAS, on May 1, 2011, MDL § 120 was amended to permit the owners of certain Class A multiple dwellings to maintain existing dwelling units used for other than permanent residence purposes (i.e., hotel rooms) provided that, among other things, the building is made to comply with the MDL § 67 provisions relating to transient use and an amended CO is obtained to reflect such transient use; and

WHEREAS, pursuant to MDL § 120, such amended CO was to be obtained prior to May 1, 2013 and the Department of Buildings (“DOB”) was authorized to extend the time to obtain the CO until May 1, 2014, provided certain findings were satisfied; if a CO has not been obtained by May 1, 2014, under MDL § 120(3), the Board

may grant further extensions of time to obtain a [CO] in a case where there are circumstances beyond the applicant’s control or hardship in the way of obtaining such [CO] within the time allowed by [DOB] but no more than two such extensions of one year each shall be granted for a building and no such extension shall be granted unless the Board finds that there are no outstanding building or fire code violations of record at the property; and

WHEREAS, the applicant represents that the subject building is eligible to seek an amended CO for transient use pursuant to MDL § 120 and that it has taken certain steps towards obtaining such CO, including: (1) registering the building with DOB as Class A multiple dwelling with transient units; (2) filing an application with DOB for the amended CO; and (3) obtaining permits and installing an emergency generator on the roof of the building, a fuel storage tank and gas fill/drain lines in the cellar, stair pressurization fans on the roof and in the cellar of the building, a corridor smoke purge system and corridor fresh air supply system, a new fire-alarm system to include central monitoring of all guest rooms and public spaces, 6-inch sprinkler standpipe and drain, 4,000 gallon domestic water tank on the roof of the building, 10,000 gallon fire reserve tank and associated pump and jockey pump on the roof, domestic water service backflow preventers in the cellar; and

WHEREAS, the applicant states that it timely filed its MDL § 120 registration of the building with DOB on October 26, 2011, and, also in accordance with MDL § 120, business records showing that, on January 1, 2009 and May 1, 2011, a majority of the dwelling units in the building were used for short-term stays of less than 30 days; and

WHEREAS, the applicant states further that, by letter dated November 16, 2012, DOB determined that the applicant had satisfied the MDL § 120 registration requirements applicable to the building, and that by letter dated April 17, 2014, DOB extended the time period to obtain the amended CO until May 1, 2014; and

WHEREAS, the applicant represents that there are no outstanding Building Code or Fire Code violations at the building; and

WHEREAS, the applicant now seeks an extension of time to obtain the amended CO; and

WHEREAS, as noted above, the Board may grant an extension of time to obtain a CO pursuant to MDL § 120(3), provided it finds that: (1) there are circumstances beyond the applicant’s control or hardship in the way of obtaining the amended CO; and (2) the building has no outstanding Building Code or Fire Code violations; and

WHEREAS, the applicant states that the significant and complex work required to bring the building into compliance with all applicable statutory requirements for a transient hotel, coupled with DOB’s delay in approving its October, 2011 submission, both of which were beyond the applicant’s control, warrant the requested extension; and

WHEREAS, the Board agrees with the applicant that there have been circumstances beyond its control in obtaining the amended CO; and

WHEREAS, as to whether there are open Building Code or Fire Code violations, by letter dated July 27, 2015 the Fire Department accepted the applicant’s fire safety plan for the building, removing the single Fire Code violation that had been pending for the building; and

WHEREAS, the Board has reviewed the evidence in the record and determined that the requested extension of time is warranted; and

Therefore it is Resolved, that this application to extend the time to obtain a certificate of occupancy for use of 132 dwelling units within the subject Class A multiple dwelling for other than permanent residence purposes pursuant to Multiple Dwelling Law § 120, is granted and will expire on August 1, 2015.

(DOB Application No. 120871618)

Adopted by the Board of Standards and Appeals, August 18, 2015.

320-14-A

APPLICANT – Dean Heitner, Esq., for PWV owner LLC c/o The Chevrolet Group, owner.

SUBJECT – Application December 8, 2014 – Interpretative Appeals for an open space requirements on a zoning lot for a proposed nursing facility to be constructed by Jewish Home Life Care on West 97th Street. R7-2/C1-8 zoning district.

PREMISES AFFECTED – 125 West 97th Street, between Amsterdam Avenue and Columbus Avenue, Block 1852, Lot 5, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Appeal Denied.

THE VOTE TO GRANT –

MINUTES

Affirmative:.....0

Negative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

THE RESOLUTION –

WHEREAS, this appeal comes before the Board in response to a Final Determination letter dated November 10, 2014 by the First Deputy Commissioner of the New York City Department of Buildings (“DOB”) (the “Final Determination”) with respect to DOB Application No. 120797888; and

WHEREAS, the Final Determination states, in pertinent part:

The proposed 20-story building, located within the R7-2 District, will be occupied as a nursing home, a community facility use in zoning Use Group 3. As shown in the submitted ZD-1 form, the proposed building is located within the zoning lot, surrounded by three streets, measuring 450.0 ft. by 685.5 ft., containing four existing detached buildings: three (3) 16-story residential buildings, located at 784, 788 and 792 Columbus Avenue, and the 30-story mixed building, located at 808 Columbus Avenue, per Temporary CO No. 104464438T026 with an expiration date of February 1, 2015 (the 30-story building is located within the portion of the zoning lot zoned in the C1-5 in R7-2 District).

A letter from ‘The Stakeholders of the Park West Village Neighborhood,’ dated August 22, 2014, consisting of the Park West Village Tenants’ Association, et. al., etc., was submitted to the Department of Buildings addressing several issues pertaining to the building, as follows:

[1] The writer claims that the applicant for the New Building application has not demonstrated that the ‘open space’ requirement, as set forth in Section 12-10 of the Zoning Resolution, has been satisfied. From our review of the zoning plans, dated April 9, 2014, submitted to the Department for the foundation approval of the new building, the open space required for the zoning lot is 230,108 sq. ft. The zoning lot area is 308,475 sq. ft. The lot coverage for the 20-story community facility building is 20,036 sq. ft. of which 10,431 sq. ft. of open space covered by the roof of the building, provided at the first story, is counted as open space for the zoning lot. The total proposed lot coverage for the zoning lot, including the community facility building, is 77,749 sq. ft. and the total open space provided for the zoning lot is 230,726 sq. ft. The proposed open space (230,726 sq. ft.) exceeds the minimum open space required for the zoning lot (230,108 sq. ft.); the proposed open space complies with the required open space provisions, per ZR 23-142;

[2] The writer claims that the safety of the occupants within the nursing home will be threatened in the event of a fire or natural disaster which may force the evacuation of over 400 nursing home residents, some or all of which may be incapable of

evacuating the building without assistance. The item which involves provisions of the NYC Building Code is not an appropriate issue for discussion in this Zoning Challenge. In addition, the application has been approved for foundation work only and has not been approved for construction work above the foundation. The architectural plans submitted for approval have not been finalized to date showing compliance with the provisions of the Building Code (such as, fire protection systems, fire-resistance rated construction, egress, etc.);

[3] The writer claims that ‘the proposed facility will obstruct access to an adjacent residential building, 784 Columbus Avenue, by continuously utilizing a driveway for access to the rear of the proposed facility that has the same driveway that is used for access for fire apparatus’ . . . However, the Department of Buildings does not enforce any regulation applicable to your complaint against vehicular traffic...;

[4] The writer complains that the proposed building conflicts with Zoning Resolution Section 11-13 (Public Parks). Per zoning map no. 5d and the map from the NYCityMap website, no portion of the zoning lot is located within a ‘public park,’ as defined in ZR 12-10, and the zoning lot is in a designated zoning district: one portion of the zoning lot is located within the R7-2 District and the remaining portion is located within the C1-5 in R7-2 District. Since the zoning lot is in a designated zoning district, the zoning lot is not subject to the provision of ZR 11-13. Therefore, for the aforementioned reasons, your zoning challenge is hereby denied; and

WHEREAS, a public hearing was held on this appeal on April 14, 2015, after due notice by publication in *The City Record*, with a continued hearing on June 23, 2015 and then to decision on August 18, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown; and

WHEREAS, the appeal was brought on behalf of neighbors of the area surrounding the site who were represented by counsel (the “Appellant”) and who provided their own written and oral testimony in support of the appeal; and

WHEREAS, Trinity Evangelical Lutheran Church, Manhattan Community Board 7, and certain community members submitted testimony in opposition to the relocation of the proposed facility from its current location; and

WHEREAS, New York City Comptroller Scott M. Stringer, New York State Congressman Jerrold Nadler, New York State Assembly Member Daniel O’Donnell, and City Council Member Mark Levine provided testimony in support of the appeal, citing similar concerns as the Appellant; and

WHEREAS, the Friends of P.S. 163 provided testimony

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in support of the appeal; and

WHEREAS, DOB provided written and oral testimony in opposition to the appeal; and

WHEREAS, representatives of Jewish Home Lifecare (the "JHL"), the contract vendee that proposes to construct a nursing home facility (the "Nursing Facility") on the site and the owner PWV Acquisition (the "Owner") provided written and oral testimony in opposition to the appeal; and

WHEREAS, the subject site – 125 West 97th Street - is located on a superblock (Block 1852) bounded by West 97th Street on the south, Columbus Avenue on the west, West 100th Street on the north, and Central Park West on the east; and

WHEREAS, the zoning lot is within an R7-2 zoning district with a C1-5 zoning district overlay on the Columbus Avenue frontage extending a depth of 100 feet; and

WHEREAS, the zoning lot is occupied by four detached residential buildings: three 16-story residential buildings, located at 784, 788 and 792 Columbus Avenue (Park West Village), and the 30-story mixed building, located at 808 Columbus Avenue; and

WHEREAS, JHL proposes to construct the Nursing Facility's 20-story building along the West 97th Street frontage; and

PROCEDURAL HISTORY

WHEREAS, in 2006, DOB approved a proposal to construct the 808 Columbus Avenue building; the site plan for that approval included a proposal for a community facility building along West 97th Street, which is now planned to be occupied by JHL; and

WHEREAS, in 2008, several residents of Park West Village and public officials appealed the approval due to concern that a portion of the required open space at 808 Columbus Avenue would be on the roof of a one-story commercial use and could not be accessed by residents of the other three buildings; and

WHEREAS, in a decision under BSA Cal. No. 149-08-A, dated February 3, 2009 (the "2009 Appeal"), the Board denied the appeal, finding that the open space arrangement proposed for the zoning lot complied with the requirements of ZR §§ 23-14 and 12-10; and

WHEREAS, on February 2, 2011 the City Planning Commission (the "CPC") adopted the Key Terms Clarification text amendment, including an amendment to ZR § 23-14; and

WHEREAS, the 2011 text reads in pertinent part: ZR § 23-14 (Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio)

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except as otherwise provided in Section 23-17 (Special Provisions for Zoning Lots Divided by District Boundaries), for any #zoning lot#, the minimum required #open space# or #open space ratio# shall not be less than set forth in this Section, and the maximum #lot coverage# shall not exceed the #lot coverage# as set forth in this Section. Any given #lot area# or area of #open space# shall be counted only once

in determining the #floor area ratio#, the amount of #open space# or the #open space ratio#. . . ; and

WHEREAS, on December 4, 2013, DOB approved a ZD1 Zoning Diagram for the Nursing Facility and posted it on its website; and

WHEREAS, on August 28, 2014, the Appellant submitted a challenge to the approval, which, pursuant to the Rules of the City of New York § 101-15, DOB determined to be time-barred as of the expiration of the 45-day public zoning challenge period on January 18, 2014; and

WHEREAS, nonetheless, on November 10, 2014, DOB issued the Final determination with its reasoning for its approval, and the Appellant appealed; and

THE APPELLANT'S POSITION

WHEREAS, the Appellant asserts that DOB erred in granting JHL's application because, under the current zoning regulations, the zoning lot lacks sufficient open space as configured, and therefore cannot support the construction of a new building without increasing the already non-complying open space; and

WHEREAS, the Appellant's central argument is that the Key Terms text amendment changed how open space is to be calculated on the zoning lot; and

WHEREAS, the remainder of the Appellant's primary arguments are reiterations of the arguments made during the 2009 Appeal and include that: (1) the rooftop gardens of 808 Columbus Avenue do not qualify as open space and are an amenity that is usable and accessible only by the residents of that building; (2) subtracting the area of the 808 Columbus rooftop gardens from the total area of the zoning lot would leave too little remaining open space on the zoning lot under the current Zoning Resolution to construct the Nursing Facility; and (3) there is no theory that permits allocation of open space among multiple buildings on a zoning lot; and

WHEREAS, the Appellant makes the following supplemental arguments: (1) 808 Columbus Avenue is insulated from any non-compliance because it is grandfathered, but a non-compliant condition cannot be expanded and JHL may not rely on a "legally vested condition" to claim that the 808 Columbus rooftop is open space; (2) the subject appeal is distinguished from the 2009 Appeal because it involves materially different zoning text; and (3) the proposed roofed area is not open space; and

WHEREAS, the Appellant identifies certain changes to the Zoning Resolution's definition of "open space ratio" and ZR §§ 23-14 and 23-142 that were effectuated by the Key Terms amendment, where the word "building" was eliminated and, in one or more instances, replaced with the word "zoning lot;" and

WHEREAS, the Appellant asserts that now, there is nothing ambiguous about the language in the relevant Zoning Resolution sections and the deletion and replacement of words changed the meaning; and

WHEREAS, the Appellant asserts that the text that applies now – the post-2011 Key Terms text amendment – prohibits exactly that which the Appellant argued was prohibited by the pre-2011 text; and

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WHEREAS, the Appellant asserts that any ambiguity in the text of the 2009 Appeal has been resolved by the plain language of the Zoning Resolution requiring that the open space calculation be based on the entire zoning lot and not on allocating open space among individual buildings and that the 808 Columbus Avenue rooftop be excluded from the total open space because it is not usable and accessible to all residents of the zoning lot; and

WHEREAS, the Appellant asserts that if CPC had intended DOB's result it would have provided for it in the Key Terms amendment; and

WHEREAS, the Appellant also asserts that the Board must be guided by relevant case law which requires the Board to apply the plain meaning of the statute and to apply the law as it currently exists, not the law that existed in 2009; and

WHEREAS, the Appellant asserts that the 2009 Appeal is not dispositive to this appeal because it applied a materially different zoning text that has been superseded; and

WHEREAS, the Appellant states that, in that analysis, the owner and the Board relied on the words "building" and "any building" in the relevant sections of the Zoning Resolution; and

WHEREAS, the Appellant asserts that the text now supports its argument that under no theory may DOB permit the allocation of open space among multiple buildings on a zoning lot because there is no exception to the rule that open space must be accessible to and usable by all residents on a zoning lot; and

WHEREAS, rather, the Appellant argues that, because a purported 56,850 sq. ft. of open space at 808 Columbus Avenue are reserved for the residents of that building, it does not comply with the definition of "open space" set forth in ZR § 12-10, which states that open space shall be "accessible to and usable by all persons occupying a dwelling unit or a rooming unit on the zoning lot;" and

WHEREAS, the Appellant asserts that DOB erroneously relies on JHL's 2011 open space analysis as an extension of the 2006 analysis, and the basis for the 2009 Appeal, because there should now be a different result; and

WHEREAS, the Appellant asserts that by subtracting the 808 Columbus Avenue rooftop gardens from the total area of the zoning lot, there would be insufficient remaining open space on the zoning lot under the current Zoning Resolution to construct the proposed building; and

WHEREAS, the Appellant subsequently states that under the amended text, the available open space on the zoning lot is insufficient by over 46,500 sq. ft. and the JHL building, or any other new building on the zoning lot, would increase the degree of non-compliance¹; and

¹ The Appellant initially argued that DOB's analysis of the open space included "approximately 56,850 square feet attributable to the rooftop gardens of 808 Columbus Avenue" and later argued that "under the current Zoning Resolution, the available open space on the zoning lot is today over 46,500 square feet below what is the Open Space Requirement for the existing buildings on the lot." The Board finds that there are 42,500 sq. ft. of rooftop open space

WHEREAS, the Appellant asserts that the 808 Columbus Avenue building and its insufficient open space is insulated from any non-compliance because it is grandfathered but new non-compliance, through the JHL building, cannot be allowed; and

WHEREAS, the Appellant contends that the 2009 Appeal also does not have any bearing on the current one since JHL cannot rely on the open space allocation that existed in 2009, before it committed to build at the site; and

WHEREAS, the Appellant does not accept the fact that a community facility was identified on the plans that were contemporaneous with the prior appeal, since the JHL was not specifically associated with the site as it is now; and

WHEREAS, accordingly, the Appellant asserts that JHL may not make a claim that it has a vested right to the benefits that the 808 Columbus Avenue owner obtained through its approvals and the 2009 Appeal; and

WHEREAS, the Appellant requests the reversal of DOB's determination for failure to satisfy the open space requirements; and

DOB'S POSITION

WHEREAS, DOB requests that the Board uphold its determination because (1) the Key Terms text amendment, enacted by the City Council on February 2, 2011, did not change the meaning of "open space;" (2) the Appellant has not presented any new information that would require a different result than the Board's prior determination regarding open space on this zoning lot; and (3) the roofed areas proposed for the subject premises adhere to the Zoning Resolution's open space requirements; and

WHEREAS, as to the Key Terms text amendment, DOB asserts that it did not change the meaning of "open space;" and

WHEREAS, specifically, DOB states that before and after the Key Terms text amendment, Zoning Resolution § 12-10 defined "open space," as "that part of a zoning lot ... which ... is accessible to and usable by all persons occupying a dwelling unit or a rooming unit on the zoning lot;" and

WHEREAS, DOB cites to City Planning Commission Report No. N 110090(A) ZRY (January 5, 2011) which states that the text amendment "pertain[s] to the clarification of key terms including 'development' and 'building' and the clarification of other regulations throughout the Zoning Resolution;" and

WHEREAS, DOB asserts that there is nothing in the CPC report that evinces an intention to clarify the meaning of open space; and

WHEREAS, DOB refutes the Appellant's assertion that the Key Terms text amendment changed the definition of "open space," and, specifically, the Appellant's reliance on ZR § 12-10's "open space ratio;" and

WHEREAS, DOB states that, instead, the text change corrects an error in the former text in order to clarify that the total amount of open space required on a zoning lot is calculated per zoning lot, not per building; and

attributable to 808 Columbus Avenue.

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WHEREAS, DOB states that this calculation is irrelevant to which areas count as open space and, thus, the contention that the Key Terms text amendment changed the meaning of open space is without merit; and

WHEREAS, secondly, DOB asserts that the Appellant has not presented any new information that would require a different result than the Board's prior determination that 808 Columbus Avenue's rooftop areas are open space under ZR § 12-10 (open space); and

WHEREAS, specifically, DOB notes that in the 2009 Appeal, the Board found that "it cannot be seen how those residents [of 784, 788, and 792 Columbus Avenue] would be deprived of an equitable share of open space by the proposed building;" and

WHEREAS, DOB asserts that the Appellant has not presented any new information that would require a different result, and, accordingly, the Board's determination in the 2009 Appeal should not be disturbed; and

WHEREAS, lastly, DOB asserts that the roofed area proposed for the subject premises meets the Zoning Resolution's requirements for open space; and

WHEREAS, DOB states that ZR § 12-10 (2011) (open space) requires open space to be "open and unobstructed from its lowest level to the sky. ... Open space may, however, include areas covered by roofs, the total area of which is less than 10 percent of the unroofed or uncovered area of the zoning lot, provided that such roofed area is not enclosed on more than one side, or on more than 10 percent of the perimeter of the roofed area, whichever is greater;" and

WHEREAS, DOB refers to its November 2014 determination that 10,431 sq. ft. of the proposed community-facility building's lot coverage will meet the Zoning Resolution's requirements for roofed open space; and

WHEREAS, specifically, on drawing Z-002.00 of the plans for New Building Application No. 120797888, there is 11,497 sq. ft. of roofed open space, which accounts for 5.23 percent of the 230,108 sq. ft. of open space required for the zoning lot; and because 5.23 percent is well below the 10 percent of open space permitted to be roofed per ZR § 12-10 (open space), the roofed areas proposed for the subject premises meet the Zoning Resolution's requirements for open space covered by roofs; and

WHEREAS, DOB concludes that because the Key Terms text amendment did not change the meaning of open space, because the Appellant has presented no new information that would require a different result than the Board's prior determination regarding this zoning lot, and because the roofed areas proposed for the subject premises adhere to the Zoning Resolution's open-space requirements, the Board should uphold its determination that there is more than enough open space on the zoning lot for the construction of a new community facility building at the subject premises; and

JHL'S RESPONSE

WHEREAS, JHL agrees with DOB that the permit should not be disturbed and that the proposal was reviewed and approved appropriately; and

WHEREAS, JHL makes the following primary points: (1) DOB's approval of the open space arrangement on the subject zoning lot reflects a lawful and proper application of the applicable zoning regulations; (2) the open space arrangement on the subject zoning lot was previously upheld by the Board; and (3) the open space arrangement on the subject zoning lot is not affected by the Key Terms text amendment; and

WHEREAS, JHL asserts that the Zoning Resolution's open space provisions do not specifically address the situation of zoning lots with multiple residential buildings that are subject to height factor open space requirements; and

WHEREAS, JHL states that this situation arises most frequently in connection with merged zoning lots that are under multiple ownership and contain both preexisting residential buildings and a new residential development that may be using excess floor area from the parcels improved with the existing buildings; and

WHEREAS, JHL states that in such situations, it may not be feasible to make all of the open space on the zoning lot that is required to meet the open space requirements accessible to the residents of all the buildings on the zoning lot; and

WHEREAS, JHL asserts that in response to the Zoning Resolution's silence regarding such situations, DOB has established a fair and appropriate method for applying the open space requirements, which allows required open space to be reserved for the residents of a single building on a multi-building zoning lot so long as (1) the total amount of open space required on the zoning lot is provided and (2) the residents of each building on the zoning lot have access to at least the amount of open space that would be required if that building sat on a separate zoning lot; and

WHEREAS, JHL asserts that both of the noted requirements are satisfied on the subject zoning lot; and

WHEREAS, JHL notes that in 2006, in connection with the development of 808 Columbus Avenue, the project architect submitted a written request to DOB for its confirmation that approximately 42,500 sq. ft. of the open space on a first-story roof could be reserved for building residents; the associated open space analysis demonstrated that (1) the total amount of open space required on the zoning lot would be provided and (2) if 808 Columbus Avenue and each of the three Park West Village buildings were located on a separate zoning lot, each of these parcels would include an amount of open space sufficient to satisfy the requirement of ZR § 23-14; and

WHEREAS, thus, DOB approved roof-top open space to be reserved for building residents within the total open space; and

WHEREAS, in 2011, in connection with development of the Nursing Facility, another project architect provided DOB with an updated open space analysis, which included that the open space on the roof of 808 Columbus Avenue be reserved for its residents but that all of the remaining open space on the zoning lot be accessible to the occupants of all

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four residential buildings; and

WHEREAS, JHL asserts that the 2011 analysis, like the 2006 analysis demonstrated that (1) the total amount of open space required on the zoning lot will be provided and (2) under a hypothetical division of the zoning lot into two separate zoning lots, both zoning lots would contain a sufficient amount of accessible open space to satisfy the requirement of ZR § 23-14; and

WHEREAS, DOB then approved the proposed open space arrangement on the zoning lot; and

WHEREAS, as to the precedent, JHL contends that the Board has already determined that, with respect to the zoning lot, the open space requirement of ZR § 23-14 is not violated by a reservation of the roof-top open space on 808 Columbus Avenue for the residents of that building; and

WHEREAS, JHL cites to the 2009 Appeal in which the Board stated that, "as each of the existing buildings is allocated an amount of open space that is in excess of that which would be required under the Zoning Resolution if they were located on separate zoning lots, it cannot be seen how those residents would be deprived of an equitable share of open space by the proposed building;" and

WHEREAS, JHL asserts that the 2006 plan for the zoning lot included a community facility building and, thus, the open space arrangement that was approved in connection with 808 Columbus Avenue included a reservation of 10,000 sq. ft. of existing open space for the future construction of a community facility building in the area in which the Nursing Facility with a footprint of 9,605 sq. ft. is being constructed; and

WHEREAS, JHL represents that the amount and location of the open space that will be provided on the zoning lot following construction of the Nursing Facility is virtually identical to the open space arrangement that was previously approved by DOB and which was the subject of the Board's review while it considered the 2009 Appeal; and

WHEREAS, accordingly, JHL asserts that the Board's prior determination on the precise issue asserted in the current appeal is dispositive of that issue and requires the denial of this appeal; and

WHEREAS, as to the Key Terms text amendment, JHL disagrees with the Appellant's assertion that the amendments established that, even on a multi-building zoning lot, all of the required open space must be accessible to the residents of all buildings on that zoning lot; and

WHEREAS, JHL contends that based on a review of the CPC report on the text of the Key Terms amendment, there was no intent to alter the previous interpretation of the Zoning Resolution's open space requirements but rather to preserve the original intent of the Zoning Resolution with respect to the terms "development" and "building;" and

WHEREAS, JHL states that the open space arrangement approved for the zoning lot is consistent with the amended provisions of the open space regulations; and

WHEREAS, further, JHL states that in order to satisfy the primary purpose of the amendments, the Key Terms made clarifying changes, similar to the changes made to the open space provisions, to dozens of sections of the Zoning

Resolution and, the associated CPC report is devoid of any discussion of the Zoning Resolution's open space requirements; and

WHEREAS, JHL finds this fact to be evidence that no substantive changes to these provisions were intended; and

WHEREAS, JHL cites to the amended ZR § 23-14, which states, "... for any zoning lot, the minimum required open space or open space ratio shall not be less than set forth in this Section..." to support its contention that the amended ZR § 23-14 merely makes it clear that the applicable open space requirement is to be determined on the basis of an entire zoning lot; and

WHEREAS, JHL asserts that the Final Determination comports with the text as it indicates that the open space requirement for the zoning lot was, in fact, calculated on the basis of the entire zoning lot; and

WHEREAS, JHL states that DOB only allowed a portion of the required open space to be reserved for the residents of 808 Columbus Avenue following a showing that, if the other residential buildings on the zoning lot were situated on one or more separate zoning lots, the residents of each of these buildings would have access to a legally sufficient amount of open space; and

WHEREAS, therefore, JHL asserts that the open space arrangement approved for the zoning lot is not affected by the Key Terms amendment; and

WHEREAS, JHL requests that the appeal be denied because DOB's determination that, following construction of the Nursing Facility, the zoning lot will contain enough open space to satisfy the requirements of Zoning Resolution § 23-14, is proper in that it is consistent with both the Board's prior determination regarding the zoning lot and the Key Terms text amendment; and

CONCLUSION

WHEREAS, first, the Board notes that the 2009 Appeal answered resolved the issue of whether the open space proposed with the 808 Columbus Avenue building construction satisfied the open space requirements set forth at ZR §§ 12-10 and 23-14; and

WHEREAS, in the 2009 Appeal, the Board agreed with DOB that the open space, which includes 42,500 sq. ft. of rooftop space, satisfied all relevant requirements; and

WHEREAS, therefore, the Board considers the question of how to analyze open space as it relates to the three Park West Village buildings and the 808 Columbus Avenue building to be answered; and

WHEREAS, the Board now considers only whether the Key Terms text amendment changed the language of the text such that it now reads as the Appellant argued in the 2009 Appeal, and whether the open space requirements are changed in such a way as to implicate the proposed construction of the Nursing Facility; and

WHEREAS, the Board notes that 808 Columbus Avenue was completed pursuant to DOB's approval and the Board's decision in the 2009 Appeal and the construction relied on a zoning analysis that included 42,500 sq. ft. of open space on a first-floor roof of the new building; and

WHEREAS, the Board notes that no party has suggested

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that the 808 Columbus Avenue building was built contrary to the zoning analysis which was associated with its approval and which formed the basis for the 2009 Appeal; and

WHEREAS, thus, the site including 808 Columbus Avenue reflects an approved amount of open space – 230,726 sq. ft. – at least 230,108 sq. ft. (the minimum required) of which must remain; and

WHEREAS, the Board accepts the Owner’s assertion that nothing material has changed between that which was proposed at that time of the 2009 Appeal, and subsequently completed, and that which is proposed now; and

WHEREAS, the Board notes that the required open space total includes the approved 42,500 sq. ft. on the 808 Columbus Avenue rooftop, but not the 9,605 sq. ft. for the footprint of the Nursing Facility; and

WHEREAS, the Board notes that the Owner states that the footprint of a community facility building at 125 West 97th Street, which was not designed at the time of the 2009 Appeal, was never necessary for the required open space; and

WHEREAS, the Board notes that the open space requirement on the site is triggered by the residential buildings and that the Nursing Facility does not require additional open space, therefore, it is not persuaded by the Appellant’s arguments that somehow the Nursing Facility disturbs the existing open space calculations for the entire site; and

WHEREAS, the Board does not agree with the Appellant that constructing a community facility building that does not require open space affects the open space requirement on a site which also contains residential buildings (which do have an open space requirement) where, as here, the site contains the minimum open space required; and

WHEREAS, the Board disagrees with the Appellant that there is a deficit of open space that requires the Owner to reclaim the 9,605 sq. ft. footprint of the Nursing Facility; the Board does not see any open space deficiency to resupply or otherwise any nexus between the rooftop space, which DOB and the Board have accepted, and the long-planned footprint of a community facility building; and

WHEREAS, additionally, the Board accepts DOB’s analysis of the grade level roofed open space at the Nursing Facility and its contribution to the total open space on the site; and

WHEREAS, the Board is not persuaded that the Key Terms text amendment had the effect of changing the text to mean exactly what the appellants suggested it meant in the 2009 Appeal; and

WHEREAS, the Board notes that there has not been any evidence presented to support the Appellant’s assertion that the Key Terms text amendment changed the text in that way; and

WHEREAS, the Board notes that before and after the Key Terms amendment, the ZR § 12-10 definition states that “open space” is that part of a zoning lot, including courts or yards, which... is accessible to and usable by all persons occupying a dwelling unit or a rooming unit on the zoning lot;” and

WHEREAS, in the course of the 2009 Appeal, the Board and DOB concluded that in the case of a multi-building zoning

lot, the open space definition could be read to allow some open space to be reserved for the residents of a single building as long as the residents of each building on the zoning lot have access to at least the amount of open space that would be required under ZR § 23-142 if each building were on separate zoning lots; and

WHEREAS, the Board concludes that because the definition of open space itself has not changed and because the CPC did not intend to change the open space requirement, subsequent to the 2009 Appeal, the Key Terms amendment do not dictate any change in the Board’s or DOB’s analysis since the prior appeal; and

WHEREAS, the Board notes that the text was amended in 2011, after the 2009 Appeal and CPC had an opportunity to clarify an intent to restrict the open space; and

WHEREAS, the Board agrees with DOB's determination that, following construction of the Nursing Facility, the zoning lot will contain a sufficient amount of open space to satisfy the requirements of Zoning Resolution § 23-14; and

WHEREAS, the Board finds that the Final Determination is fully consistent with both the Board's prior determination regarding the zoning lot and the Key Terms text amendment; and

WHEREAS, the Board concludes that the Key Terms text amendment did not change the meaning of open space, that the Appellant has not presented any new information that would require a different result than the 2009 Appeal, and that the roofed open space proposed at the Nursing Facility complies with the Zoning Resolution’s open-space requirements; and

WHEREAS, accordingly, the Board concludes that the plans for construction of the proposed building under DOB Application No. 120797888 meet the requirements for open space under ZR §§ 12-10 and 23-14 and; and

Therefore it is Resolved, that the instant appeal, seeking a reversal of the determination of the Manhattan Borough Commissioner, dated November 10, 2014, to uphold the approval of DOB Application No. 120797888 is hereby denied.

Adopted by the Board of Standards and Appeals, August 18, 2015.

245-12-A

APPLICANT – Law Offices of Marvin B. Mitzner LLC, for 515 East 5th Street, LLC, owner.

SUBJECT – Application August 9, 2012 – Appeal pursuant to Section 310(2) of the Multiple Dwelling Law, requesting that the Board vary several requirements of the MDL. R7B Zoning District

PREMISES AFFECTED – 515 East 5th Street, north side of East 5th Street, between Avenue A and Avenue B, Block 401, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to September

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18, 2015, at 10 A.M., for decision, hearing closed.

234-14-A

APPLICANT – Law Offices of Marvin B. Mitzner, for Ohmni Properties, owners.

SUBJECT – Application September 29, 2014 – Appeal of the NYC Department of Buildings' determination to not revoke a Certificate of Occupancy issued in 1989 and reinstate the Certificate of Occupancy issued in 1985.

PREMISES AFFECTED – 738 East 6th Street, south side of East 6th Street between Avenue C and Avenue D, Block 00375, Lot 0028, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to November 24, 2015, at 10 A.M., for continued hearing.

ZONING CALENDAR

236-14-BZ

APPLICANT – Law Office of Stuart Klein, for The 5th Street Dorchester, Inc. c/o Brown Harris, owner; BLT Steak, LLC, lessee.

SUBJECT – Application October 1, 2014 – Special Permit (§73-241) to legalize the operation of an eating and drinking establishment (UG 6C) with entertainment, but not dancing, with a capacity of 200 persons or fewer. C5-3 (MID) zoning district.

PREMISES AFFECTED – 106 East 57th Street aka 104-114 East 57th Street, south side of East 57th Street, 90' from Park Avenue, Block 01311, Lot 0065, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application Dismissed.

THE VOTE TO DISMISS –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez .4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a special permit pursuant to ZR § 73-241 to legalize an existing Use Group 6C eating and drinking establishment on the second story of the building known as and located at 106 East 57th Street, which is located within a C5-3 zoning district, in Manhattan; and

WHEREAS, the applicant filed the application on October 1, 2014; and

WHEREAS, by letter dated January 12, 2015, the Board advised the applicant that it lacked the authority to issue the subject special permit; and

WHEREAS, specifically, the Board advised the applicant that, because there are eight dwelling units located on the second story of the subject building (as stated on the Certificate of Occupancy for the building), the Board was precluded from granting the subject application by ZR § 32-422, which states, in pertinent part, that “in any building, or a portion of a building occupied by residential uses, commercial uses listed in Use Group ... 6 ... may be located only on a story below the

lowest story occupied in whole or in part by such dwelling units”; and

WHEREAS, the Board’s January 12, 2015 letter also advised the applicant that ZR § 73-01, which allows the Board to modify certain specified use regulations contained in the Zoning Resolution, does not permit the Board to modify ZR § 32-422; and

WHEREAS, on July 21, 2015, the Board held its first public hearing on this application and heard arguments from the applicant as to the Board’s authority to issue the subject special permit in this instance; and

WHEREAS, by letter dated July 23, 2015, the New York City Department of City Planning (“DCP”) submitted support for the Board’s position as stated in its January 12, 2015 letter; and

WHEREAS, specifically, DCP stated that:

...[t]he authority granted under Section 73-241 is clear and limited – it gives the Board the authority to permit eating or drinking establishments ... in any of the listed districts where such use is otherwise not permitted, provided that such use complies with all other use regulations, as required by Section 73-01...”; and

WHEREAS, as noted in DCP’s July 23, 2015 letter, ZR § 73-01(b) allows the Board to permit “specified modifications” of the use or bulk regulations contained in the Zoning Resolution, but provides that “...[i]n addition to meeting the requirements, conditions, and safeguards prescribed by the Board as set forth in [Article VII, Chapter 3 of the Zoning Resolution], each such special permit use shall conform to and comply with all of the applicable district regulation on use, bulk, supplementary use regulations ... and all other applicable provisions of [the Zoning Resolution], except as otherwise specifically provided in this Chapter or as they may be modified in accordance with [ZR § 73-01(b)]”; and

WHEREAS, thus, DCP concurs with the Board’s position that, because the provisions of ZR § 32-422 are not among the specified modification of use or bulk contemplated by ZR § 73-241, the Board has no authority to issue the subject special permit; and

WHEREAS, by letter received July 31, 2015, the applicant submitted its opposition to the position taken by the Board and DCP; and

WHEREAS, having reviewed the applicant’s July 31, 2015 submission, and having found it to be without merit, the Board voted to dismiss the instant application at a hearing on August 18, 2015; and

WHEREAS, accordingly this application is dismissed in its entirety.

Therefore it is Resolved that the application filed under BSA Cal. No. 236-14-A is hereby dismissed.

Adopted by the Board of Standards and Appeals, August 18, 2015.

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324-14-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for Kulwanty Pittam, owner.

SUBJECT – Application December 15, 2014 – Reinstatement (§11-411) for an automotive repair facility (UG 16B) granted under Cal. No. 909-52-BZ, expiring January 29, 2000; Amendment to permit the sale of used cars; Waiver of the Rules. C2-2/R5 zoning district.

PREMISES AFFECTED – 198-30 Jamaica Avenue, Southwest corner of Jamaica Avenue. Block 10829, Lot 56. Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a reinstatement of a prior variance authorizing an automotive repair facility (Use Group 16B) contrary to use regulations, together with an amendment of the aforesaid variance to permit the sale of used automobiles at the site; and

WHEREAS, a public hearing was held on this application on March 3, 2015, after due notice by publication in *The City Record*, with continued hearings on March 24, 2015 and June 23, 2015 and then to decision on August 18, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 12, Queens, recommends approval of this application; and

WHEREAS, the subject site is an irregular lot located at the southwest corner of the intersection of Jamaica Avenue and 199th Street, in Queens; and

WHEREAS, the site has a combined frontage of approximately 127 feet along the south side of Jamaica Avenue and a frontage of approximately 84 feet along the west side of 199th Street, with approximately 10,719 sq. ft. of lot area, within an R5 (C2-2) zoning district, in Queens; and

WHEREAS, the site is occupied by a one-story building with 1,716.71 sq. ft. of floor area; the building is occupied by an automobile repair facility with a lubricatorium, auto washing, storage and sale of accessories, offices, and parking for seven vehicles; and

WHEREAS, the Board has exercised jurisdiction over the site since February 23, 1955, when, under BSA Cal. No. 909-52-BZ, it granted a variance authorizing the operation of a gasoline service station with accessory uses contrary to the use regulations of the 1916 Zoning Resolution, for a term of 10 years, to expire on February 23, 1965; this grant was amended at various times, including an amendment to permit automobile repair; its term last expired on January 29, 2000; and

WHEREAS, because the variance has been expired for more than ten years, the applicant requests a waiver of the

Rules of Practice and Procedure and seeks reinstatement of the variance pursuant to ZR § 11-411; and

WHEREAS, pursuant to 2 RCNY § 1-07.3(b)(4), the Board may reinstate a use variance granted under the 1916 Zoning Resolution, provided that: (i) the use has been continuous since the expiration of term; (ii) substantial prejudice would result without such reinstatement; and (iii) the use permitted by the grant does not substantially impair the appropriate use and development of adjacent properties; and

WHEREAS, the applicant states that the use has been continuous at the site since the expiration of the term in 2000; in support of this statement, the applicant provided various records from the New York Department of Environmental Protection, the New York State Department of Taxation and Finances, and the New York State Department of Motor Vehicles, as well as United States income tax returns; and

WHEREAS, the applicant asserts that substantial prejudice would result without the requested reinstatement of the variance, in that absent such reinstatement, the owner of the site will not be able to obtain a certificate of occupancy (“CO”) for the automobile service station from the Department of Buildings; if the owner does not obtain a CO, it may be subject to violations from DOB and it may encounter difficulties in financing, leasing, or selling the site; and

WHEREAS, the applicant contends that the subject automobile service station is compatible with the surrounding neighborhood and does not substantially impair the appropriate use and development of adjacent properties, as evidenced by its longstanding use at the site; and

WHEREAS, based on the applicant’s representations, the Board accepts the proposed application as a request for a reinstatement of a pre-1961 use variance; and

WHEREAS, in response to the Board’s concerns, the applicant (1) removed all excessive signage from the site; and (2) cleaned all of the graffiti at the site and repaired the perimeter fence; (3) installed improved landscaping and plantings at the perimeter of the site; (3) provided screening at the refuse area and cleared the site of debris and weeds; (4) repaired the brick wall at the rear of the property; (5) re-stripped the parking lot to distinguish between the area in which automobiles may be parked for service from that in which used automobiles may be parked for sale; and (6) reduced the number of spaces that will be devoted to the sale used of automobiles at the site to five spaces; and

WHEREAS, based upon the above, the Board finds that the evidence in the record supports the findings required to be made under ZR § 11-411, and the requested waiver, amendment and reinstatement of the variance for a term of ten years is appropriate, with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals waives its Rules of Practice and Procedure, and, pursuant to ZR § 11-411, reinstates and amends a previously-granted variance to permit, on a site located within an R5 (C2-2) zoning district, the operation of a an automotive repair

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facility (Use Group 16B), with sale of used automobiles, contrary to use regulations; *on condition* that all work will substantially conform to plans, filed with this application marked 'Received August 4, 2015'-(5) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years, to expire on August 18, 2025;

THAT signage, fencing, plantings and landscaping will be maintained in accordance with the BSA-approved plans;

THAT the site shall be maintained free of debris and graffiti;

THAT parking for the sale of used automobiles shall be limited to five passenger automobiles;

THAT the above conditions shall be noted in the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by August 18, 2015;

THAT all conditions from prior resolutions not specifically waived by the Board shall remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s); and

THAT DOB shall ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

(DOB Application No. 420924398)

Adopted by the Board of Standards and Appeals, August 18, 2015.

9-15-BZ

CEQR #15-BSA-082M

APPLICANT – Francis R. Angelino, Esq., for West 62nd Street LLC, owner; Bod Fitness NYC LLC, lessee.

SUBJECT – Application January 15, 2015 – Special Permit (§73-36) to allow for a physical culture establishment (*Bod Fitness*) at the building on a portion of the ground floor and cellar of a new 54-story mixed use residential building. C4-7 Special Lincoln Square District.

PREMISES AFFECTED – 55 Amsterdam Avenue, southeast corner of Amsterdam Avenue and West 62nd Street, Block 1132, Lot 35, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated December 15, 2014, acting on DOB Application No. 122163504, reads, in pertinent part:

Proposed ‘Physical Culture Establishment’ not permitted as-of-right as per section ZR 32-10 and a special permit by the Board of Standards and

Appeals (BSA) is required to comply with ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-7 zoning district, and also within the Special Lincoln Square District, a physical culture establishment (the “PCE”) on the ground floor and cellar of a 54-story mixed-use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on June 23, 2015, after due notice by publication in the *City Record*, with a continued hearing on July 28, 2015, and then to decision on August 18, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Ottley-Brown performed site and neighborhood inspections of the premises and surrounding area; and

WHEREAS, Community Board 7, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is a corner lot located at the south east intersection of Amsterdam Avenue and West 62nd Street, it has approximately 90 feet of frontage along the east side of Amsterdam Avenue and approximately 110 feet of frontage along the south side of West 62nd Street, within a C4-7 zoning district, within the Special Lincoln Square District, in Manhattan; and

WHEREAS, the site contains approximately 9,450 sq. ft. of lot area and occupied by a 54-story mixed-use building; and

WHEREAS, the proposed PCE shall occupy 1,420 sq. ft. of floor area on the first floor of the building and 1,962 sq. ft. of floor space in the cellar of the building; and

WHEREAS, the PCE shall operate as Bod Fitness NYC LLC; and

WHEREAS, the hours of operation of the PCE shall be Monday through Friday, from 6:00 a.m. - 9:00 p.m., and on Saturday and Sunday, from 8:00 a.m. – 3:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, at a hearing, the Board articulated its concerns that the sound attenuation measures upon which the subject application, if approved, would be granted, would not be adequate, without further measures, to safeguard the residential tenants of the building from noise and vibration related nuisance; and

WHEREAS, accordingly, this application is conditioned, *inter alia*, and as set forth below, on the applicant’s submission to the Board of a report detailing any complaints or violations made of or issued to the PCE one year after the issuance of the instant resolution under BSA Cal. No. 9-15-BZ; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or

MINUTES

development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15-BSA-082M, dated January 14, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-7 zoning district, and also within the Special Lincoln Square District, a physical culture establishment (the "PCE") on the ground floor and cellar of a 54-story mixed-use building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received July 8, 2015," - Five (5) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on August 18, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT the following sound attenuation measures shall be implemented at the first floor of the building; (1) installation of a concrete floating floor built with 4" concrete supported on springs, supplemented by new shaftwall partitions supported by the floating floor and the installation of a new ceiling installed using sound barrier construction with resilient hangers to create a fully floating room in the PCE's class studio; (2) applicant to exclude all existing piping from the PCE's class studio by building the sound barrier ceiling below all the drain pipes, etc.; (3) applicant to install all mechanical below the sound barrier ceiling;

THAT the applicant shall, upon consultation with the management of the subject Building, submit to the Board, on Friday, September 20, 2016, or upon written confirmation from BSA staff, a date within 30 days of September 20, 2016, a report detailing any complaints made of or violations issued to the PCE of which the applicant or its representative are aware, the foregoing report to made in writing and accompanied by a notarized affidavit or affirmation attesting to the truthfulness of the statements contained therein;

THAT fire safety measures shall be installed and/or maintained as shown on the BSA-approved plans;

THAT the above conditions shall appear on the

Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by August 18, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 18, 2015.

266-13-BZ

APPLICANT – Law Offices of Marvin B. Mitzner, LLC, for 515 East 5th Street LLC, owner.

SUBJECT – Application September 6, 2013 – Variance (§72-21) to legalize the enlargement of a six-story, multi-unit residential building, contrary to maximum floor area (§23-145). R7B zoning district.

PREMISES AFFECTED – 515 East 5th Street, north side of East 5th Street between Avenue A and B, Block 401, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for deferred decision.

60-14-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for Sephardic Congregation of Kew Gardens Hills, owners.

SUBJECT – Application April 11, 2014 – Variance (§72-21) to enlarge a community facility (*Sephardic Congregation*), contrary to floor lot coverage rear yard, height and setback (24-00). R4-1 zoning district.

PREMISES AFFECTED – 141-41 72nd Avenue, 72nd Avenue between Main Street and 141st Street, Block 6620, Lot 41, Borough of Queens.

COMMUNITY BOARD #8Q

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for adjourned hearing.

173-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 244 Madison Realty Corp., owner; Coban's Muay Thai Camp NYC, lessee.

SUBJECT – Application July 22, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Evolution Muay Thai Camp*) in the cellar of an existing 16-story mixed-used residential and commercial

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building, located within an C5-2 zoning district.
PREMISES AFFECTED – 20 East 38th Street aka 244 Madison Avenue, southwest corner of Madison Avenue and East 38th Street, Block 867, Lot 57, Borough of Manhattan.
COMMUNITY BOARD #5M

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for adjourned hearing.

243-14-BZ

APPLICANT – Eric Palatnik, PC, for Victorystar, LTD, owner.
SUBJECT – Application October 9, 2014 – Special Permit (§73-243) to permit the legalization and continued use of an existing eating and drinking establishment (UG 6) with an accessory drive-through. C1-2/R3X zoning district.
PREMISES AFFECTED – 1660 Richmond Avenue, Richmond Avenue between Victory Boulevard and Merrill Avenue. Block 02236, Lot 133. Borough of Staten Island.
COMMUNITY BOARD #2SI

THE VOTE TO CLOSE HEARING –
Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for decision, hearing closed.

258-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Henry Atlantic Partners LLC, owner.
SUBJECT – Application October 16, 2014 – Variance (§72-21) to permit the construction of a 4-story mixed-use building of an existing with commercial use on the first floor in a (R6) zoning district located in Cobble Hill Historic District.
PREMISES AFFECTED – 112 Atlantic Avenue, southeast corner of the intersection formed by Atlantic Avenue and Henry Street, Block 285, Lot 6, Borough of Brooklyn.
COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Laid over to September 1, 2015, at 10 A.M., for adjourned hearing.

314-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Maurice Realty Inc., owner.
SUBJECT – Application November 20, 2014 – Special Permit (§73-125) to allow construction of an UG4 health care facility that exceed the maximum permitted floor area of 1,500 sf. R4A zoning district.
PREMISES AFFECTED – 1604 Williamsbridge Road, northwest corner of the intersection formed by Williamsbridge Road and Pierce Avenue, Block 04111, Lot 43, Borough of Bronx.
COMMUNITY BOARD #11BX

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for continued hearing.

2-15-BZ

APPLICANT – Jay Goldstein, Esq., for Panasia Estate Inc., owner; Chelsea Fhitting Room LLC, lessee.
SUBJECT – Application January 7, 2015 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*The Fhitting Room*) in the portions of the cellar and first floor of the premises. C6-4A zoning district.
PREMISES AFFECTED – 31 West 19th Street, 5th Avenue and 6th Avenue on the north side of 19th Street, Block 00821, Lot 21, Borough of Manhattan.
COMMUNITY BOARD #5M

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for adjourned hearing.

REGULAR MEETING TUESDAY AFTERNOON, AUGUST 18, 2015 1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

31-15-BZ

CEQR #15-BSA-159R
APPLICANT – Snyder & Snyder, LLP, for City University of New York, owner; Sprint Spectrum L.P., lessee.
SUBJECT – Application February 19, 2015 – Special Permit (§73-30) to permit the modification of an existing wireless facility. R3-2 zoning district.
PREMISES AFFECTED – 2800 Victory Boulevard, Canterbury Avenue and Victory Boulevard on Loop Road, Block 02040, Lot 0001, Borough of Staten Island.
COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –
Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0
THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated January 21, 2015, acting on Department of Buildings Application No. 520091285, reads in pertinent part:

Proposed work is non-compliant to TPPN# 5/98, and therefore will require a special permit from the Board of Standards and Appeals pursuant to section 73-03 of the New York City Zoning Resolution ... ;and

WHEREAS, this is an application under ZR §§ 73-30 and 73-03, to legalize, and permit the modification of, a Use Group 6 communication equipment structure consisting of

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antennas and related equipment (the “Non-Accessory Radio Tower”), within an R3-2 zoning district, contrary to ZR § 22-00; and

WHEREAS a public hearing was held on this application on August 18, 2015, after due notice by publication in *The City Record*, and then to decision on August 18, 2015; and

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, the Non-Accessory Tower is situated in the equipment area on the rooftop of the building known as and located at 2800 Victory Boulevard, Staten Island (the “Building”); and

WHEREAS, the applicant is licensed by the Federal Communications Commission (the “FCC”) to provide wireless communications services throughout New York City, and the proposed modifications to the existing Non-Accessory Radio Tower are required to provide reliable wireless services in the borough of Staten Island; and

WHEREAS, the applicant states that the proposed modifications consist of (1) the replacement of three existing panel antennas with six new panel antennas and attendant equipment; (2) the replacement of one equipment cabinet; (3) the replacement of one battery cabinet; and (4) the installation of a fiber enclosure at the equipment area on the roof of the Building; and

WHEREAS, pursuant to ZR § 73-30, the Board may grant a special permit for a non-accessory radio tower such as the proposed Non-Accessory Radio Tower, provided it finds “that the proposed location, design, and method of operation of such tower will not have a detrimental effect on the privacy, quiet, light and air of the neighborhood;” and

WHEREAS, the applicant represents that the proposed modifications to the existing Non-Accessory Radio Tower will not increase the height of the Non-Accessory Radio Tower and will not have any visual or environmental impact on the surrounding neighborhood; and

WHEREAS, the applicant further represents that the proposed modifications to the Non-Accessory Radio Tower will comply with all applicable laws, that no noise or smoke, odor or dust will be emitted; and that no adverse traffic impacts are anticipated; and

WHEREAS, in support of its argument that the Non-Accessory Radio Tower will not have any detrimental impact on the surrounding neighborhood, and in response to the Board’s comments, the applicant submitted a report from Pinnacle Telecom Group, LLC (“Pinnacle”), as well as an explanatory letter from Pinnacle, which states that the Non-Accessory Radio Tower meets standards promulgated by the FCC for potential radiofrequency exposure; and

WHEREAS, based upon its review of evidence in the record, the Board finds that the proposed Non-Accessory Radio Tower and related equipment will be located, designed, and operated so that there will be no detrimental effect on the privacy, quiet, light, and air of the neighborhood; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at ZR § 73-30; and

WHEREAS, the Board further finds that the subject

use will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board finds that the application meets the general findings required for special permits set forth at ZR § 73-03; and

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings and *grants* a special permit under ZR § 73-03 and § 73-30 to permit, within an R3-2 zoning district, the legalization and proposed modifications of the Non-Accessory Radio Tower, which is contrary to ZR § 22-00, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked “Received May 21, 2015”- (6) sheets; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 18, 2015.

156-14-BZ

APPLICANT – Lewis E. Garfinkel, for Harold Feder, owner.

SUBJECT – Application July 3, 2014 – Special Permit (§73-621) for the enlargement of an existing single family home contrary to floor area, lot coverage and open space (ZR 23-141(b)). R4 zoning district.

PREMISES AFFECTED – 1245 East 32nd Street, east side of East 32nd Street 350’, Block 07650, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #18BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for decision, hearing closed.

MINUTES

179-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Lillian Romano and Elliot Romano, owners.

SUBJECT – Application July 29, 2014 – Special Permit (§73-622) for the enlargement and conversion of an existing two family residence to single family residence contrary to the rear yard requirement (ZR 23-47). R5 zoning district.

PREMISES AFFECTED – 1937 East 14th Street, east side of East 14th Street between Avenue S and Avenue T, Block 07293, Lot 74, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for continued hearing.

229-14-BZ

APPLICANT –Jeffery A. Chester/GSHLLP, for Marmel Realty Associates Corp., owner; Lucille Roberts Health Club, Queens, LLC, lessee.

SUBJECT – Application September 23, 2015 – Special Permit (§73-36) to seek the legalization of an existing physical culture establishment (*Lucille Roberts*). C4-3A zoning district.

PREMISES AFFECTED – 55-05 Myrtle Avenue, corner of Madison Street and St. Nicholas Avenue, Block 03450, Lot 01, Borough of Queens.

COMMUNITY BOARD #5Q

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for continued hearing.

239-14-BZ

APPLICANT – Eric Palatnik, P.C., for Peter Haskopoulos, owner.

SUBJECT – Application October 1, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area (ZR 23-141) and side yards (ZR 23-461). R-2 Special Bay Ridge zoning district.

PREMISES AFFECTED – 8008 Harber View Terrace, between 80th Street and 82nd Street, Block 05975, Lot 0076, Borough of Brooklyn.

COMMUNITY BOARD #10BK

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for continued hearing.

318-14-BZ

APPLICANT – Walter T. Gorman, P.E., P.C., for Leemilts Petroleum Inc., owner; Capitol Petroleum Group, lessee.

SUBJECT – Application December 5, 2014 – Re-Instatement (§11-411) previously approved variance which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses which expired on October 27, 1987; Waiver of the Rules. C1-2 in R5 zoning district.

PREMISES AFFECTED – 1672-1680 86th Street aka 1-17 Bay 14th Street, south East Corner of Bay 14th Street, Block 06365, Lot 33, Borough of Brooklyn.

COMMUNITY BOARD #11BK

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for continued hearing.

75-15-BZ

APPLICANT – Sheldon Lobel, PC, for TEP Charter School Assistance, Inc., owner.

SUBJECT – Application April 3, 2015 – Variance (§72-21) to permit the construction of a school (UG 3) (*TEP Charter School*) contrary to front setback requirements (§24-522). C1-4/R7-2 zoning district.

PREMISES AFFECTED – 153-157 Sherman Avenue, 100' east of the intersection of Academy Street and Sherman Avenue, Block 02221, Lot 0005, Borough of Manhattan.

COMMUNITY BOARD #12M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director

BULLETIN

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**MINUTES of Regular Meetings,
Tuesday, August 25, 2015**

Morning Calendar470

Affecting Calendar Numbers:

122-93-BZ	895 Broadway, Manhattan
1207-66-BZ	305 Washington Avenue aka 321 DeKalb Avenue, Brooklyn
84-93-BZ	671-677 Timpson Place, Bronx
182-95-BZ	2465 Broadway, Manhattan
183-95-BZ	2473 Broadway, Manhattan
156-03-BZ	135-35 Northern Boulevard, Queens
127-15-BZ	135-35 Northern Boulevard, Queens
301-03-BZ	1103 East 22 nd Street, Brooklyn
297-12-A	28-18/20 Astoria Boulevard, Queens
271-14-A thru 282-14-A	15, 25, 26, 35, 36, 45, 46, Patricia Court, Staten Island
37-15-A	2020 Demerest Road, Queens
300-08-A	39-35 27th Street, Queens
163-14-A thru 165-14-A	502, 504, 506 Canal Street, Manhattan
91-15-A	55 Englewood Avenue, Staten Island
222-13-BZ	2472 Coney Island Avenue, Brooklyn
64-14-BZ	1320 East 23rd Street, Brooklyn
244-14-BZ	22 West 32nd Street, Manhattan
18-15-BZ	90 5th Avenue, Manhattan
55-15-BZ	405 West 55th Street, Manhattan
148-14-BZ	11 Avenue A, Manhattan
204-14-BZ	55 Wythe Avenue, Brooklyn
270-14-BZ	203 East 92nd Street, Manhattan
61-15-BZ	540 West 26th Street, Manhattan

Afternoon Calendar486

Affecting Calendar Numbers:

19-15-BZ	92-77 Queens Boulevard, Queens
29-15-BZ	200-204 East 61st Street aka 1011-102 3 rd Avenue, Manhattan

DOCKETS

New Case Filed Up to August 25, 2015

190-15-BZ

51-57 Carmine Street, Northwest corner of Carmine & Bedford Street, Block 0582, Lot(s) 035, Borough of **Manhattan, Community Board: 2**. Variance (§72-21) to propose a new six-story and bulkhead mixed building with ground floor commercial use and residential use on the upper floors, total of 20 affordable apartments, located within an R6, C2-6 zoning district. R6,C2-6 district.

191-15-A

51-99 Manilla Street, On the corner of the intersection formed by Manilla Street and Kneeland Avenue, Block 02467, Lot(s) 0205, Borough of **Queens, Community Board: 4**. Proposed development of a five two-story two-family attached residential buildings partially within the bed of an unmapped street, contrary to Article 3, Section 35 of the General City Law. R4 district.

192-15-A

51-101 Manilla Street, Located on the corner of the intersection formed by Manilla Street and Kneeland Avenue, Block 02467, Lot(s) 0206, Borough of **Queens, Community Board: 4**. Proposed development of a five two-story two-family attached residential buildings partially within the bed of an unmapped street, contrary to Article 3, Section 35 of the General City Law. R4 district.

193-15-A

51-105 Manilla Street, Located on the corner of the intersection formed by Manilla Street and Kneeland Avenue, Block 02467, Lot(s) 0207, Borough of **Queens, Community Board: 4**. Proposed development of a five two-story, two-family attached residential buildings partially within the bed of an unmapped street, contrary to Article 3 Section 35 of the General City Law. R4 district.

194-15-A

51-111 Manilla Street, Located on the corner of the intersection formed by Manilla Street and Kneeland Avenue, Block 02467, Lot(s) 209, Borough of **Queens, Community Board: 4**. Proposed development of a five two-story two-family attached residential buildings partially within the bed of an unmapped street, contrary to Article 3, Section 35 of the General City Law. R4 district.

195-15-A

51-107 Manilla Street, Located on the corner of the intersection formed by Manilla Street and Kneeland Avenue, Block 02467, Lot(s) 208, Borough of **Queens, Community Board: 4**. Proposed development of a five two-story two-family attached residential buildings partially within the bed of an unmapped street, contrary to Article 3, Section 35 of the General City Law. R4 district.

196-15-BZ

250 Mercer Street, Between West 3rd and West 4th Streets, Block 0535, Lot(s) 7501, Borough of **Manhattan, Community Board: 1**. Special Permit §73-36: to permit an Physical Culture Establishment (PCE), Haven Spa, that will occupy the first floor of a 16-story residential building in a C6-2 district. C6-2 district.

197-15-A

32 Berry Street, On the northwest corner of the intersection of Berry Street and North 12th Street, Block 02283, Lot(s) 038, Borough of **Brooklyn, Community Board: 3**. Determination made by Department of Buildings Technical Affairs that under ZR42-561 a proposed advertising sign, comprising 750 sq. ft.. Of surface area, may not be located at the premises, facing a Special Mixed Use District (M1-1)/R6A M1-1 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

SPECIAL HEARING SEPTEMBER 18, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a special hearing, Friday morning, September 18, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

269-14-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for 89-40 Realty LLC/Yaron Rosenthal, owner; Sun Star Services, lessee.

SUBJECT – Application November 3, 2014 – Special Permit §73-36) to permit the physical culture establishment (*Massage Envy Spa*) on the first floor level of an existing commercial building in a C2-2 in R4 zoning district.

PREMISES AFFECTED – 89-44 Metropolitan Avenue, southeast corner of Metropolitan Avenue and Aubrey Avenue, Block 03872, Lot 33, Borough of Queens.

COMMUNITY BOARD #5Q

36-15-BZ

APPLICANT – Warshaw Burstein, LLP, for CAC Atlantic, LLC, owner; 66 Boerum Place Fitness Group, LLC., lessee.

SUBJECT – Application February 25, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Planet Fitness*) on portions of the cellar, first and second floors of a new building. C6-2A (SDBD) zoning district.

PREMISES AFFECTED – 66 Boerum Place aka 239 Atlantic Avenue, northwest corner of the intersection formed by Atlantic Avenue and Boerum Place, Block 00277, Lot(s) 1 & 10, Borough of Brooklyn.

COMMUNITY BOARD #2BK

72-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Florence Polizzotto, owner; Blink Flatlands Avenue, Inc., lessee.

SUBJECT – Application March 31, 2015 – Special Permit (§73-36) to permit a physical culture establishment (*Blink Fitness*) within an existing commercial building under alteration. C2-3(R5D+R4-1) zoning district.

PREMISES AFFECTED – 9029 Flatlands Avenue, northeast corner of intersection of Flatlands Avenue and East 92nd Street, Block 08179, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #18BK

78-15-BZ

APPLICANT – Eric Palatnik, P.C., for 201 East 66th Street LLC., owner; 66th Street Fitness Corp., lessee.

SUBJECT – Application April 9, 2015 – Special Permit (§73-36) to permit the operation of a Physical Culture Establishment (*Crunch Fitness*) on the first floor and sub-cellar of a twenty one (21) story mixed-use building. C1-9 zoning district.

PREMISES AFFECTED – 201 East 66th Street aka 1131 Third Avenue, between 66th and 67th Street, Block 01421, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

Ryan Singer, Executive Director

SEPTEMBER 22, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, September 22, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

526-76-BZ

APPLICANT – Vito J Fossella, P.E., for 1492 Victory Blvd. LLC., owner.

SUBJECT – Application May 19, 2014 – Amendment of a previously approved variance which permitted the conversion of a three story building consisting of two family residence and a store into a three story office building which expired on December 21, 1981. The Amendment seeks to eliminate the term. R2 zoning district.

PREMISES AFFECTED – 1492 Victory Boulevard, south side of Victory Boulevard, Block 00681, Lot 33, Borough of Staten Island.

COMMUNITY BOARD #3SI

27-91-BZ

APPLICANT – Land Planning and Engineering Consultants, P.C., for Eldar Blue, LLC, owner.

SUBJECT – Application July 14, 2014 – Extension of Term of a previously approved variance for a two-story commercial building which expired June 14, 2014; Amendment to eliminate the length of term of variance due to the recently zoning change. C1-2/R3 zoning district.

PREMISES AFFECTED – 1931 Richmond Avenue, Block 02030, Lot 8, Borough Staten Island.

COMMUNITY BOARD #5SI

CALENDAR

156-92-BZ

APPLICANT – Eric Palatnik, P.C., for Parisi Patel, Inc., owner.

SUBJECT – Application December 22, 2014 – Extension of Term of the variance (§72-21) which permitted medical office use in an existing building contrary to side yard regulation at the basement and first floor levels, which expired March 1994; Waiver. R5 zoning district.

PREMISES AFFECTED – 1835 Bay Ridge Parkway, between 18th Avenue and 19th Avenue, Block 06216, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEALS CALENDAR

67-13-A

APPLICANT – Board of Standards and Appeals
OWNER OF PREMISES - OTR MEDIA GROUP, INC & OTR 945 Zerega.

SUBJECT – Application August 13, 2014 – Reopening by court remand for supplemental review of whether a sign at the subject site was a permitted non-conforming advertising sign in light of the Board’s decision in BSA Cal. No. 96-12-A. M1-1 zoning district.

PREMISES AFFECTED – 945 Zerega Avenue, between Quimby Avenue and Bruckner Boulevard, Block 3700, Lot 31, Borough of Bronx.

COMMUNITY BOARD #9BX

SEPTEMBER 22, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, September 22, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

69-15-BZ

APPLICANT – Glenn V. Cutrona, AIA, for Murray Page 74 LLC, owner.

SUBJECT – Application March 30, 2015 – Variance (§72-21) a proposed eating and drinking establishment with accessory drive through facility, located within an R3X/C1-1/SRD zoning district.

PREMISES AFFECTED – 245 Page Avenue, between Richmond Valley Road and Amboy Road, Block 08008, Lot 74, Borough of Staten Island.

COMMUNITY BOARD #3SI

Ryan Singer, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, AUGUST 25, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

122-93-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 895 Broadway LLC, owner.

SUBJECT – Application September 24, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of physical culture establishment (*Equinox*) which expired on September 20, 2014; Amendment to permit the expansion of the use into the second floor. M1-5M zoning district.

PREMISES AFFECTED – 895 Broadway, west side of Broadway, 27.5' south of intersection of Broadway and E. 20th Street, Block 00848, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a re-opening to amend the resolution and an extension of the term of a previously granted special permit that expired on September 20, 2014; and

WHEREAS, a public hearing was held on this application on July 14, 2015 after due notice by publication in *The City Record*, and then to decision on August 25, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board No. 5, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is an irregular “L-shaped” lot with approximately 82 feet of frontage along the west side of Broadway, starting approximately 27 feet south of East 20th street, continuing southward, and approximately 25 feet of frontage along the south side of East 20th Street, starting approximately 95 feet west of Broadway, continuing westward, within an M1-5M zoning district, in Manhattan; and

WHEREAS, the site has approximately 11,725 sq. ft. of lot area, and is occupied by a cellar and five-story commercial building; and

WHEREAS, on September 20, 1994, under the subject calendar number, the Board granted a special permit application pursuant to Z.R. § 73-36, to permit, in an M1-5M zoning district, the use of the cellar, first floor and mezzanine of the existing five-story commercial building as a physical

culture establishment (“PCE”); and

WHEREAS, on January 10, 2006, also under the subject calendar number, the Board granted an amendment to the subject special permit resolution to legalize an enlargement of the PCE and extension of the term, which expired on September 20, 2014; and

WHEREAS, the instant applicant was filed within 30 days of the expiration of the expired term; and

WHEREAS, the instant application seeks to: (1) extend the term of the special permit for ten years; and (2) amend the resolution to permit an additional enlargement of the PCE use at the second floor of the subject building; and

WHEREAS, the applicant represents that PCE currently occupies 21,709 sq. ft. of floor area, and the proposed 1,150 sq. ft. expansion of the PCE on the second floor of the building will increase size of the PCE to 22,859 sq. ft., exclusive of 10,188 sq. ft. of floor space in the cellar of the building; and

WHEREAS, the applicant represents that PCE will continue to operate as *Equinox* and that the hours of operation will continue to be: Monday through Thursday – 6 a.m. to 11 p.m.; Friday – 6 a.m. to 10 p.m.; and Saturday and Sunday – 8 a.m. to 9 p.m.; and

WHEREAS, the Board finds that a ten-year extension and the requested amendment is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, dated September 20, 1994, so that as amended this portion of the resolution shall read: “to permit the legalization of interior changes to the PCE including the expansion to the second floor of the building, and an extension of the term of the special permit for a term of ten years; *on condition* that the expansion shall substantially conform to drawings as filed with this application, marked ‘Received May 12, 2015’–(7) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years from September 20, 2014, expiring September 20, 2024;

THAT the above condition shall appear on the Certificate of Occupancy;

THAT a new Certificate of Occupancy for the premises shall be obtained by August 25, 2016;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 104366151)

Adopted by the Board of Standards and Appeals, August 25, 2015.

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1207-66-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Apple Art Supplies of New York, LLC., owner.

SUBJECT – Application December 10, 2014 – Extension of Term of a previously granted variance for the continued operation of a UG6 art supply and bookstore which expired July 5, 2012; Waiver of the Rules. R6 zoning district.

PREMISES AFFECTED – 305 Washington Avenue aka 321 DeKalb Avenue, northeast corner of Washington Avenue & DeKalb Avenue, Block 1918, Lot 7501, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for continued hearing.

84-93-BZ

APPLICANT – Sheldon Lobel P.C., 671 Timpson Realty corp./Timpson Salvage Corp., owner.

SUBJECT – Application December 1, 2014 – Extension of Term of a previously Variance (§72-21) permitting the operation of a Use Group 18B scrap, metal, junk, paper or rags, storage sorting, and bailing facility, which expired on November 15, 2015. C8-3 zoning district.

PREMISES AFFECTED – 671-677 Timpson Place, West of the intersection formed by Timpson Place, Bruckner Boulevard and Leggett Avenue, Block 2603, Lot(s) 190, 192, Borough of Bronx.

COMMUNITY BOARD #2BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for decision, hearing closed.

182-95-BZ

APPLICANT – Rothkrug & Spector LLP, for 2465 Broadway Associates LLC., owner.

SUBJECT – Application October 14, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a PCE (*Equinox Fitness Club*) which expires on November 1, 2015; Amendment to expand the PCE into the cellar and the full third floor; Waiver of the Rules. C4-6A/R8 zoning district.

PREMISES AFFECTED – 2465 Broadway, West side of Broadway, 50' south of southwest corner of intersection of Broadway and West 92nd Street, Block 01239, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for continued hearing.

183-95-BZ

APPLICANT – Rothkrug & Spector LLP, for Haymes Broadway LLC, owner.

SUBJECT – Application October 14, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a PCE (*Equinox Fitness Club*) which expires on November 1, 2015; Amendment to expand the PCE into the cellar and the full third floor; Waiver of the Rules. C4-6A/R8 zoning district.

PREMISES AFFECTED – 2473 Broadway, southwest corner of intersection of Broadway and West 92nd Street, Block 01239, Lot 55, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for continued hearing.

156-03-BZ

APPLICANT – Goldman Harris LLC., for Flushing Square, LLC., lessee.

SUBJECT – Application March 10, 2015 – Extension of Time to Complete Construction of a previously granted Variance (72-21) for the construction of a seventeen story mixed-use commercial/community facility/residential condominium building which expires on January 31, 2016; Amendment. R6/C2-2 zoning district.

PREMISES AFFECTED – 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard, Block 04958, Lot(s) 48,38, Borough of Queens.

COMMUNITY BOARD #7Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for decision, hearing closed.

127-15-BZ

APPLICANT – Goldman Harris LLC., for Flushing Square, LLC., owner.

SUBJECT – Application May 29, 2015 – Special Permit (§73-66) to permit the construction of building in excess of the height limits established pursuant Z.R. §§61-211 & 61-22. The proposed building was approved by the Board pursuant to BSA Calendar Number 156-03-BZ. C2-2/R6 zoning district

PREMISES AFFECTED – 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard, Block 04958, Lot(s) 48, 38, Borough of Queens.

COMMUNITY BOARD #7Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for decision, hearing closed.

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301-03-BZ

APPLICANT – Law Office of Lyra J. Altman, for 1103 East 22nd LLC., owner.

SUBJECT – Application April 29, 2014 – Extension of Time to Complete Construction and Waiver of the rules for a single family home enlargement under 73-622 approved on January 13, 2004. R2 Zoning district.

PREMISES AFFECTED – 1103 East 22nd Street, east side of East 22nd Street between Avenue J and Avenue K, Block 07604, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

297-12-A

APPLICANT – Law Office of Fredrick A. Becker, for 28-20 Astoria Blvd LLC., owner.

SUBJECT – Application April 6, 2015 – Extension of Time to complete construction in connection with a previously approved common law vested rights application. R6-A (C1-1) zoning district.

PREMISES AFFECTED – 28-18/20 Astoria Boulevard, south side of Astoria Boulevard, approx. 53.87' west of 29th Street, Block 00596, Lot 0045, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Application granted.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, this application seeks a determination from the Board that the owner of the subject site has obtained the right to complete construction of a five-story, mixed residential and community facility building under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on August 25, 2015, after due notice by publication in *The City Record*, with a decision rendered on that date; and

WHEREAS, the site is located on the south side of Astoria Boulevard, between 28th Street and 29th Street; and

WHEREAS, the site has a lot area of 6,701 sq. ft. and 45.85 feet of frontage along Astoria Boulevard; and

WHEREAS, under construction at the site is a seven-story mixed residential and commercial building with an FAR of 3.0, and 28 dwelling units (the “Building”); and

WHEREAS, the subject site is currently located partially within an R6B zoning district and partially within an R6A (C1-3) zoning district, but was formerly located within an R6 (C1-2) zoning district; and

WHEREAS, the Building complies with the former R6 (C1-2) zoning district parameters; specifically with respect to floor area; and

WHEREAS, on February 13, 2008, the Department of

Buildings (“DOB”) issued New Building Permit No. 402604669-01-NB (hereinafter, the “Building Permit”) authorizing construction of the Building; and

WHEREAS, however, on May 25, 2010 (the “Enactment Date”), the City Council voted to adopt the Astoria Rezoning, which rezoned the site to partially R6B and partially R6A (C1-3), as noted above; and

WHEREAS, as a result of the rezoning, the Building does not comply with the district parameters regarding floor area ratio and building height; and

WHEREAS, the applicant notes that ZR § 11-31(c)(1) classifies the construction authorized under the Permit as a “minor development”; and

WHEREAS, the applicant notes that, per ZR §§ 11-331 and 11-332, where all work on foundations for a minor development has been completed prior to the effective date of an applicable amendment to the Zoning Resolution, work may continue for two years, and if after two years, construction has not been completed and a certificate of occupancy has not been issued, the permit shall automatically lapse and the right to continue construction shall terminate; and

WHEREAS, the applicant states that, as of the Enactment Date, the entire foundation for the building was completed; and

WHEREAS, accordingly, the applicant states, DOB recognized the owner’s right to continue construction under the Permit for two years until May 25, 2012, pursuant to ZR § 11-331; and

WHEREAS, however, as of May 25, 2012, construction was not complete and a certificate of occupancy had not been issued; therefore, on that date the Permit lapsed by operation of law; and

WHEREAS, subsequently, the applicant sought a two-year extension to complete construction pursuant to the common law doctrine of vested rights, which the Board granted on April 23, 2013, under the subject calendar number (the “Previous Grant”); and

WHEREAS, the Board notes its determination in the Previous Grant that the Permit lawfully issued prior to the Enactment Date; and

WHEREAS, the Board notes that when work proceeds under a lawfully-issued permit, a common law vested right to continue construction after a change in zoning generally exists if: (1) the owner has undertaken substantial construction; (2) the owner has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, specifically, as held in *Putnam Armonk, Inc. v. Town of Southeast*, 52 AD 2d 10 (2d Dept 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner’s rights under the prior ordinance are deemed vested “and will not be disturbed where enforcement [of new zoning requirements] would cause ‘serious loss’ to the owner,” and “where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance”; and

WHEREAS, however, notwithstanding this general framework, as discussed by the court in *Kadin v. Bennett*, 163 AD 2d 308 (2d Dept 1990) “there is no fixed formula which

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measures the content of all the circumstances whereby a party is said to possess 'a vested right'. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action"; and

WHEREAS, as noted above, the applicant obtained a permit to construct the Building and performed certain work prior to the Enactment Date; and

WHEREAS, the Board notes that work completed prior to the Enactment Date constituted substantial construction and/or substantial expenditures as stated or implied in the Previous Grant; and

WHEREAS, the applicant submits, and the Board finds, that the work performed prior and subsequent to the Previous Grant constitutes substantial construction and, similarly, that expenditures related thereto were similarly substantial; and

WHEREAS, specifically, the applicant notes that as of the Enactment Date, the owner of the site had completed demolition, excavation, footings and the entire foundation of the subject building, including foundation bracing and strapping and underpinning of the existing foundation; and

WHEREAS, the applicant notes further that construction pursuant to the initial permits continued after the Enactment Date; and

WHEREAS, the applicant notes further that as of May 25, 2012, the following work was complete: (1) demolition; (2) excavation; (3) footings and foundation work; and

WHEREAS, the applicant represents that a substantial portion of the structural steel for the building was also complete as of May 25, 2012; and

WHEREAS, the applicant states that subsequent to the Previous Grant it was able to obtain financing contingent thereupon, and that it obtained new construction loans in August of 2013, and re-commenced construction in September of 2013; and

WHEREAS, the applicant states that since the Previous Grant, the following additional work has been performed: (1) completion of the building exterior; (2) all rough plumbing, including sections; (3) installation of all framing, sheetrock and floors; (3) rough electrical work; (4) roof work; (5) HVAC installation; (6) connection to gas, water and sewer lines; and (7) controlled inspections, TR1s, TR2s, and TR3s; and

WHEREAS, the applicant notes that the Previous Grant included a finding that substantial expenditures were incurred at the Site; and

WHEREAS, as to expenditure, the Board notes that unlike an application for relief under ZR § 11-30 *et seq.*, soft costs and irrevocable financial commitments can be considered in an application under the common law and accordingly, these costs are appropriately included in the applicant's analysis; and

WHEREAS, the applicant notes that, as reflected in the Previous Grant, as of the Enactment Date, soft cost expenditures accepted by the board were \$520,000.00 and hard cost expenditures were \$1,019,000.00, for a total expenditure of \$1,539,000.00; and

WHEREAS, the applicant represents that in addition to the foregoing expenditures made prior to the Enactment Date, the applicant has incurred an additional \$3,576,000.00 in hard

and soft costs since the Previous Grant, including \$3,105,000.00 in hard costs and \$471,000.00 in soft costs; and

WHEREAS, the applicant has submitted payments and receipts to substantiate the foregoing claim; and

WHEREAS, the Board considers the amount of expenditures significant, both for a project of this size, and when compared with the development costs; and

WHEREAS, again, the Board's consideration is guided by the percentages of expenditure cited by New York courts considering how much expenditure is needed to vest rights under a prior zoning regime; and

WHEREAS, as articulated in the Previous Grant, and as the applicant re-states, if the applicant is not allowed to complete construction of the building under the previous zoning the number of units it could construct would be reduced from 28 to 24, with a decrease in market value of more than \$3,000,000.00; and

WHEREAS, in addition to the loss of \$3,000,000.00, the applicant would incur additional loss if required to reconfigure the now substantially completed building, in the amount of \$3,600,000.00; and

WHEREAS, thus, the applicant concludes and the Board find that if the applicant were not allowed to complete construction under the Building Permit, it would incur a loss of \$6,600,000.00; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed and the expenditures made both before and after the Enactment Date, the representations regarding serious loss, and the supporting documentation for such representations, and agrees that the applicant has satisfactorily established that a vested right to complete construction of the Building has accrued to the owner of the premises.

Therefore it is Resolved, that this application made pursuant to the common law doctrine of vested rights requesting a reinstatement of Permit No. 402604669-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for two years from the date of this grant.

Adopted by the Board of Standards and Appeals, August 25, 2015.

271-14-A thru 282-14-A

APPLICANT – Eric Palatnik, P.C., for 91 Seguire Avenue LLC, owner.

SUBJECT – Application November 3, 2014 – To permit the proposed development consisting of seven one family homes and one-two family home, contrary Article 3 Section 36 of the General City Law. R3X zoning district.

PREMISES AFFECTED – 15, 25, 26, 35, 36, 45, 46, Patricia Court, bound by Seguire Avenue, MacGregor Avenue, Herbert Street, Holton Avenue, Block 06680, Lot (s) 80, 9, 6, 8, 7, 24, 25, 26 Herbert Court, Block 06680, Lot 23, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on

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condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the following decision was rendered by the New York City Department of Buildings (“DOB”) with respect to DOB Application Nos. 520193362, dated October 2, 2014, for 25 Patricia Court, Staten Island; DOB Application Nos. 520193406, dated October 14, 2014, for 26 Patricia Court, Staten Island; DOB Application Nos. 5201900007, dated October 14, 2014, for 26 Patricia Court (Garage Structure), Staten Island; DOB Application Nos. 520193380, dated October 2, 2014, for 35 Patricia Court, Staten Island; DOB Application Nos. 520193399, dated October 14, 2014, for 36 Patricia Court, Staten Island; DOB Application Nos. 520190034, dated October 14, 2014, for 36 Patricia Court (Garage Structure), Staten Island; DOB Application Nos. 520199776 dated October 2, 2014, for 45 Patricia Court, Staten Island; DOB Application Nos. 520199785, dated October 14, 2014, for 46 Patricia Court, Staten Island; DOB Application Nos. 520199794, dated October 14, 2014, for 46 Patricia Court (Garage Structure), Staten Island; DOB Application Nos. 520199767, dated October 2, 2014, for 26 Herbert Street, Staten Island; DOB Application Nos. 520201291, dated October 2, 2014, for 26 Herbert Street (Garage Structure), Staten Island:

The street giving access to the proposed building is not duly placed on the official map of the City of New York, therefore:

- A. No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 of the General City Law
- B. Proposed Construction does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street or frontage space contrary to Sec. 502.1 of the 2008 NYC Building Code; and

WHEREAS, this is an application, filed pursuant to General City Law §36, to allow the proposed construction of eight one- and two-family homes (and, in four instances, garages) not fronting on a mapped street; and

WHEREAS, a public hearing was held on this application on July 14, 2015, after due notice by publication in *The City Record*, and then to decision on August 25, 2015; and

WHEREAS, the above-referenced lots, which do not front on a mapped street, are located to the east of Seguin Avenue, south of Herbert Street and North of Mac Gregor Avenue, within an R3X zoning district, within the Special South Richmond Development District, in Staten Island; and (the “Site”); and

WHEREAS, the applicant seeks to construct nine one- and two-family homes on the Site; eight of those one- and two-family homes will not front on a mapped street, and four of the eight which do not front on a mapped street will contain garages; and

WHEREAS, by letter dated May 13, 2015, as affirmed by

letter dated August 5, 2015, the FDNY stated that it has no objections to the proposed development, but conditioned its statement of no objection on the applicant meeting all of the conditions shown on the stamped, approved site plan provided to the FDNY by the applicant (“FDNY Access and Hydrant Plan Drawing A-001.00”); and

WHEREAS, specifically, FDNY imposed the following conditions, noted on FDNY Access and Hydrant Plan Drawing A-001.00, on the project, which are hereby adopted by the Board: (1) All buildings shall be provided with interconnected smoke alarms, which shall be designed and installed in accordance with the City of New York Building Code Section 907.2.1.0; (2) The Fire Department access roads (private roads) shall have an unobstructed width of not less than 34 feet (34’-0”) and shall satisfy the requirements of Section 25-21 of the Zoning Resolution; (3) Parking to be permitted on both sides of each private road; (4) Area in front of fire hydrants shall be marked with paint “no parking” on roadway eight feet (8’-0”) out from curb; (5) As per Fire Code Rule C503.1.1 (Apparatus Access Road) buildings or structures shall be accessible to department apparatus by the way of public street or an approved fire apparatus access road with an approved asphalt, concrete or other approved driving surface installed in accordance with the standards of the New York City Department of Transportation and capable of supporting the imposed load of department apparatus weighing at least 35,000 pounds; and (6) Each dwelling entrance shall be within 250 feet of a hydrant; (7) Mains servicing hydrants shall be eight inches or greater and cross-connected as per requirements; (8) all proposed one/two family detached residences (two story) to be fully sprinklered; and

WHEREAS, on August 24, 2015, the applicant submitted a revised site plan which included, *inter alia*, the conditions noted on FDNY Access and Hydrant Plan Drawing A-001.00 are incorporated into the Board-approved plans; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the following decisions of the Department of Buildings (“DOB”):

- DOB Application Nos. 520193362, dated October 2, 2014, for 25 Patricia Court, Staten Island
- DOB Application Nos. 520193406, dated October 14, 2014, for 26 Patricia Court, Staten Island
- DOB Application Nos. 5201900007, dated October 14, 2014, for 26 Patricia Court (Garage Structure), Staten Island
- DOB Application Nos. 520193380, dated October 2, 2014, for 35 Patricia Court, Staten Island
- DOB Application Nos. 520193399, dated October 14, 2014, for 36 Patricia Court, Staten Island
- DOB Application Nos. 520190034, dated October 14, 2014, for 36 Patricia Court (Garage

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Structure), Staten Island

- DOB Application Nos. 520199776 dated October 2, 2014, for 45 Patricia Court, Staten Island
- DOB Application Nos. 520199785, dated October 14, 2014, for 46 Patricia Court, Staten Island
- DOB Application Nos. 520199794, dated October 14, 2014, for 46 Patricia Court (Garage Structure), Staten Island
- DOB Application Nos. 520199767, dated October 2, 2014, for 26 Herbert Street, Staten Island
- DOB Application Nos. 520201291, dated October 2, 2014, for 26 Herbert Street (Garage Structure), Staten Island

are modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that all construction will substantially conform to the drawings filed with the application marked “August 25, 2015”-(1) sheet; and *on further condition*:

THAT the proposal will comply with all applicable zoning district requirements and all other applicable laws, rules, and regulations;

THAT the height of the dwellings shall not exceed 35 feet (35’-0”) above grade plane;

THAT all buildings shall be provided with interconnected smoke alarms, which shall be designed and installed in accordance with the City of New York Building Code Section 907.2.1.0;

THAT the Fire Department access roads (private roads) shall have an unobstructed width of not less than 34 feet (34’-0”) and shall satisfy the requirements of Section 25-21 of the Zoning Resolution;

THAT the in front of fire hydrants shall be marked with paint “no parking” on roadway eight feet (8’-0”) out from curb;

THAT all buildings or structures shall be accessible to department apparatus by the way of public street or an approved fire apparatus access road with an approved asphalt, concrete or other approved driving surface installed in accordance with the standards of the New York City Department of Transportation and capable of supporting the imposed load of department apparatus weighing at least 35,000 pounds as per Fire Code Rule C503.1.1 (Apparatus Access Road);

THAT hydrants shall be provided within the private road (Patricia Court) and each dwelling entrance shall be within 250 feet of a hydrant as shown on BSA-approved plans;

THAT all water mains servicing hydrants shall be eight inches or greater and cross-connected as per requirements;

THAT all proposed one/two family detached residences (two story) to be fully sprinklered with automatic sprinkler system;

THAT any and all conditions requested by the Fire Department shall be implemented before the Temporary Certificate of Occupancy and Certificate of Occupancy are issued;

THAT all the private road (Patricia Court) shall be screened from adjoining lots by landscape strips densely planted with evergreen shrubs at least 4 ft. high at time of planting, and of a type that may be expected to form a year-round defense screen at least 6 ft. high within three years of planting, such planting to be maintained in good condition at all times;

THAT the proposed development will comply in all respects with the conditions of NYSDEC Permit No. 2-6405-00609/0001, including, without limitation, requirements stated for plantings in the Area of No Land Alteration (as shown on the plans attendants to such permit);

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

THAT DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on August 25, 2015.

37-15-A

APPLICANT – Jeffrey Geary, for Louis Devivo, owner.

SUBJECT – Application February 26, 2015 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-2 zoning district.

PREMISES AFFECTED – 2020 Demerest Road, Van Brunt Road and Demerest Road, Block 15485, Lot 0007, Borough of Queens.

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated January 29, 2015, acting on DOB Application No. 420606963, reads in pertinent part:

The request to allow the reconstruction of a demolished access ramp, located in the bed of a mapped street ... denied... Buildings or portions of buildings are not allowed within the bed of a mapped street, per General City Law (“GCL”) § 35... the proposed walkway structure is construction that is not permitted in the bed of a mapped street, and is only permitted if BSA grants approval pursuant to GCL § 35; and

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WHEREAS, a public hearing was held on this application on June 16, 2015, after due notice by publication in *The City Record*, and then to decision on August 25, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, this is an application to allow the reconstruction of a single-family residence and access ramp which was affected during Super Storm Sandy; the proposed reconstruction of the access ramp will be located partially within the bed of a mapped but unbuilt portion of Demerest Road, in Queens;

WHEREAS, the subject site is located on the east side of Van Brunt Road, south of East 21st Road, in an R3-2 zoning district; and

WHEREAS, the site, which is irregularly shaped, has approximately 12.5 feet of frontage along Van Brunt Road, and a combined depth of approximately 210 feet, widening to a width of approximately 26 feet at the rear of the site, which has a lot area of approximately 4,460 sq. ft.; and

WHEREAS, while the site fronts on Van Brunt Road, it is bisected by the proposed street extension of Demerest Road, and the proposed reconstruction of the applicant's access walkway is located within the bed of that mapped but unbuilt street; and

WHEREAS, the proposed development will conform and comply with all zoning regulations applicable in the subject R3-2 zoning district; and

WHEREAS, by letter dated June 8, 2015, the New York City Fire Department ("FDNY") states that it has no objections to the proposed application; and

WHEREAS, by letter dated August 19, 2015, the New York City Department of Environmental Protection ("DEP") states that it has no objections to the proposed application; and

WHEREAS, by letter dated May 8, 2015, the New York City Department of Transportation ("DOT") states that the improvement of Demerest Road at the site is not presently included in DOT's Capital Improvement Program; and

WHEREAS, the Board notes that pursuant to GCL § 35, it may authorize construction within the bed of the mapped street subject to reasonable requirements; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the Board modifies the decision of the DOB, dated January 29, 2015, acting on DOB Application No. 420606963, by the power vested in it by Section 35 of the General City Law, and grants this appeal, limited to the decision noted above *on condition* that construction will substantially conform to the drawing filed with the application marked "August 25, 2015"- (1) sheet; and *on further condition*:

THAT DOB will review and approve plans associated with the Board's approval for compliance with the underlying zoning regulations as if the unbuilt portion of the street were not mapped;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other

jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on August 25, 2015.

300-08-A

APPLICANT – Law office of Marvin B. Mitzner LLC, for Steven Baharestani, owner.

SUBJECT – Application April 24, 2014 – Extension of time to complete construction and obtain a Certificate of Occupancy for the construction of a hotel under common law vested rights. M1-2 /R5-B zoning district.

PREMISES AFFECTED – 39-35 27th Street, east side of 27th Street between 39th and 40th Avenues, Block 397, Lot 2, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for continued hearing.

163-14-A thru 165-14-A

APPLICANT – Ponte Equities, for Ponte Equities, Ink, owner.

SUBJECT – Application July 10, 2014 – Appeal seeking waiver of Section G304.1.2 of the NYC Building Code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A zoning district.

PREMISES AFFECTED – 502, 504, 506 Canal Street, Greenwich Street and Canal Street, Block 595, Lot 40, 39, 38, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to October 27, 2015, at 10 A.M., for continued hearing.

91-15-A

APPLICANT – Edward Lauria, for Gerard Petri, owner.

SUBJECT – Application April 23, 2015 – Proposed construction of building that does not front on a legally mapped street, pursuant Article 3 Section 36 of the General city Law. M1-1 zoning district.

PREMISES AFFECTED – 55 Englewood Avenue, 593.35' east of Arthur Kill Road, Block 07380, Lot 0029, Borough of Staten Island

COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for decision, hearing closed.

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ZONING CALENDAR

222-13-BZ

CEQR #14--BSA-014K

APPLICANT – Eric Palatnik, P.C., for 2464 Coney Island Avenue, LLC, owner.

SUBJECT – Application July 23, 2013 – Special Permit (§73-44) to allow the reduction of required parking for the use group 4 ambulatory diagnostic treatment healthcare facility. C8-1/R5 zoning district.

PREMISES AFFECTED – 2472 Coney Island Avenue, southeast corner of Coney Island Avenue and Avenue V, Block 7136, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated June 25, 2013, acting on DOB Application No. 320269035, reads:

Proposed development is contrary to ZR Section 36-21 and requires a special permit pursuant to ZR section 73-44; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, on a site located partially within a C8-1 zoning district, and partially within an R5 zoning district, within the Special Ocean Parkway District, the reduction in the required number of accessory parking spaces for a proposed ambulatory diagnostic or treatment health care facility from 36 spaces to 18 spaces, contrary to ZR § 36-21; and

WHEREAS, a public hearing was held on this application on August 19, 2014, after due notice by publication in The City Record, with continued hearings on November 18, 2014, January 27, 2015, March 10, 2015, April 21, 2015, and July 14, 2015, and then to decision on August 25, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends that the Board disapprove the instant application; and

WHEREAS, the subject site is a through lot with 100 feet of frontage along the east side of East 9th Street and 100 feet of frontage along the west side of Coney Island Avenue, between Avenue U, to the north, and Avenue V, to the south, partially within a C8-1 zoning district and partially within an R5 zoning district, within the Special Ocean Parkway District; and

WHEREAS, the site has approximately 12,720 sq. ft.

of lot area; and

WHEREAS, on March 17, 1964, under BSA Cal. No. 1059-63-BZ, the Board granted an application for a variance at the subject site to permit the extension of the public parking lot into that portion of the site which is located within the R5 zoning district; and

WHEREAS, the applicant is constructing a three-story building at the site, containing 15,342 sq. ft. of floor area as follows: (1) 3,206.50 sq. ft. of floor at the first floor of the building for a Use Group 8 automobile rental; (2) 1,494.09 sq. ft. of floor area at the first floor of the building for Use Group 6 retail; and (3) 10,641 sq. ft. of floor area at the first, second and third floors of the building for a Use Group 4 (Community Facility) ambulatory diagnostic or treatment health care facility; and

WHEREAS, the applicant proposes to provide the required number of accessory parking spaces for the retail uses at the site, however, pursuant to ZR § 73-44, the applicant seeks a reduction in the required number of parking spaces for the ambulatory diagnostic or treatment health care facility, as set forth below; and

WHEREAS, the applicant states that, pursuant to ZR § 36-21, 41 parking spaces are required for all uses at the site (36 for ambulatory diagnostic or treatment health care facility and five for the retail uses at the site); and

WHEREAS, the applicant calculates the ambulatory diagnostic or treatment health care facility office parking requirement as follows: pursuant to ZR § 36-21, within the C8-1 district, the subject Use Group 4 ambulatory diagnostic or treatment health care requires one accessory parking space for every 300 sq. ft. of floor area; thus, the proposed Use Group 4 office floor area at the site generates 36 required accessory parking spaces; however, the applicant seeks to provide 18 parking spaces, resulting in a deficit of 18 parking spaces; and

WHEREAS, the applicant calculates the retail parking requirement as follows: pursuant to ZR § 36-21, within the C8-1 district, the subject Use Group retail requires one accessory parking space for every 300 sq. ft. of floor area; thus, the proposed Use Group 6 retail floor area at the site generates five required accessory parking spaces; however, the applicant seeks to provide 10 parking spaces; and

WHEREAS, indeed, the applicant notes that in addition to the 23 spaces required under a strict application of ZR § 73-44, it will provide an additional five spaces (by virtue of the double stackers which will be placed in the commercial portion of the site) and nine non-accessory spaces provided in conjunction with the automobile rental use on the first floor of the subject building; and

WHEREAS, pursuant to ZR § 73-44, the Board may grant a special permit allowing a reduction in the required number of accessory off-street parking spaces for the Use Group 4 ambulatory diagnostic or treatment health care facility; in the subject C8-1 zoning district, the Board may reduce the required parking for such uses from one space per 400 sq. ft. of floor area to one space per 600 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 73-44, the Board must,

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prior to granting the waiver, determine that the use proposed in the B1 parking category and the Use Group 4 use are contemplated in good faith; and

WHEREAS, to satisfy the good-faith requirement, the applicant submitted an affidavit dated May 1, 2015; and

WHEREAS, the Board finds that the applicant has submitted sufficient evidence of good faith in maintaining the noted uses at the site; and

WHEREAS, in addition, the special permit under ZR § 73-44 requires and the applicant represents that any certificate of occupancy for the building will state that no subsequent certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius; and

WHEREAS, at hearing, the Board directed the applicant to demonstrate that the application satisfies 73-03(a); specifically, the Board requested additional information on how the proposed reduction in parking will impact the surrounding community in terms of parking and traffic; and

WHEREAS, in response, the applicant submitted a parking demand and utilization study, which reflects that the proposed reduction will not have significant negative impacts on the surrounding community; and

WHEREAS, accordingly, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit uses is outweighed by the advantages to be derived by the community; and

WHEREAS, based upon its review of the record, the Board concludes that the findings required under ZR §§ 73-03 and 73-44 have been met; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 14-BSA-014K, dated August 5, 2015; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and

Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR §§ 73-03 and 73-44 to permit, on a site located partially within a C8-1 zoning district, and partially within an R5 zoning district, within the Special Ocean Parkway District, the reduction in the required number of accessory parking spaces for a proposed ambulatory diagnostic or treatment health care facility from 36 spaces to 18 spaces, contrary to ZR § 36-21; on condition that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received August 5, 2015"—twelve (12) sheets, and on further condition:

THAT a minimum of 37 parking spaces shall be provided at the site;

THAT there shall be no change in the uses at the site without prior review and approval by the Board;

THAT a certificate of occupancy shall not be issued if either of the uses for which parking has been reduced has been changed to a use listed in parking category B, unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius;

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

THAT the applicant shall provide landscaping as shown on the BSA-approved plans;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by August 25, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 25, 2015.

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64-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Moshe Dov Stern & Goldie Stern, owners.

SUBJECT – Application April 29, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1320 East 23rd Street, west side of East 23rd Street between Avenue M and Avenue N, Block 7658, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated April 8, 2014, acting on DOB Application No. 320778967, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141 in that the proposed floor area ratio exceeds the maximum permitted;
2. Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required;
3. Proposed plans are contrary to ZR 23-461 in that the proposed side yard is less than the minimum required;
4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family home which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio (“OSR”), side yards, and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on September 9, 2014, after due notice by publication in *The City Record*, with continued hearings on October 28, 2014, December 9, 2014, January 13, 2015, March 24, 2015, April 28, 2015, May 19, 2015, and July 14, 2015, and then to decision on August 25, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the west side of East 23rd Street, between Avenue M and Avenue N, within an R2 zoning district; and

WHEREAS, the site has 40 feet of frontage along East 23rd Street, a depth of 100 feet, and 4,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a single-family home with 2,124.82 sq. ft. of floor area (0.53 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the building, resulting in an increase in the floor area from 2,124.82 sq. ft. (0.53 FAR) to 4,015.64 sq. ft. (1.0 FAR); the maximum permitted floor area is 2,000 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to decrease the open space ratio from 138.3 percent to 54.6 percent; the minimum required open space ratio is 150 percent; and

WHEREAS, the applicant seeks to maintain and extend its non-complying side yard and reduce the width of its complying side yard so that the existing widths of 2’-9” and 12’-0” respectively shall be reduced to 2’-9” and 8’-0””; the requirement is two side yards with a minimum total width of 13’-0” and a minimum width of 5’-0” each; and

WHEREAS, the applicant seeks to decrease its non-complying rear yard from 24’-5” to 22’-0””; the requirement is a minimum depth of 30’-0””; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, at hearing, the Board expressed concern about the impact of the proposed 20’-0” rear yard and the massing of the proposed building; and

WHEREAS, in response, the applicant increased the proposed rear yard to 22’-0” and changed the shape and style of the front dormer and curved edge of the roof of the building, to reduce the apparent mass thereof; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family home which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio (“OSR”), side yards, and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received August 6, 2015” –(14) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,015.64 sq. ft. (1.0 FAR), a minimum open space ratio of 54.6 percent, side

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yards of 2'-9" and 8'-0", and a rear yard with a minimum depth of 22'-0", all as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by August 25, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 25, 2015.

244-14-BZ

CEQR #15-BSA-082M

APPLICANT – Eric Palatnik, PC, for Chong Duk Chung, owner.

SUBJECT – Application October 9, 2014 – Special Permit (§73-36) to operate a physical culture establishment (*K-Town Sauna*) within an existing building. C6-4 zoning district.

PREMISES AFFECTED – 22 West 32nd Street, 32nd Street between Fifth and Sixth Avenues, Block 00833, Lot 57, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated September 11, 2014, acting on DOB Application No. 121985174, reads, in pertinent part:

Proposed change of use to a physical culture establishment as defined by ZR 12-10 is contrary to ZR 32-10 and must be referred to the Board of Standards and Appeals for approval pursuant to ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-4 zoning district, a physical culture establishment (the “PCE”) on the third and fourth floors of a seventeen story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on June 16, 2015, after due notice by publication in the *City Record*, and then to decision on August 25, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner

Ottley-Brown performed site and neighborhood inspections of the premises and surrounding area; and

WHEREAS, Community Board 5, Manhattan, recommends denial of this application; and

WHEREAS, the subject site has approximately 75 feet of frontage along the south side of West 32nd Street, between 5th Avenue, to the east, and Broadway, to the west, in Manhattan; and

WHEREAS, the site contains approximately 7,406 sq. ft. of lot area and is located within a C6-4 zoning district; it is occupied by a seventeen-story commercial building; and

WHEREAS, the proposed PCE shall occupy 13,263 sq. ft. of floor area on the third and fourth floors of the subject building; and

WHEREAS, the PCE shall operate as K-Town Sauna; and

WHEREAS, the PCE will operate 24 hours per day, seven days per week; and

WHEREAS, the applicant represents that PCEs which operate 24 hours per day, seven days per week, are common in the surrounding neighborhood, and has provided the Board with BSA resolutions approving applications for special permits issued pursuant to ZR § 73-36 which allow for such operation; and

WHEREAS, at a hearing, the Board inquired as to whether the proposed PCE qualified as such under the ZR § 12-10 definition of *Physical Culture Establishment*, specifically, the Board asked the applicant to establish that the relaxation services proposed at the subject PCE are accessory to the proposed physical exercise or massage services; and

WHEREAS, the applicant maintains that (1) the fact that the square footage allotted to relaxation services at the proposed PCE exceeds that which is allotted to the massage services is not dispositive with respect to the accessory nature of the relaxation services; (2) that, as demonstrated by a business plan submitted in support of the application, the proposed relaxation services are clearly incidental to the proposed PCE with respect to revenue; and (3) that relaxation services of the type proposed for the subject PCE are customarily found in connection with PCEs throughout New York City; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the

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community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15-BSA-082M, dated October 8, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-4 zoning district, a physical culture establishment (the "PCE") on the third and fourth floors of a seventeen story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received August 6, 2015," - Seven (7) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on August 25, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT fire safety measures shall be installed and/or maintained as shown on the BSA-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by August 25, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 25, 2015.

18-15-BZ

CEQR #15-BSA-148M

APPLICANT – Frances R. Angelino, Esq., for 90 Fifth Owner, LLC, owner; Peak Performance NYC. LLC, lessee. SUBJECT – Application January 28, 2015 – Special Permit (§73-36) to permit a physical culture establishment (*Peak Performance*) on 10th & 11th floors of an 11- story commercial building. C6-4M zoning district.

PREMISES AFFECTED – 90 5th Avenue, northwest corner of West 14th Street and Fifth Avenue, Block 00816, Lot 37, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated January 12, 2015, acting on DOB Application No. 104490025, reads, in pertinent part:

A Physical Culture Use is not permitted as of right in a C6-4M zoning district as per sections 32-10 and 73-36 of the NYC Zoning Resolution; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-4M zoning district, a physical culture establishment ("PCE") on the 10th and 11th floors of an 11-story commercial building, contrary to ZR §32-10; and

WHEREAS, a public hearing was held on this application on July 21, 2015, after due notice by publication in the *City Record*, and then to decision on August 25, 2015; and

WHEREAS, Commissioner Ottley-Brown performed an inspection of the site and surrounding neighborhood; and

WHEREAS, Community Board 5, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is a corner lot located at the northwest corner of the intersection formed by the intersection of West 14th Street and Fifth Avenue, in Manhattan, within an a C6-4M zoning district; and

WHEREAS, the site has approximately 100 feet of frontage along West 14th Street and approximately 103 feet of frontage along Fifth Avenue, and approximately 10,325 sq. ft. of lot area; and

WHEREAS, the site is occupied by an 11-story commercial building; and

WHEREAS, the PCE will occupy 8,750 sq. ft. of floor area on the 10th floor of the building and 8,750 sq. ft. of floor area on the 11th floor of the building, occupying a total of 17,500 sq. ft. of floor area; and

WHEREAS, the PCE operates as Peak Performance; and

WHEREAS, the applicant represents that the hours of operation for the PCE shall be, Monday through Friday, from 5:00 a.m. to 10:00 p.m., and on Saturday and Sunday from 6:00 a.m. to 7:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and

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operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-148M, dated January 28, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-4M zoning district, a physical culture establishment (“PCE”) on the 10th and 11th floors of an 11-story commercial building, contrary to ZR §32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received August 21, 2015” - Three (3) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on August 25, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT sound attenuation measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by August 25, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

THAT the approved plans shall be considered

approved only for the portions related to the specific relief granted; and

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 25, 2015.

55-15-BZ CEQR #15-BSA-173M

APPLICANT – Elise Wagner, Kramer Levin Naftalis & Frankel LLP, for Alvin Alley Dance Foundation, lessee.

SUBJECT – Application March 13, 2015 – Variance (§72-21) to allow for the enlargement of a Alvin Alley Dance foundation's existing building to provide additional dance studios, classrooms, and offices, located within an R8/C1-5, C6-2 Clinton Preservation Area zoning district.

PREMISES AFFECTED – 405 West 55th Street, located on the northwest corner of Ninth Avenue and West 55th Street. Block 01065, Lot 29. Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated March 2, 2015, acting on DOB Application No. 122231441, reads in pertinent part:

The proposed floor area exceed maximum permitted FAR in R8/C1-5 and C6-2 zoning districts, contrary to ZR 96-101. The proposed lot coverage increases the degree of existing lot coverage non-compliance for portions of the zoning lot located both within 100 feet of a wide street and more than 100 feet of a wide street, contrary to ZR 96-102. The proposed building height exceeds the maximum permitted height and setback regulations for the portions of the building located both within 100 feet of a wide street and more than 100 feet of a wide street, contrary to ZR 96-104(c). The proposed number of office workers exceeds the maximum number of 50 permitted for central office functions in a Use Group 4 philanthropic or non-profit institution without sleeping accommodations, contrary to ZR 22-14 ... A variance (ZR 72-21) is required from the Board of Standards and Appeals.

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R8 (C1-5) zoning district, and also within a C6-2 zoning district, within the Preservation Area of the Special Clinton District, the enlargement of an existing building to accommodate the programmatic needs of the Alvin Ailey Dance Foundation, which does not comply with zoning

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regulations for floor area, lot coverage, building height, and number of office workers, contrary to ZR §§ 96-101, 96-102, 96-104(c), and 22-14; and

WHEREAS, a public hearing was held on this application on July 28, 2015 after due notice by publication in the *City Record*, and then to decision on August 25, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 4, Manhattan, recommends that the Board disapprove this application; and

WHEREAS, this application is brought on behalf of the Alvin Ailey Dance Foundation, Inc. (“Alvin Ailey”), a non-profit organization dedicated to dance performance and education; Alvin Ailey is an umbrella organization comprised of (1) the Alvin Ailey Dance Theater, a dance company established in 1958 which uses the subject building as a rehearsal space for approximately 15 weeks each year; (2) Ailey II, a dance company which concentrates on the development of young artists, and which uses the subject building as a rehearsal and performance space for approximately 16 weeks each year; (3) the Ailey School, an accredited institutional member of the National Association of Schools of Dance, which was established in 1969 as the official school of Alvin Ailey and which is located at the subject building; (4) the Ailey Arts in Education and Community Outreach Programs; and (5) the Ailey Extension, which provides open classes for adults age 16 and older, as well as recreational classes for children and teens, within the subject building; and

WHEREAS, the Ailey School enrolls approximately 1,280 students each semester, with an annual enrollment of approximately 3,000 students, eighty percent of whom receive discounted tuition and ninety percent of whom receive free tuition; students attend multiple classes per week at the subject building; the Ailey School includes a professional division, which offers a Bachelor of Fine Arts in dance, in conjunction with Fordham University’s College at Lincoln Center, a three year certificate program for post-secondary school students, a one year study for U.S. and international college students, a six week summer program for high school and college students, and dance classes for candidates enrolled in Pace University’s Actor’s Studio Drama School; and

WHEREAS, during the academic year, students enrolled in the Ailey School’s professional division attend classes at the subject building between one and five days per week; and

WHEREAS, the Ailey School also includes a pre-professional junior division with an enrollment of 1,027 students; the junior division includes a joint high school program with the Professional Performing Arts School, a New York City public school; students enrolled in the junior division attend classes at the subject building between one and five days per week; and

WHEREAS, the applicant represents that Alvin Ailey employs approximately 415 people in the foregoing divisions; 87 full-time and 328 part-time and seasonal employees, 131 of whom require office space within the existing building; and

WHEREAS, the subject site is located at the northwest

corner of the intersection of Ninth Avenue and West 55th Street, within an R8 (C1-5) zoning district, and also within a C6-2 zoning district, within the Preservation Area of the Special Clinton District; and

WHEREAS, the trapezoidal site has 84.2 feet of frontage along the west side of Ninth Avenue and 150 feet of frontage along the north side of West 55th Street, with a lot area of approximately 14,060 sq. ft.; and

WHEREAS, the subject building was constructed pursuant to a BSA variance issued on July 9, 2002, under BSA Cal. No. 92-02-BZ, which waived certain zoning regulations for height and setback and lot coverage applicable in the Preservation Area of the Special Clinton District; and

WHEREAS, the July 9, 2002 variance authorized the construction of a building containing 59,123 sq. ft. of floor area, with 14 dance studios, offices and support space; the existing building contains 50,786 sq. ft. of floor area (3.83 FAR), and does not include two of the Board-approved studios or the support space; and

WHEREAS, the subject building is comprised of a corner portion, which occupies 62’-6” feet of frontage on Ninth Avenue and 95’-6” of frontage along West 55th Street, and a midblock portion, which occupies 54’-4” of frontage along West 55th Street; and

WHEREAS, the corner portion of the subject building is six stories high (93’-2”) and the midblock portion of the subject building is two stories high (47’-9”) 1; and

WHEREAS, Alvin Ailey proposes to enlarge the subject building to provide four additional studios, two new classrooms and additional office space; and

WHEREAS, specifically, Alvin Ailey proposes to extend the fourth, fifth and sixth floors of the midblock portion of the subject building eastward, to meet the corner portion of the subject building, thereby locating the new office space adjacent to the existing office space on the fourth floor of the building and locating the new studios adjacent to the existing studios on the fifth and sixth floors of the building; and

WHEREAS, the applicant states that the proposed enlargement will, *inter alia*, create horizontal adjacencies for the office and studio spaces allowing for programmatic benefits including the ability to schedule studio classes for individual divisions of Alvin Ailey, providing a more focused learning environment, improving rehearsal space and encouraging collaboration and mentoring between experienced and less experienced dancers and performers; and

WHEREAS, the applicant notes that the proposed location of the new studios is dictated by the floor to ceiling height of the existing fifth and sixth floors of the building, which, at 14’-0” is higher than the office floors located in the corner portion of the subject building; and

WHEREAS, the proposed enlargement will result in an

1 The July 9, 2002 variance authorized a partial seventh floor atop the corner portion of the subject building, as well an additional floor at the midblock portion of the subject building to accommodate two studios. The applicant states that these portions of the building were not constructed due to budget constraints.

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increase in the floor area of the building from 50,786 sq. ft. (3.83 FAR) to 61,013 sq. ft. (4.34 FAR); as per ZR § 96-101, the maximum permitted floor area is 59,052 sq. ft. (4.2 FAR); and

WHEREAS, the proposed enlargement will increase the degree of the building's non-compliance with applicable lot coverage as the building already exceeds the permitted lot coverage within 100 feet of a wide street (the building has a lot coverage of 84 percent, 70 percent is allowed in the R8 (C1-5) zoning district, as per ZR § 96-102) and more than 100 feet from a wide street (the building has a lot coverage of 67 percent, 60 percent is allowed in the C6-2 zoning district, as per ZR § 96-102); and

WHEREAS, the proposed enlargement exceeds the maximum height permitted under ZR § 96-104 in that proposed height of 97'-9" would exceed the 66'-0" maximum height limit for the portion of the building located within the C6-2 zoning district, and the proposed height of 93'-2" would exceed the 85'-0" maximum height limit, as well as the required setback of 15'-0" at a height of 66'-0", for the portion of the building located within the R8 (C1-5) zoning district; and

WHEREAS, the proposed enlargement will result in a total of 13,511 sq. ft. of office space for use by approximately 100 central office employees (the number of persons involved in central office functions in a Use Group 4 not-for-profit without sleeping accommodations cannot exceed 50, and the amount of floor area used for central office purposes may not exceed the greater of 25 percent of the total floor area of the building, or 25,000 sq. ft., as per ZR § 22-14); and

WHEREAS, because the enlargement does not comply with the applicable regulations in the subject zoning districts, the applicant seeks the requested variance; and

WHEREAS, the applicant states that the variance is necessary to meet Alvin Ailey's programmatic need to expand and improve existing studio space and create new adjacencies, studios, classrooms, and office space, all of which will enable Alvin Ailey to accommodate the significant growth and increased enrollment it has achieved since the issuance of the July 9, 2002, variance; and

WHEREAS, the applicant notes that the proposal is to accommodate the school's existing needs and is not intended to facilitate an increase in enrollment; and

WHEREAS, the applicant asserts that a complying development does not fully satisfy Alvin Ailey's programmatic needs; and

WHEREAS, specifically, the applicant notes that under the July 9, 2002, variance, Alvin Ailey is permitted to construct 8,266 sq. ft. of floor area, including two additional studios and support space but argues that locating the support space on a partial seventh floor of the corner portion of the subject building is not useful in that it is too isolated from the studios and office spaces, and that because the corner portion of the subject building was built with an 18'-0" height for the sixth floor, rather than the approved 24'-0" height, it is not feasible to insert a partial seventh floor within that portion of the building, such that a complying development is only achievable in the midblock portion of the subject building and

would only provide for two additional studios, which is insufficient to alleviate the overcrowding and scheduling conflicts which preclude the school from meeting its programmatic needs; and

WHEREAS, the applicant also notes that the complying development would not provide any traditional classroom space, such that the school would have to continue holding its nine academic classes in studios, which is an inefficient use of studio space and is unsuitable for traditional classroom learning; and

WHEREAS, Alvin Ailey contends that the requested waivers are both modest and essential to the school's ability to utilize the existing building to meet its programmatic needs; and

WHEREAS, the Board acknowledges that the school, as an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in *Cornell Univ. v Bagnardi*, 68 NY2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the Alvin Ailey's programmatic needs create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since Alvin Ailey is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant represents that, pursuant to ZR § 72-21(c), the variance, if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant argues that the waiver of height and setback would have little discernible impact on the surrounding neighborhood, noting that the proposed height of 97'-9" would match the height of the existing midblock portion of the site with the corner portion of the site and is consistent with the heights of many of the existing buildings on the surrounding blocks; and

WHEREAS, the applicant states that on the midblock between West 53rd Street and West 56th Street and Eighth and Tenth Avenues, 28 percent of the buildings exceed a height of 66'-0", and range in height from 70'-0" to 158'-0"; and

WHEREAS, the applicant also argues that the requested waivers for lot coverage and FAR would have a minimal impact on the surrounding neighborhood because the proposed enlargement, while increasing the height of the midblock portion of the building, would not increase the size of the building's footprint, thus the lot coverage would not reduce the

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amount of open area on the subject zoning lot; and

WHEREAS, the applicant also argues that the proposed waiver to exceed 50 central office employees would not impact the surrounding neighborhood; specifically, the applicant argues that the intent of ZR § 22-14 was to ensure that community facility uses would not result in a high concentration of office employees in a residential neighborhood, a concern which is not implicated in the subject neighborhood; the applicant also notes that the existing building is located in a commercial district, thus obviating the need to guard against disruption of a residential district; and

WHEREAS, accordingly, the applicant asserts that the proposal will have no negative impacts on the surrounding neighborhood; and

WHEREAS, the Board agrees with the applicant that the proposal will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, Alvin Ailey states that the subject hardship was not self-created and that the school could not meet its programmatic needs through a complying development; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner; and

WHEREAS, the applicant represents that, consistent with ZR § 72-21(e), the requested waivers are the minimum necessary to accommodate the school's current and projected programmatic needs; and

WHEREAS, the Board finds that the requested relief is the minimum necessary to allow the school to fulfill its programmatic needs; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final EAS CEQR No. 15-BSA-173M, dated June 15, 2015; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved, that the Board of Standards and Appeals issues Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R8 (C1-5) zoning district, and also within a C6-2 zoning district, within the Preservation Area of the Special

Clinton District, the enlargement of an existing building to accommodate the programmatic needs of the Alvin Ailey Dance Foundation, which does not comply with zoning regulations for floor area, lot coverage, building height, and number of office workers, contrary to ZR §§ 96-101, 96-102, 96-104(c), and 22-14, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received, August 12, 2015"– fourteen (14) sheets; and *on further condition*:

THAT following shall be the bulk parameters of the building: a maximum floor area of 61,013 sq. ft. (4.34 FAR); a maximum lot coverage of 84 percent in the R8 (C1-5) zoning district, and 67 percent in the C6-2 zoning district; a maximum building height of 97'-9" in the C6-2 zoning district and a building height of 93'-2", without setback, in the R8 (C1-5) zoning district, all as illustrated on the BSA-approved plans;

THAT any change in the use, occupancy, or operator of the school shall require the Board's approval;

THAT the applicant shall request the establishment of a no-parking zone during weekend hours along West 55th Street;

THAT the glass curtain wall of the building shall meet a minimum sound attenuation rating of STC-35;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by August 25, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 25, 2015.

148-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 11 Avenue A Realty LLC, owner.

SUBJECT – Application June 24, 2014 – Variance (§72-21) to permit multi-family residential use at the premises. R8A/C2-5 zoning districts.

PREMISES AFFECTED – 11 Avenue A, west side of Avenue A between East 1st Street and East 2nd Street, Block 429, Lot 39, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for adjourned hearing.

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204-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Wythe Berry LLC, owner.

SUBJECT – Application August 25, 2014 – Special Permit (§73-44) for reduction of required off-street parking spaces for proposed ambulatory diagnostic or treatment health care facilities (UG 4A) and commercial office use (UG 6B listed in Use Group 4 and PRC-B1. M1-2 Zoning District.

PREMISES AFFECTED – 55 Wythe Avenue, between North 12th Street and North 13th Street, Block 2283, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Laid over to October 29, 2015, at 10 A.M., for adjourned hearing.

270-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Carnegie Park land Holding LLC c/o Related Cos., owner; Equinox-East 92nd LLC, lessee.

SUBJECT – Application November 3, 2014 – Special Permit 73-36 to allow the physical culture establishment (*Equinox*) within portions of a new mixed use building, located within an C4-6 zoning district.

PREMISES AFFECTED – 203 East 92nd Street, north side of East 92nd Street, 80 ft. east of intersection with 3rd Avenue, Block 01538, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for adjourned hearing.

61-15-BZ

APPLICANT – Deirdre A. Carson, Esq., for 540 W. 26th St. Property Investors IIA, LLC., owner; Avenue World Holdings LLC., lessee.

SUBJECT – Application March 19, 2015 – Special Permit (§73-19) to permit the operation of a portion of a school known as Avenues (*The School*) Use Group 3A, located in a M1-5 zoning district.

PREMISES AFFECTED – 540 West 26th Street, an interior lot on the south side of West 26th Street, 100' east of intersection of 11th Avenue and West 26th Street, Block 0697, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for deferred decision.

REGULAR MEETING

TUESDAY AFTERNOON, AUGUST 25, 2015

1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

19-15-BZ

APPLICANT – Herrick, Feinstein LLP, for Andon Investment LP, owner; Retro Fitness of NY LLC, lessee.

SUBJECT – Application January 29, 2015 – Special Permit (73-36) to permit a physical culture establishment (*Retro Fitness*) to be located at second-story level (plus entrance at ground-floor level) of a new two-story building. R7-1/C2-2 zoning district.

PREMISES AFFECTED – 92-77 Queens Boulevard, Through-block site with frontage on Queens Boulevard and 93 Street, between 62 Avenue and Harding Expressway, Block 02075, Lot 39, Borough of Queens.

COMMUNITY BOARD #6Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for decision, hearing closed.

29-15-BZ

APPLICANT – Law Office of Stuart Klein, for 3rd and 60th Associates, LP, owner; Flywheel Sport, Inc., lessee.

SUBJECT – Application February 18, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Flywheel Sports*) at the cellar level of an existing building. C6-4 zoning district.

PREMISES AFFECTED – 200-204 East 61st Street aka 1011-102 3rd Avenue, east side of 3rd Avenue between East 60th and East 61st Street, Block 01415, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director

BULLETIN

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AND APPEALS

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Volume 100, Nos. 37-38

September 9, 2015

DIRECTORY

MARGERY PERLMUTTER, *Chair*

SUSAN M. HINKSON, *Vice-Chair*

DARA OTTLEY-BROWN

EILEEN MONTANEZ

Commissioners

Ryan Singer, *Executive Director*

David Schnakenberg, *Counsel*

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**MINUTES of Regular Meetings,
Tuesday, September 1, 2015**

Morning Calendar495

Affecting Calendar Numbers:

584-55-BZ	699 Morris Avenue, Bronx
17-93-BZ	160 Columbus Avenue, aka 1992 Broadway, Manhattan
340-41-BZ	72-09 Main Street, Queens
69-95-BZ	111B Eleventh Avenue, Manhattan
146-96-BZ	557 Broadway aka 128-130 Mercer Street, Manhattan
110-99-BZ	56-58 Kosciusko Street, Brooklyn
325-14-A	631 Bay Street, Staten Island
35-15-A	2001 Bartow Avenue, Bronx
65-15-BZ & 66-15-A	361 Central Park West, Manhattan
108-14-BZ	736 Broadway, Manhattan
8-14-BZ	1824 East 22nd Street, Brooklyn
98-14-BZ	404 Richmond Terrace, Staten Island
231-14-BZ	124 West 23rd Street, Manhattan
258-14-BZ	112 Atlantic Avenue, Brooklyn
260-14-BZ	100 East End Avenue, aka 106 East End Avenue, Manhattan

Afternoon Calendar502

Affecting Calendar Numbers:

213-14-BZ	165 Wooley Avenue, Staten Island
32-15-BZ	2847 West 8th Street, Brooklyn
33-15-BZ	5510 Broadway, Bronx
40-15-BZ	465 Lexington Avenue, Manhattan
41-15-BZ	140 East 46th Street, Manhattan
71-15-BZ	548 West 22nd Street, Manhattan

DOCKETS

New Case Filed Up to September 1, 2015

198-15-A

500-550 Oak Point Avenue, Southwest corner of Barry Street and Oak Point Avenue, Block 02606, Lot(s) 02 & 20, Borough of **Bronx, Community Board: 2**. Proposed construction of a transportation and distribution services facility on a lot that does not front on a legally mapped street, contrary to Article 3 Section 36, of the General City Law. M3-1 district.

199-15-A

500-550 Oak Point Avenue, Southwest corner of Barry Street and Oak Point Avenue, Block 02606, Lot(s) 2 & 20, Borough of **Bronx, Community Board: 2**. Proposed construction of a transportation and distribution services facility on a lot that does not front on a legally mapped street, contrary to Article 3, Section 36 of the General City Law. M3-1 district.

200-15-BZ

1364 East 23rd Street, West side of #East 23rd Street, 500ft. South of Avenue M, Block 07568, Lot(s) 076, Borough of **Staten Island, Community Board: 14**. Special Permit §73-622: proposed enlargements to an existing three story detached one family residence at the rear and south side along with a two-story enlargement above the existing on-story portion of the building at the front, located within an R2 zon R2 district.

201-15-BZ

218 57th Street, 57th Street between 2nd and 3rd Avenues and 58th Street between 2nd & 3rd Avenue, Block 0845, Lot(s) 13 & 66, Borough of **Brooklyn, Community Board: 7**. Special Permit 73-03: to permit the enlargement of a one-story non-conforming warehouse building into a five story building containing parking, office space and residential use which exceeds the allowable commercial floor area, located within an R6B & M1- R6B & M1-2 district.

202-15-BZ

6469 Broadway, West side of Broadway between West 256th Street and Mosholu Avenue, Block 05851, Lot(s) 02098, Borough of **Bronx, Community Board: 8**. Variance (§72-21) seeks a modification of 25-25 to reduce the required number of parking spaces for an 11-story, non-profit residence for the elderly from 19 to 11, located within an R6/C2-2 zoning district. R6/C2-2 district.

203-15-BZ

44 Union Square East New Yor, , Block 0872, Lot(s) 078, Borough of **Manhattan, Community Board: 5**. Variance (§72-21) to allow the restoration, reuse and enlargement of an existing commercial building located partly in a C6-4 district/Special Union Square District and an R8B district. The building is Tammy Hall and is a landmark. C6-4;R8B/SUSD district.

204-15-BZ

98-100 10th Avenue, Northeast corner of intersection of 10th Avenue and West 16th Street, Block 0714, Lot(s) 07501, Borough of **Manhattan, Community Board: 4**. Special Permit 73-36: to allow a (SoulCycle) physical culture establishment within portion of an existing twenty-four story mixed use building in a C6-3 (WCH) zoning district. C6-3(WCH) district.

205-15-A

128-76 Hook Creek Boulevard, West side of Hook Creek Boulevard approximately 74 ft. south of intersection with 128th Drive, Block 01288, Lot(s) 0129, Borough of **Queens, Community Board: 13**. Proposed development of two-story, one family dwelling with accessory parking space that are proposed to be located within the bed of mapped but unbuilt 129th Avenue & Hook Creek Boulevard ,contrary to Article 3 of the General City Law, Section 35 locate R2 district.

206-15-A

128-72 Hook Creek Boulevard, West side of Hook Creek Boulevard, approx. 74 ft. south of intersection with 128th Drive, Block 01288, Lot(s) 0130, Borough of **Queens, Community Board: 13**. Proposed development of two-story, one family dwelling with accessory parking space that are proposed to be located within the bed of mapped but unbuilt 129th Avenue & Hook Creek Boulevard ,contrary to Article 3 of the General City Law, Section 35 locate R2 district.

207-15-A

128-68 Hook Creek Boulevard, West side of Hook Creek Boulevard, approx., 74 ft. south of intersection with 128th Drive, Block 01288, Lot(s) 0131, Borough of **Queens, Community Board: 13**. Proposed development of two-story, one family dwelling with accessory parking space that are proposed to be located within the bed of mapped but unbuilt 129th Avenue & Hook Creek Boulevard ,contrary to Article 3 of the General City Law, Section 35 locate R2 district.

DOCKETS

208-15-A

128-64 Hook Creek Boulevard, West side Hook reek Boulevard, approx., 74 ft. south of intersection with 128th Drive, Block 01288, Lot(s) 0132, Borough of **Queens, Community Board: 13**. Proposed development of two-story, one family dwelling with accessory parking space that are proposed to be located within the bed of mapped but unbuilt 129th Avenue & Hook Creek Boulevard, contrary to Article 3 of the General City Law, Section 35 locate R2 district.

209-15-A

128-60 Hook Creek Boulevard, West side o Hook Creek Boulevard approx., 74 ft. south of intersection with 128th Drive, Block 01287, Lot(s) 0133, Borough of **Queens, Community Board: 13**. Proposed development of two-story, one family dwelling with accessory parking space that are proposed to be located within the bed of mapped but unbuilt 129th Avenue & Hook Creek Boulevard, contrary to Article 3 of the General City Law, Section 35 locate R2 district.

210-15-A

128-63 Fortune Way, West side of Hook Creek Boulevard approx., 74 ft. south of intersection with 28th Drive., Block 01288, Lot(s) 0134, Borough of **Queens, Community Board: 13**. Proposed development of two-story, one family dwelling with accessory space not fronting an existing mapped street contrary to Article 3, Section 36 of the General City Law, located within an R2 zoning district. R2 district.

211-15-A

128-64 Fortune Way, West side of Hook Creek Boulevard approx., 74 ft. south of intersection with 128th Drive, Block 01288, Lot(s) 0135, Borough of **Queens, Community Board: 13**. Proposed development of two-story, one family dwelling with accessory space not fronting an existing mapped street contrary to Article 3, Section 36 of the General City Law, located within an R2 zoning district. R2 district.

212-15-A

128-67 Fortune Way, West side of Hook Creek Boulevard, approx. 74 ft. south of intersection with 128th Drive, Block 01288, Lot(s) 0136, Borough of **Queens, Community Board: 13**. Proposed development of two-story, one family dwelling with accessory space not fronting an existing mapped street contrary to Article 3, Section 36 of the General City Law, located within an R2 zoning district. R2 district.

213-15-A

128-71 Fortune Way, West side of Hook Creek Boulevard, approx., 74 ft. south of the intersection with 128th Drive, Block 01288, Lot(s) 137, Borough of **Queens, Community Board: 13**. Proposed development of two-story, one family dwelling with accessory space not fronting an existing mapped street contrary to Article 3, Section 36 of and located within the bed of 129th Avenue & Hook Creek Boulevard contrary to togenrral City Law section R2 district.

214-15-A

128-75 Fortune Way, West Side of Hook Creek Boulevard approx., 74 ft south of intersecting with 128th Drive, Block 12887, Lot(s) 138, Borough of **Queens, Community Board: 13**. Proposed development of two-story, one family dwelling with accessory space not fronting an existing mapped street contrary to Article 3, Section 36 of and located within the bed of 129th Avenue & Hook Creek Boulevard contrary to togenrral City Law section R2 district.

215-15-A

144-14 181st Street, West side of 181st Street 108.31 feet south of the intersection of 181st Street and 144th Avenue, Block 13089, Lot(s) 059, Borough of **Queens, Community Board: 12**. Proposed construction of a two story two family dwelling (U.G. 2), located within the bed of a mapped street contrary to Article 3, Section 35, of the General City Law, within an R3A zoning district. R3A district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

SPECIAL HEARING OCTOBER 16, 2015, 11:30 A.M.

NOTICE IS HEREBY GIVEN of a special hearing, Friday morning, October 16, 2015, 11:30 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

699-46-BZ

APPLICANT – Eric Palatnik, P.C., for Gurcharan Singh, owner.

SUBJECT – Application May 22, 2015 – Extension of Time to Complete Construction of a previously approved variance permitting the operation of an Automotive Service Station (UG 16B), which expired on May 19, 2015. R3X zoning district.

PREMISES AFFECTED – 224-01 North Conduit Avenue, between 224th Street and 225th Street, Block 13088, Lot 0044, Borough of Queens.

COMMUNITY BOARD #13Q

202-62-BZ

APPLICANT – Warshaw Burstein, LLP, for NY Dealers Stations, LLC, owner.

SUBJECT – Application June 4, 2015 – Extension of Term and Waiver (§11-411) to extend the term and a Waiver of a previously granted variance for an automotive service station, which expired on April 3, 2011; Waiver of the Rules. C2-2/R4-1 zoning district.

PREMISES AFFECTED – 950 Allerton Avenue, southeast corner of the intersection of Allerton Avenue and Willamsbridge Road, Block 04447, Lot 062, Borough of Bronx.

COMMUNITY BOARD #11BX

132-92-BZ

APPLICANT – Willy C. Yuin, RA, for Daniel Casella, owner.

SUBJECT – Application November 17, 2014 – Extension of Term of a previously approved variance (§72-21) which permitted day care use in the cellar of the subject premises in conjunction with a banquet hall use, which expired on July 19, 2014. R3X, CI-1 SRD zoning district.

PREMISES AFFECTED – 3948 Amboy Road, between Hillside Terrace and Brown Avenue, Block 05142, Lot 22, Borough of Staten Island.

COMMUNITY BOARD #3SI

427-05-BZ

APPLICANT – Eric Palatnik, P.C., for Linwood holdings, LLC., owner.

SUBJECT – Application June 8, 2015 – Extension of Time to Complete Construction (§73-11) to seek an extension of time to complete construction which expired May 10, 2015. C4-2 zoning district.

PREMISES AFFECTED – 133-47 39th Avenue, between Price Street and College Point Boulevard, Block 04972, Lot 059, Borough of Queens.

COMMUNITY BOARD #7Q

97-08-BZ

APPLICANT – Eric Palatnik P.C., for Yismach Moshe of Williamsburgh, Inc., owner.

SUBJECT – Application March 10, 2015 – Extension of Time to obtain a Certificate of Occupancy of a previously approved Special Permit (§73-19) permitting the legalization of an existing school (UG 3), which expired on March 16, 2012; Waiver of the Rules. M1-1 district.

PREMISES AFFECTED – 84 Sanford Street, between Park Avenue and Myrtle Avenue, Block 01736, Lot 0014, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEALS CALENDAR

317-12-A

APPLICANT – Eric Palatnik, P.C., for 4040 Plaza Management LLC, owner.

SUBJECT – Application June 16, 2015 – Extension of Time to complete construction in connection with a previously approved common law vested rights application. M1-3D zoning district.

PREMISES AFFECTED – 40-36 27th Street aka 4040 27th St, west side of 27th Street, between 40th Avenue and 41st Avenue, Queens

COMMUNITY BOARD #1Q

CALENDAR

SPECIAL HEARING OCTOBER 16, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a special hearing, Friday afternoon, October 16, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

330-13-BZ

APPLICANT – Alexander Levkovich, for Dilshoda Nasriddinova, owner.

SUBJECT – Application December 31, 2013 – Special Permit (§73-622) for the legalization of an enlargement to an existing single family home contrary to floor area (ZR 23-141). R4-1 zoning district.

PREMISES AFFECTED – 2801 Brown Street, east side of Brown Street, 230' south of intersection with Shore Parkway, Block 08800, Lot 0095, Borough of Brooklyn.

COMMUNITY BOARD #15BK

149-14-BZ

APPLICANT – Lewis E. Garfinkel, for Abraham Schreiber, owner.

SUBJECT – Application June 25, 2014 – Special Permit (§73-622) to for the enlargement of an existing single family residence contrary to floor area and open space (ZR 23-141(a)); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R-2 zoning district.

PREMISES AFFECTED – 3173 Bedford Avenue, east side of Bedford Avenue 400' north from Avenue K, Block 07607, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #14BK

323-14-BZ

APPLICANT – Eric Palatnik, P.C., for Avner Levy, owner.

SUBJECT – Application December 12, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area (ZR 23-141(b)). R3-1 zoning district.

PREMISES AFFECTED – 282 Corbin Place, adjacent to the Coney Island Beach and Boardwalk, Block 08723, Lot 276, Borough of Brooklyn.

COMMUNITY BOARD #3BK

43-15-BZ

APPLICANT – Eric Palatnik, P.C., for Joseph Tolv, owner.
SUBJECT – Application March 6, 2015 – Special Permit (§73-622) to permit an enlargement of one family home, seeking to waive the floor area, lot coverage, rear yard, perimeter wall height and open space requirements. R3-2 zoning district.

PREMISES AFFECTED – 2617 Avenue R, between East 26th and 27th Streets, Block 06809, Lot 0049, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Ryan Singer, Executive Director

OCTOBER 20, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, October 20, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

333-78-BZ

APPLICANT – Goldman Harris LLC., for 136 Loft Corporation, owner.

SUBJECT – Application May 5, 2015 – Amendment (72-21) to reopen and amend the captioned variance to permit the transfer of unused development rights for the premises for use in a commercial development, located within an M1-6 zoning district.

PREMISES AFFECTED – 136-138 West 24th Street, south of West 24th Street between Sixth and Seventh Avenue, Block 0799, Lot 060, Borough of Manhattan.

COMMUNITY BOARD #4M

585-91-BZ

APPLICANT – Paul F. Bonfilio Architect, PC, for Luis Mejia, owner; SAJ Auto Service, lessee.

SUBJECT – Application March 11, 2015 – Extension of Term (§11 411) a previously approved variance which permitted the operation of an automotive service station (UG 16B), which expired on March 30, 2013; Waiver of the Rules. C1-3/R4 zoning district.

PREMISES AFFECTED – 222-44 Braddock Avenue, southeast corner of Braddock Avenue and Winchester Boulevard, Block 10740, Lot 0012, Borough of Queens.

COMMUNITY BOARD #13Q

CALENDAR

129-97-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for Whitestone Plaza Associates Inc., owner.

SUBJECT – Application February 21, 2014 – Amendment to permit the proposed conversion of an existing lubricatorium to a commercial retail establishment (use group 6) and enlargement of the basement level. C1-2/R3-2 zoning district.

PREMISES AFFECTED –150-65 Cross Island Parkway, west side of Clintonville Street distant 176.60' north of intersection of Cross Island Parkway and Clintonville Street, Block 04697, Lot 11, Borough of Queens.

COMMUNITY BOARD #7Q

369-03-BZ

APPLICANT – Law Office of Fredrick A. Becker Esq., for 99-01 Queens Boulevard LLC, owner; TSI Rego Park, LLC dba NY Sports Club, lessee.

SUBJECT – Application April 13, 2015 – Extension of Term of a previously approved Variance (§72-21) allowing the operation of a physical culture establishment/ health club which expires April 19, 2015. C1-2/R7-1 zoning district.

PREMISES AFFECTED –99-01 Queens Boulevard, north side of Queens Boulevard between 66th Road and 67th Avenue, Block 02118, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

186-08-BZ

APPLICANT – Petrus fortune, P.E., for Followers of Jesus Mennonite Church, owners.

SUBJECT – Application November 19, 2014 – Extension of Time to Complete Construction of a previously approved Special Permit (§73-19) permitting the legalization and enlargement of a school (*Followers of Jesus Mennonite Church & School*) in a former manufacturing building, contrary to ZR §42-10, which expired on June 8, 2014; Waiver of the Rules. M1-1 zoning district.

PREMISES AFFECTED – 3065 Atlantic Avenue, north west corner of Atlantic Avenue and Shepherd Avenue, Block 03957, Lot 45, Borough of Brooklyn.

COMMUNITY BOARD #5BK

88-10-BZ

APPLICANT – Dennis D. Dell Angelo, for Maurice Duetsch, owner.

SUBJECT – Application February 26, 2015 – Amendment of a previously approved Special Permit (§73-622) permitting the enlargement of an existing single family residence. The amendment seeks to reduce the floor area and coverage while adding a roof deck and the exterior design; Extension of Time to complete construction which expired on August 24, 2014. R-2 zoning district.

PREMISES AFFECTED – 1327 East 21st Street, south east corner of east 21st Street and Avenue L, Block 07639, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEALS CALENDAR

135-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Oak Point Property, LLC., owner.

SUBJECT – Application June 10, 2015 – Proposed construction of a building not fronting on a legally mapped street contrary to Section 36 Article 3 of the General City Law. M3-1 zoning district.

PREMISES AFFECTED – 50 Oak Point Avenue, north shore of east river, approximately 900 lateral feet east of East 149th Street, Block 02604, Lot 0180, Borough of Bronx.

COMMUNITY BOARD #2BX

OCTOBER 20, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, October 20, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

129-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Mourad Louz, owner.

SUBJECT – Application June 9, 2014 – Special Permit (§73-622) as amended, to permit the enlargement of a single-family detached residence, contrary to floor area, side yard, and rear yard regulations. R5 zoning district.

PREMISES AFFECTED – 2137 East 12th Street, east side of East 12th Street between Avenue U and Avenue V, Block 07344, Lot 62, Borough of Brooklyn.

COMMUNITY BOARD #15BK

261-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Julie Haas, owner.

SUBJECT – Application October 21, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space ZR 23-141 and less than the required rear yard ZR 23-47. R-2 zoning district.

PREMISES AFFECTED – 944 East 23rd Street aka 948 East 23rd Street, Block 07586, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #14BK

CALENDAR

322-14-BZ

APPLICANT – Eric Palatnik, P.C., for Maks Kutsak, owner.

SUBJECT – Application December 12, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, lot coverage and open space (ZR 23-141); R3-1 zoning district.

PREMISES AFFECTED – 82 Coleridge Street, between Shore Boulevard and Hampton Avenue, Block 08728, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #15BK

44-15-BZ

APPLICANT – Akerman, LLP, for 145 CPN, LLC., owner.

SUBJECT – Application March 6, 2015 – Variance (§72-21) to permit the construction of a conforming fourteen-story, (UG 2) residential building containing 24 dwelling units contrary to the maximum building height and front setback requirements (§23-633 and rear setback requirements (§23-633(b)). R8 zoning district.

PREMISES AFFECTED – 145 Central Park North, between Adam Clayton Powell and Lenox Avenue, Block 01820, Lot 0006, Borough of Manhattan.

COMMUNITY BOARD #10M

Ryan Singer, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, SEPTEMBER 1, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

584-55-BZ

APPLICANT – Nasir J. Khanzada, PE, for Gurnam Singh, owner.

SUBJECT – Application June 11, 2014 – Amendment (§11-412) of a previously approved variance which permitted the alteration of an existing Automotive Service Station (UG 16B). The amendment seeks to permit the conversion of the accessory auto repair shop to a convenience store and alter the existing building. C2-4/R7-2 zoning district.

PREMISES AFFECTED – 699 Morris Avenue, southwest corner of East 155th Street and Park Avenue, Block 2422, Lot 65, Borough of Bronx.

COMMUNITY BOARD #2BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to permit certain modifications to the site; and

WHEREAS, a public hearing was held on this application on April 28, 2015 after due notice by publication in *The City Record*, with continued hearings on June 16, 2015 and July 21, 2015, and then to decision on September 1, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, the site is located on the southwest corner of East 155th Street and Park Avenue with additional frontage on Morris Avenue, within an R7-2 (C2-4) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since June 26, 1956 when, under the subject calendar number, the Board granted an approval to permit the extension and reconstruction of an existing gasoline service station; and

WHEREAS, despite the approval to enlarge the building, the applicant represents that the building was never enlarged and has remained in its original 1955 condition; and

WHEREAS, the applicant now seeks an amendment to (1) permit the enlargement of the building from 1,100.15 sq. ft. to approximately 1,186.1 sq. ft., (2) convert the accessory automotive repair bays to an accessory convenience store,

(3) modify the curb cut dimensions and configuration and (4) make other site changes, as reflected on the plans; and

WHEREAS, the Board notes that Technical Policy and Procedure Notice (TPPN) # 10/99, provides that a retail convenience store located on the same zoning lot as a gasoline service station will be deemed accessory if: (i) the accessory convenience store is contained within a completely enclosed building; and (ii) the accessory convenience store has a maximum retail selling space of 2,500 sq. ft. or 25 percent of the zoning lot area, whichever is less; and

WHEREAS, the applicant states that the proposed convenience store is located within an enclosed building and has a retail selling space of less than 750 sq. ft. (20 percent of the zoning lot area); and

WHEREAS, at hearing, the Board directed the applicant to exclude diesel fuel pumps from the site because the site cannot accommodate the large trucks associated with such use; and

WHEREAS, in response, the applicant submitted revised plans reflecting the elimination of the diesel fuel pumps; and

WHEREAS, pursuant to ZR § 11-412, the Board may grant a request for changes to the site; and

WHEREAS, the Board directed the applicant to confirm that the signage on the site complies with C2w district regulations; and

WHEREAS, in response, the applicant submitted a signage analysis reflecting that the signage on the site complies with C2 district regulations; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of term and amendment to the approved plans are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *amends* the resolution, dated June 26, 1956, so that as amended this portion of the resolution shall read: “to permit the noted site modifications; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked ‘Received August 12, 2015’–(8) sheets; and *on further condition*:

THAT all signage will comply with C2 zoning district regulations;

THAT diesel fuel is not permitted to be dispensed at the site;

THAT landscaping will be provided and maintained in accordance with the BSA-approved plans;

THAT all lighting will be directed downward and away from adjacent residential uses;

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

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect;

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure

MINUTES

compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 220165256)

Adopted by the Board of Standards and Appeals September 1, 2015.

17-93-BZ

APPLICANT – Fox Rothschild, LLC., for Lincoln Square commercial Holding, owner; Equinox SC Upper West Side, Inc., lessee.

SUBJECT – Application January 15, 2015 – Extension of Term of a previously approved Special Permit (§73-36) which permitted the operation of a physical culture establishment which expired June 7, 2014; Amendment to reflect a change in ownership; Waiver of the Rules. C4-7 zoning district.

PREMISES AFFECTED – 160 Columbus Avenue aka 1992 Broadway, block bounded by Broadway, Columbus Avenue, West 67th Street and West 68th Street, Block 01139, Lot(s) 24, 7503, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, approval of a change in ownership and an extension of term for a previously granted variance for physical culture establishment (“PCE”), which expired on June 7, 2014; and

WHEREAS, a public hearing was held on this application on July 14, 2015, after due notice by publication in *The City Record*, and then to decision on September 1, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Montanez performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 7, Manhattan, recommends approval of this application; and

WHEREAS, the subject site consists of the block bounded by Broadway, Columbus Avenue, West 67th Street, and West 68th Street, and is located within a C4-7 zoning district, and also within the Special Lincoln Square District; and

WHEREAS, the site contains approximately 55,462 sq. ft. of lot area and is occupied by a 47-story mixed-use building; and

WHEREAS, the applicant represents that the subject PCE occupies portions of the first floor of the building, as well as floors three through eight of the subject building, and contains approximately 117,000 sq. ft. of floor area; and

WHEREAS, the Board has exercised jurisdiction over

the site since June 7, 1994, when, under the subject calendar number, the Board granted a special permit pursuant to ZR § 73-36 authorizing the operation of the PCE, with a term that expired on June 7, 2004; and

WHEREAS, on March 28, 1995, under the subject calendar number, the Board approved an amendment to the subject special permit to allow a running rack on the roof of the fourth floor, together with other modifications to the PCE space; and

WHEREAS, on January 9, 2007, the Board extended the term of the subject special permit through June 7, 2014, and authorized a change in the hours of the PCE as well as an extension of time in which the applicant must obtain a Certificate of Occupancy; and

WHEREAS, the instant application seeks authorization of a change in ownership of the PCE, from Reebok Sports Club/MY Ltd. To Equinox, as well as an extension of term and waiver of the Board’s rules governing the application for such extension; and

WHEREAS, the applicant notes that it is not requesting a change in the hours of operation of the PCE, and that such hours are, as per the Board’s conditions:

Monday through Thursday, 5:00 a.m. – 11:00 p.m.

Friday, 5:00 a.m. – 10:00 p.m.

Saturday and Sunday, 7:00 a.m. – 9:00 p.m.; and

WHEREAS, the applicant notes further that, also as per the Board’s conditions, the PCE’s terrace (generally open on Memorial Day weekend and closed in late October) is open Monday through Friday, from sunrise to 9:00 p.m., and on weekends from the later of 7:00 a.m. or sunrise to 9:00 p.m., with music and gatherings requiring amplified sound permitted only on the deck between the hours of 10:00 a.m. and 8:00 p.m.; and

WHEREAS, the applicant states that a certificate of occupancy has been issued for the PCE; and

WHEREAS, the applicant represents that there are no noise complaints from residents at the site (the residential portion of the subject building starts at the 10th floor) and that it has not received any noise or vibrations related violations; and

WHEREAS, the applicant further represents that there are no outstanding DOB violations against the PCE, and the three active elevator related violations issued by DOB for the subject building do not relate to elevators that service the PCE; and

WHEREAS, based upon its review of the record, the Board finds that the requested change in ownership and extensions of term are appropriate, with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated June 7, 1994, so that as amended the resolution reads: “to permit a change in ownership and an extension of the term of a special permit for a term of ten years from the prior expiration, to expire on June 7, 2024,”; *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked “January 15, 2015” - (10) sheets; and *on further condition*:

MINUTES

THAT this grant shall expire on June 7, 2024;

THAT there will be no change in ownership or operating control of the PCE without prior approval from the Board;

THAT the hours of operation will be limited to Monday through Thursday, 5:00 a.m. – 11:00 p.m.; Friday, 5:00 a.m. – 10:00 p.m.; and Saturday and Sunday, 7:00 a.m. – 9:00 p.m.;

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

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, September 1, 2015.

340-41-BZ

APPLICANT – Nasir J. Khanzada, PE, for Paul Sinanis, owner; S & J Service Station, Incorporated, lessee.

SUBJECT – Application June 27, 2014 – Extension of Term (§11-411) of a previously approved variance permitting the operation of an Automotive Service Station (UG 16B), with accessory uses, which expired on May 1, 2012; Amendment to permit the enlargement of an existing canopy, the addition of a fuel dispenser and small convenience sales area; Waiver of the Rules. C1-2/R4 zoning district.

PREMISES AFFECTED – 72-09 Main Street, Block 06660, Lot 1, Borough of Queens.

COMMUNITY BOARD #4Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4

Negative:.....0

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for decision, hearing closed.

69-95-BZ

APPLICANT – Fox Rothschild, LLP., for Hudson River Park Trust, owner; Chelsea Piers Management, Incorporated, lessee.

SUBJECT – Application May 18, 2015 – Extension of Term of a previously approved Special Permit (73-36) permitting the operation of a physical culture establishment (*The Sports Center at Chelsea Piers*) which expires on August 6, 2015. M2-3 zoning district.

PREMISES AFFECTED – 111B Eleventh Avenue, west side of West Street between West 19th and West 20th Streets, Block 00662, Lot 0016, Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4

Negative:.....0

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for decision, hearing closed.

146-96-BZ

APPLICANT – Stroock & Stroock & Lavan, LLP., for Scholastic 557 Broadway, LLC., owner.

SUBJECT – Application February 19, 2015 – Amendment of a previously approved Variance (§72-21) to permit the relocation of the building lobby from Broadway to Mercer Street and the conversion of an existing office lobby to retail space. M1-5B zoning district.

PREMISES AFFECTED – 557 Broadway aka 128-130 Mercer Street, west side of Broadway, 101’ south of the corner formed by the intersection of Prince Street and Broadway, Borough of Manhattan.

COMMUNITY BOARD #2M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4

Negative:.....0

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for decision, hearing closed.

110-99-BZ

APPLICANT – Law Office of Jay Goldstein, for Lessig Realty, LLC., owner; 14-18 Fulton servicing, lessee.

SUBJECT – Application March 2, 2015 – Extension of Term of a previously approved Variance (§72-21) to permitted the legalization of an existing garage and automotive repair shop (Use Group 16B), which expired on June 27, 2010; Amendment to permit minor modifications to the interior layout; Waiver of the Rules. R6B zoning district.

PREMISES AFFECTED – 56-58 Kosciuszko Street, south side of Kosciuszko Street between Nostrand and Bedford Avenues, Block 01783, Lot 0034, Borough of Brooklyn.

COMMUNITY BOARD #3BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4

Negative:.....0

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for decision, hearing closed.

MINUTES

APPEALS CALENDAR

325-14-A

APPLICANT – Eric Palatnik, P.C., for Michael Esposito, owner.

SUBJECT – Application December 15, 2014 – Proposed construction of a mixed use building located partly within the bed of a mapped street contrary to article 3, Section 35 of the General City Law. C4-2/R6 zoning district.

PREMISES AFFECTED – 631 Bay Street, between Canal Street and Thompson Street, Block 00494, Lot 10, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated November 13, 2014, acting on DOB Application No. 520210753, reads in pertinent part:

1. GCL 35: Proposed construction located partly within the bed of a mapped street is contrary to Section 35 of the General City Law. Obtain Board of Standards and Appeals approval.
2. ZR 35-00: Proposed new building has bulk non-compliances resulting from the location of such mapped street. Obtain Board of Standards and Appeals waiver pursuant to ZR 72-01(g); and

WHEREAS, a public hearing was held on this application on July 14, 2015, after due notice by publication in *The City Record*, and then to decision on September 1, 2015; and

WHEREAS, Commissioner Montanez performed an inspection of the subject site and neighborhood; and

WHEREAS, this is an application to allow the construction of a four-story mixed use building which will be located partially in the bed of a mapped but unbuilt portion of Bay Street, in Staten Island; and

WHEREAS, the subject site is located on southeast corner formed by the intersection of Canal Street and Bay Street, in a C4-2 zoning district; and

WHEREAS, the site, which is irregularly shaped, has approximately 76 feet of frontage along the south side of Canal Street and approximately 33 feet of frontage along the east side of Bay Street, with a lot area of approximately 2,488 sq. ft.; and

WHEREAS, the proposed building will be located within the bed of a mapped but unbuilt portion of Bay Street; and

WHEREAS, the proposed development will conform and comply with all zoning regulations applicable in the subject C4-2 zoning district; and

WHEREAS, by letter dated August 13, 2015, the New York City Fire Department (“FDNY”) states that it has no objections to the proposed application; and

WHEREAS, by letter dated April 22, 2015, the New York City Department of Environmental Protection (“DEP”)

states that it has no objections to the proposed application; and

WHEREAS, by letter dated August 4, 2015, the New York City Department of Transportation (“DOT”) states that the improvement of Bay Street at the site is not presently included in DOT’s Capital Improvement Program; and

WHEREAS, DOT submitted the following comment on this application, which the Board hereby incorporates as a condition to the subject approval:

The applicant must provide adequate sidewalks aligned with the surrounding properties. In addition, the applicant must provide a 12’-0” corner radii and dual pedestrian ramps at each corner to ensure safe pedestrian access. The applicant must obtain approval from the Department of Buildings on the Builder’s Pavement Plan (“BPP”), in which the locations of all sidewalks, pedestrian ramps and catch basins, among other requirements, will be determined; and

WHEREAS, the Board notes that pursuant to GCL § 35, it may authorize construction within the bed of the mapped street subject to reasonable requirements; and

WHEREAS, the Board notes that pursuant to ZR § 72-01(g), the Board may waive bulk regulations where construction is proposed in part within the bed of a mapped street; such bulk waivers will be only as necessary to address non compliances resulting from the location of construction within and outside of the mapped street, and the zoning lot will comply to the maximum extent feasible with all applicable zoning regulations as if the street were not mapped; and

WHEREAS, therefore, consistent with GCL § 35 and ZR § 72-01(g), the Board finds that applying the bulk regulations across the portion of the subject lot within the mapped street and the portion of the subject lot outside the mapped street as if the lot were unencumbered by a mapped street is both reasonable and necessary to allow the proposed construction; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the Board modifies the decision of the DOB, dated November 13, 2014, acting on DOB Application No. 520210753, by the power vested in it by Section 35 of the General City Law, and also waives the bulk regulations associated with the presence of the mapped but unbuilt street pursuant to Section 72-01(g) of the Zoning Resolution to grant this appeal, limited to the decision noted above *on condition* that construction will substantially conform to the drawing filed with the application marked “August 13, 2015”- (1) sheet; and *on further condition*:

THAT DOB will review and approve plans associated with the Board’s approval for compliance with the underlying zoning regulations as if the unbuilt portion of the street were not mapped;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

MINUTES

THAT the proposed construction will include the installation of a sprinkler system throughout the entire building and a back flow prevention device installed above the flood resistant construction elevation at the proposed first floor of the building, as shown on BSA-approved plans;

THAT the applicant shall provide adequate sidewalks aligned with the surrounding properties;

THAT the applicant must provide a 12'-0" corner radii and dual pedestrian ramps at each corner to ensure safe pedestrian access;

THAT the applicant must obtain approval from the Department of Buildings on the Builder's Pavement Plan filed under Job No. 520126827 prior to the issuance of the Certificate of Occupancy;

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction, including the Appendix G Flood Regulations, irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on September 1, 2015.

35-15-A

APPLICANT – Herrick Feinstein, LLP, for Baychester Retail III, LLC., owner.

SUBJECT – Application February 25, 2015 – An administrative appeal challenging the Department of Buildings' final determination dated January 26, 2015, to permit the installation of 54 individual signs at the subject property. C7 zoning district.

PREMISES AFFECTED – 2001 Bartow Avenue, Block 05141, Lot 0101, Borough of Bronx.

COMMUNITY BOARD #10BX

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for postponed hearing.

65-15-BZ/66-15-A

APPLICANT – Akerman, LLP, for 361 Central Park West, LLC., owner.

SUBJECT – Application March 25, 2015 – Variance (§72-21) to permit the conversion of an existing vacant church building into a 39 unit residential building. Companion case: 66-15-A for an Appeal pursuant to MDL 310 of MDL 30.2. R10A zoning district.

PREMISES AFFECTED – 361 Central Park West, northwest corner of Central Park West and West 96th Street, Block 01832, Lot 0029, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to October 22, 2015, at 10 A.M., for continued hearing.

108-14-BZ

CEQR #14-BSA-157M

APPLICANT – Sheldon Lobel, P.C., for UD 736 Broadway LLC, owner.

SUBJECT – Application May 22, 2014 – Variance (§72-21) to permit Use Group 6 commercial uses on the first floor and cellar of the existing building. M1-5B zoning district.

PREMISES AFFECTED – 736 Broadway, east side of Broadway approximately 117' southwest of the intersection formed by Astor Place and Broadway, Block 00545, Lot 22, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated January 6, 2015 acting on Department of Buildings Application No. 121956437, reads in pertinent part:

Pursuant to ZR 42-14(D)(2)(b), the proposed Use Group 6 is not permitted below the level of the second story of the building located in M1-5B zoning district and must be referred to BSA for variance under ZR 72-21; and

WHEREAS, this is an application under ZR § 72-21, to permit within an M1-5B zoning district within the NoHo Historic District, the use of the first floor and cellar of an existing 11-story building for commercial use (UG 6), contrary to ZR §§ 42-10 and 42-14; and

WHEREAS, a public hearing was held on this application on July 14, 2015, after due notice by publication in the *City Record*, and then to decision on September 1, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown; and

WHEREAS, Community Board 2, Manhattan, recommends approval of the application; and

WHEREAS, the subject premises is located on the east side of Broadway approximately 117 feet south of the intersection at Astor Place; and

WHEREAS, the site has a lot area of approximately 3,003 sq. ft.; and

WHEREAS, the lot has a depth ranging from 115 to 126 feet, and a width of approximately 25 feet; and

WHEREAS, the site is currently occupied with an 11-story mixed-use building with commercial residential and JLWQA tenants; and

WHEREAS, the applicant proposes to occupy the currently-vacant 2,224 sq. ft. of floor area on the first floor with commercial use and approximately 800 sq. ft. of floor area in the cellar with accessory storage space; and

WHEREAS, because UG 6 retail is not permitted as of

MINUTES

right or below the second floor in an M1-5B zoning district, the requested waivers are necessary; and

WHEREAS, the applicant states that the following are unique physical conditions, pursuant to ZR § 72-21(a), which create practical difficulties and unnecessary hardship in developing the subject site in conformance with underlying district regulations: (1) the lot is narrow and (2) the existing building is obsolete for manufacturing use; and

WHEREAS, as to narrowness, the applicant represents that the narrow width of the lot results in narrow, relatively small floor plates that are inefficient for conforming uses, such as warehouses and wholesale distributors; and

WHEREAS, the applicant asserts that the floor plates would be impractical for either industrial or office use as it would be difficult to build out the narrow space; and

WHEREAS, as to the uniqueness of this condition, the applicant studied the 162 lots located within the study area of the M1-5B zoning district between Astor Place and East Houston Street and found that of the 87 with avenue frontage, only eight lots are narrower and only five buildings on narrow lots are narrower; and

WHEREAS, the applicant notes that all of the eight narrower lots are occupied by commercial use; and

WHEREAS, as to the obsolescence of the building for a conforming use, the applicant cites to the following limitations: (1) the building's irregular floor plate; (2) the limited street access; (3) the absence of a loading dock or space to install one; (4) the presence of a subway entrance/exit abutting the lot; and (5) Broadway is a heavily-trafficked thoroughfare; and

WHEREAS, the applicant notes that the ground floor of the building has approximately 2,853 sq. ft. of floor area, but the usable space is reduced by the entrance and circulation space that serves the upper floors and narrows the width of the portion of the building closest to Broadway to less than ten feet; and

WHEREAS, the applicant describes the access to the building as limited to two pedestrian-sized doors on the street frontage, which compromises the ability to transfer goods in or out of the building; additionally, there are not any ramps to allow for bulk shipments; and

WHEREAS, the applicant represents that it would be difficult to receive and transfer bulk shipments and to provide adequate access to the building for a conforming use based on these inefficiencies; and

WHEREAS, the applicant states that the small size and narrowness of the lot prevent the inclusion of loading docks; and

WHEREAS, the applicant states that transferring goods and bulk deliveries would interfere with access to the subway entrance/exit directly adjacent to the building; and

WHEREAS, the applicant states that Broadway is a very busy avenue, which impedes truck deliveries like those associated with light manufacturing use; and

WHEREAS, the Board agrees that the unique physical conditions cited above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study analyzing the following scenarios: (1) as-of-right/existing ground floor and cellar with warehouse/manufacturing use; (2) as-of-right/existing ground floor and cellar with business services uses; and (3) the proposed ground floor and cellar retail use; and

WHEREAS, the applicant asserts that the as-of-right scenario would result in a negative rate of return and that the proposed use is the minimum necessary to achieve a reasonable return; and

WHEREAS, based upon its review of the applicant's submissions, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning requirements will provide a reasonable return, consistent with ZR § 72-21(b); and

WHEREAS, the applicant represents that, consistent with ZR § 72-21(c), the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant notes that no changes to the exterior of the building are proposed; and

WHEREAS, the applicant notes that all of the buildings along the eastern side of Broadway from Astor Place to East Houston are used for commercial purposes on the first floor with residential or loft space above; and

WHEREAS, the applicant notes that across the street along the western side of Broadway is a C6-2 zoning district which permits commercial use on the ground floor as-of-right; and

WHEREAS, the Board notes that the applicant obtained a Certificate of No Effect (CNE 15-1358), dated January 16, 2014, from the Landmarks Preservation Commission for the proposal; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the applicant represents that, consistent with ZR § 72-21(e), the proposed represents the minimum variance needed to allow for a reasonable and productive use of the site; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford relief; and

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Section 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 14-BSA-157M, dated June 9, 2015; and

MINUTES

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type I Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §72-21, to permit within an M1-5B zoning district within the NoHo Historic District, the conversion of the first floor and cellar of an existing 11-story building to a commercial retail use (UG 6), contrary to ZR §§ 42-10 and 42-14; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 31, 2015"—six (6) sheets; and *on further condition*:

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 1, 2015.

8-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Oleg Saitskiy, owner.

SUBJECT – Application January 16, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (23-141); side yards requirements (§23-461) and less than the rear yard requirement (23-47). R3-2 zoning district.

PREMISES AFFECTED – 1824 East 22nd Street, west side of East 22nd Street between Quentin Road and Avenue R,

Block 6804, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Off-Calendar.

98-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 404-414 Richmond Terrace Inc., owner.

SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the reestablishment of a banquet facility (catering hall -UG 9) with accessory parking. Located in an R5 and R3A zoning districts within the St. George Historic District.

PREMISES AFFECTED – 404 Richmond Terrace, southeast corner of Richmond Terrace and Westervelt Avenue, Block 3, Lot(s) 40, 31, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for continued hearing.

231-14-BZ

APPLICANT – Sheldon Lobel, PC, for Orangetheory Fitness, owner; OTF Man One, LLP, lessee.

SUBJECT – Application September 26, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Orangetheory Fitness*) within a portion of an existing commercial building. C6-3X zoning district.

PREMISES AFFECTED – 124 West 23rd Street, south side of West 23rd Street, between Avenue of the Americas and 7th Avenue, Block 00798, Lot 7507, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for continued hearing.

258-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Henry Atlantic Partners LLC, owner.

SUBJECT – Application October 16, 2014 – Variance (§72-21) to permit the construction of a 4-story mixed-use building of an existing with commercial use on the first floor in a (R6) zoning district located in Cobble Hill Historic District.

PREMISES AFFECTED – 112 Atlantic Avenue, southeast corner of the intersection formed by Atlantic Avenue and Henry Street, Block 285, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #6BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for decision, hearing closed.

260-14-BZ

APPLICANT – Goldman Harris LLC, for The Chapin School, Ltd., owner.

MINUTES

SUBJECT – Application October 17, 2014 – Variance (§72-21) to permit the construction of a three-story enlargement to the existing school, contrary to floor area, rear yard, height and setback requirements. (R8B/R10A) zoning districts.

PREMISES AFFECTED – 100 East End Avenue aka 106 East End Avenue, Block 1581, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4

Negative:.....0

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for decision, hearing closed.

316-14-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for United Talmudical Academy, owner.

SUBJECT – Application November 25, 2014 – Variance (§72-21) to permit the enlargement of an existing Yeshiva building (Talmudical Academy) for lot coverage (§24-11) and rear yard (§24-36. R6 zoning district.

PREMISES AFFECTED – 115 Heyward Street, northern side of Heyward Street between Lee Avenue and Bedford Avenue, Block 02225, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Laid over to October 27, 2015, at 10 A.M., for continued hearing.

**REGULAR MEETING
TUESDAY AFTERNOON, SEPTEMBER 1, 2015
1:00 P.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

213-14-BZ

APPLICANT – Law Office of Steven Simicich, for Wayne Bilotti, owner.

SUBJECT – Application August 29, 2014 – Variance (§72-21) for the construction of a single family detached home contrary to ZR 23-32 for minimum lot area. R2 zoning district.

PREMISES AFFECTED – 165 Wooley Avenue, Woolley Avenue between Lathrop and Garrison Avenues, Block 00419, Lot 13, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to October 27, 2015, at 10 A.M., for continued hearing.

32-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 2857 West 8th Street Associates, LLC., owner; Blink West 8th Street, Inc., lessee.

SUBJECT – Application February 19, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Blink Fitness*) within portions of an existing building. C8-2 (OP) zoning district

PREMISES AFFECTED – 2847 West 8th Street, east side of West 8th Street, 125.67’ south of the intersection of West 8th Street and Sheepshead Bay Road, Block 07279, Lot 0162, Borough of Brooklyn.

COMMUNITY BOARD #13BK

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for continued hearing.

33-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Equity One (Northeast Portfolio) Inc., owner; Blink 5510-5530 Broadway, Inc., lessee.

SUBJECT – Application February 19, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Blink Fitness*) within a new commercial building. C8-2 (OP) zoning district.

PREMISES AFFECTED – 5510 Broadway, north east corner of Broadway and West 230th Street, Block 03266, Lot(s) 21 & 23, Borough of Bronx.

COMMUNITY BOARD #8BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4

Negative:.....0

MINUTES

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for decision, hearing closed.

40-15-BZ

APPLICANT – Francis R. Angelino, Esq., for 465 Lexington Avenue, LLC., owner; 8 Fit Strategies, LLC, lessee.

SUBJECT – Application March 3, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment within portions of an existing building. C5-3 zoning district. Companion case 41-15-BZ

PREMISES AFFECTED – 465 Lexington Avenue, east side between East 46th and 47th Streets, Block 01300, Lot 0020, Borough of Manhattan.

COMMUNITY BOARD #6M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for decision, hearing closed.

41-15-BZ

APPLICANT – Francis R. Angelino, Esq., for 140 East 46th Street, LLC., owner; 8 Fit Strategies, LLC, lessee.

SUBJECT – Application March 3, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment within portions of an existing building. C5-3 & C5-2.5 zoning district. Companion case 40-15-BZ

PREMISES AFFECTED – 140 East 46th Street, south east corner of East 47th Street and Lexington Avenue, Block 01300, Lot 0050, Borough of Manhattan.

COMMUNITY BOARD #6M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 18, 2015, at 10 A.M., for decision, hearing closed.

71-15-BZ

APPLICANT – 548 W 22 Holding LLC., for 548 W 22nd Holding LLC., owner.

SUBJECT – Application March 31, 2015 – Variance (§72-21) the conversion and enlargement of the existing 4-story building, build around 1920 on a fragile foundation system for manufacturing use and later converted to an art Museum to a 20-story mixed-use building with commercial uses on the ground floor and residential use. M1-5/SWCD zoning district.

PREMISES AFFECTED – 548 West 22nd Street, south side of West 22nd Street between Tenth Avenue and Eleventh Avenue, Block 0693, Lo 59, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to October 27, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

BULLETIN

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September 26, 2015

DIRECTORY

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Friday, September 18, 2015**

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216-15-BZ

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217-15-BZ

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218-15-A

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219-15-BZ

945 61st Street, 61st Street between Forth Hamilton Parkway and Ninth Avenue, Block 5715, Lot(s) 039, Borough of **Brooklyn, Community Board: 12**. Special Permit (§73-36) to permit a physical culture Establishment(Kings Spa) on the second floor of a two-story building within an M1-1 zoning district. M1-1 district.

220-15-A

3858-60 Victory Boulevard, East corner of intersection of Victory Boulevard and Ridgeway Avenue, Block 2610, Lot(s) 22, Borough of **Staten Island, Community Board: 2**. Proposed construction of a mixed use building that does not front on a legally mapped street , contrary to Article 3, Section 36 of the General City Law. R3A zoning district . R3A district.

221-15-BZ

41/55 Washington Street, block bounded by Washington Street, Adams Street, Front Street and Water Street., Block 038, Lot(s) 01, Borough of **Brooklyn, Community Board: 2**. Special Permit (§73-36) to allow an physical culture establishment (Equinox) within an existing nine story commercial building located in an M1-2/R8A(MX-2) zoning district. M1-2/R8A/MX-2 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

OCTOBER 20, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, October 20, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

333-78-BZ

APPLICANT – Goldman Harris LLC., for 136 Loft Corporation, owner.

SUBJECT – Application May 5, 2015 – Amendment (72-21) to reopen and amend the captioned variance to permit the transfer of unused development rights for the premises for use in a commercial development, located within an M1-6 zoning district.

PREMISES AFFECTED – 136-138 West 24th Street, south of West 24th Street between Sixth and Seventh Avenue, Block 0799, Lot 060, Borough of Manhattan.

COMMUNITY BOARD #4M

585-91-BZ

APPLICANT – Paul F. Bonfilio Architect, PC, for Luis Mejia, owner; SAJ Auto Service, lessee.

SUBJECT – Application March 11, 2015 – Extension of Term (§11 411) a previously approved variance which permitted the operation of an automotive service station (UG 16B), which expired on March 30, 2013; Waiver of the Rules. C1-3/R4 zoning district.

PREMISES AFFECTED – 222-44 Braddock Avenue, southeast corner of Braddock Avenue and Winchester Boulevard, Block 10740, Lot 0012, Borough of Queens.

COMMUNITY BOARD #13Q

129-97-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for Whitestone Plaza Associates Inc., owner.

SUBJECT – Application February 21, 2014 – Amendment to permit the proposed conversion of an existing lubricatorium to a commercial retail establishment (use group 6) and enlargement of the basement level. C1-2/R3-2 zoning district.

PREMISES AFFECTED – 150-65 Cross Island Parkway, west side of Clintonville Street distant 176.60' north of intersection of Cross Island Parkway and Clintonville Street, Block 04697, Lot 11, Borough of Queens.

COMMUNITY BOARD #7Q

369-03-BZ

APPLICANT – Law Office of Fredrick A. Becker Esq., for 99-01 Queens Boulevard LLC, owner; TSI Rego Park, LLC dba NY Sports Club, lessee.

SUBJECT – Application April 13, 2015 – Extension of Term of a previously approved Variance (§72-21) allowing the operation of a physical culture establishment/ health club which expires April 19, 2015. C1-2/R7-1 zoning district.

PREMISES AFFECTED – 99-01 Queens Boulevard, north side of Queens Boulevard between 66th Road and 67th Avenue, Block 02118, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

186-08-BZ

APPLICANT – Petrus fortune, P.E., for Followers of Jesus Mennonite Church, owners.

SUBJECT – Application November 19, 2014 – Extension of Time to Complete Construction of a previously approved Special Permit (§73-19) permitting the legalization and enlargement of a school (*Followers of Jesus Mennonite Church & School*) in a former manufacturing building, contrary to ZR §42-10, which expired on June 8, 2014; Waiver of the Rules. M1-1 zoning district.

PREMISES AFFECTED – 3065 Atlantic Avenue, north west corner of Atlantic Avenue and Shepherd Avenue, Block 03957, Lot 45, Borough of Brooklyn.

COMMUNITY BOARD #5BK

88-10-BZ

APPLICANT – Dennis D. Dell Angelo, for Maurice Duetsch, owner.

SUBJECT – Application February 26, 2015 – Amendment of a previously approved Special Permit (§73-622) permitting the enlargement of an existing single family residence. The amendment seeks to reduce the floor area and coverage while adding a roof deck and the exterior design; Extension of Time to complete construction which expired on August 24, 2014. R-2 zoning district.

PREMISES AFFECTED – 1327 East 21st Street, south east corner of east 21st Street and Avenue L, Block 07639, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #14BK

CALENDAR

APPEALS CALENDAR

135-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Oak Point Property, LLC., owner.

SUBJECT – Application June 10, 2015 – Proposed construction of a building not fronting on a legally mapped street contrary to Section 36 Article 3 of the General City Law. M3-1 zoning district.

PREMISES AFFECTED – 50 Oak Point Avenue, north shore of east river, approximately 900 lateral feet east of East 149th Street, Block 02604, Lot 0180, Borough of Bronx.

COMMUNITY BOARD #2BX

OCTOBER 20, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, October 20, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

129-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Mourad Louz, owner.

SUBJECT – Application June 9, 2014 – Special Permit (§73-622) as amended, to permit the enlargement of a single-family detached residence, contrary to floor area, side yard, and rear yard regulations. R5 zoning district.

PREMISES AFFECTED – 2137 East 12th Street, east side of East 12th Street between Avenue U and Avenue V, Block 07344, Lot 62, Borough of Brooklyn.

COMMUNITY BOARD #15BK

261-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Julie Haas, owner.

SUBJECT – Application October 21, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space ZR 23-141 and less than the required rear yard ZR 23-47. R-2 zoning district.

PREMISES AFFECTED – 944 East 23rd Street aka 948 East 23rd Street, Block 07586, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #14BK

322-14-BZ

APPLICANT – Eric Palatnik, P.C., for Maks Kutsak, owner.

SUBJECT – Application December 12, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, lot coverage and open space (ZR 23-141); R3-1 zoning district.

PREMISES AFFECTED – 82 Coleridge Street, between Shore Boulevard and Hampton Avenue, Block 08728, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #15BK

44-15-BZ

APPLICANT – Akerman, LLP, for 145 CPN, LLC., owner.

SUBJECT – Application March 6, 2015 – Variance (§72-21) to permit the construction of a conforming fourteen-story, (UG 2) residential building containing 24 dwelling units contrary to the maximum building height and front setback requirements (§23-633 and rear setback requirements (§23-633(b)). R8 zoning district.

PREMISES AFFECTED – 145 Central Park North, between Adam Clayton Powell and Lenox Avenue, Block 01820, Lot 0006, Borough of Manhattan.

COMMUNITY BOARD #10M

Ryan Singer, Executive Director

MINUTES

**SPECIAL HEARING
FRIDAY MORNING, SEPTEMBER 18, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

84-93-BZ

APPLICANT – Sheldon Lobel P.C., 671 Timpson Realty corp./Timpson Salvage Corp., owner.

SUBJECT – Application December 1, 2014 – Extension of Term of a previously Variance (§72-21) permitting the operation of a Use Group 18B scrap, metal, junk, paper or rags, storage sorting, and bailing facility, which expired on November 15, 2015. C8-3 zoning district.

PREMISES AFFECTED – 671-677 Timpson Place, West of the intersection formed by Timpson Place, Bruckner Boulevard and Leggett Avenue, Block 2603, Lot(s) 190, 192, Borough of Bronx.

COMMUNITY BOARD #2BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a re-opening and an extension of the term of a variance previously granted by the Board under the subject calendar number, which expired on November 15, 2014; and

WHEREAS, a public hearing was held on this application on July 14, 2015 after due notice by publication in *The City Record*, with a continued hearing on August 25, 2015, and then to decision on September 18, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is comprised of Lots 190 and 192 on Block 2603, in the Bronx; the site has approximately 205 feet of frontage along the north side of Timpson Place, and is located approximately 285 feet west of the intersection formed by Timpson Place, Bruckner Boulevard and Leggett Avenue, within a C8-3 zoning district;; and

WHEREAS, the site has approximately 20,508 sq. ft. of lot area, and is occupied by a one-story plus mezzanine and cellar building; and

WHEREAS, on November 15, 1994, under the subject calendar number, the Board granted a variance pursuant to Z.R. § 72-21 to permit a change in the use of the site for the storage, sorting and bailing of scrap metal, junk, paper or rags (Use Group 18B), as well as the legalization of the existing building on the site, subject to a twenty (20) year term; and

WHEREAS, the instant applicant was timely filed as per BSA Rules of Practice and Procedure §1-07.3(b)(1); and

WHEREAS, the instant application seeks to: (1) extend the term of the variance for an additional twenty (20) years; and

WHEREAS, in response to questions raised in hearing, the applicant represents that the scrap metal operation and practices at the site meet the New York City M-1 performance standards as per Z.R. § 42-20; and removed, from a site across the street from the subject premises, all signage related to the subject use; and

WHEREAS, the Board finds that a twenty-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, dated November 15, 1994, so that as amended this portion of the resolution shall read: “to permit an extension of the term of the variance for a term of twenty years; *on condition* that the expansion shall substantially conform to drawings as filed with this application, marked ‘Received May 6, 2015’–(3) sheets; and *on further condition*:

THAT this grant shall be limited to a term of twenty years from November 15, 2014, expiring November 15, 2034;

THAT the above condition shall appear on the Certificate of Occupancy;

THAT a new Certificate of Occupancy for the premises shall be obtained by September 18, 2016;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, September 18, 2015.

110-99-BZ

APPLICANT – Law Office of Jay Goldstein, for Lessiz Realty, LLC., owner; 14-18 Fulton servicing, lessee.

SUBJECT – Application March 2, 2015 – Extension of Term of a previously approved Variance (§72-21) to permitted the legalization of an existing garage and automotive repair shop (Use Group 16B), which expired on June 27, 2010; Amendment to permit minor modifications to the interior layout; Waiver of the Rules. R6B zoning district.

PREMISES AFFECTED – 56-58 Kosciuszko Street, south side of Kosciuszko Street between Nostrand and Bedford Avenues, Block 01783, Lot 0034, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson,

MINUTES

Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, and an amendment of term for a variance permitting the operation of an automotive repair shop, which expired on June 27, 2010, and to allow certain changes to the site plan; and

WHEREAS, a public hearing was held on this application on July 21, 2015 after due notice by publication in *The City Record*, and then to decision on September 18, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, the subject has approximately 50 feet of frontage along the south side of Kosciusko Street, between Bedford Avenue and Nostrand Avenue, within an R6B zoning district in Brooklyn; and

WHEREAS, the site has approximately 5,000 sq. ft. of lot area, and is occupied by a 5,000 sq. ft. one-story brick garage; and

WHEREAS, the Board has exercised jurisdiction over the site since approximately 1925, when, under BSA Cal. No. 1052-25-BZ, it issued a resolution authorizing the use of the site as a garage for not more than five (5) motor vehicles; and

WHEREAS, on June 27, 2000, the Board issued a resolution, under the subject calendar number, authorizing the use of the site for a Use Group 16 automotive repair shop (the “Subject Variance”); and

WHEREAS, the term of the Subject Variance expired on June 27, 2010; and

WHEREAS, the applicant now seeks to amend the Subject Variance, extending the term thereof of an additional ten-year period; and

WHEREAS, the applicant also seeks to amend the site plan to reflect various modifications made by a previous operator of the site, and to permit additional modifications that will improve the operation of the site and reduce the number of cars parked at and near the site; and

WHEREAS, specifically, the applicant requests that the Board approve (1) an existing opening in the building façade which is not on the Board-approved plans; and (2) the relocation and widening of a curb cut at the site; and

WHEREAS, the applicant notes that the existing opening in the building façade which is not shown on the Board-approved plans will enable the operator of the site to service cars efficiently on an alignment lift, thereby improving ingress and egress into the garage and reducing traffic on and around the site; and

WHEREAS, the applicant notes further that positioning the curb cut between the Board-approved opening in the building façade and the existing additional opening, and widening of said curb cut from 10’-0” to 15’-0” will provide better access to both openings and improve safety on the block; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made for an

amendment of the term of the Subject Variance, as well as the requested changes to the site plan.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated June 27, 2000, so that as amended the resolution reads: “to permit an extension of the term of the variance for an additional ten years from the prior expiration, to expire on June 27, 2020” and to allow certain changes to the site plan; *on condition on condition* that all work will substantially conform to drawings, filed with this application marked ‘Received August 12, 2015’ –(5) sheets; and on further condition:

THAT the term of the variance shall expire on June 27, 2020;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect; and

THAT the above conditions and the conditions from the prior approval shall be noted on the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by September 18, 2016;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s); and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, September 18, 2015.

42-08-BZ

APPLICANT – Eric Palatnik, P.C., for David Nikcchemny, owner.

SUBJECT – Application July 22, 2014 – Extension of Time to Complete Construction of a previously granted Special Permit (73-622) for the enlargement of an existing two family home to be converted into a single family home which expired on January 27, 2013; Waiver of the Rules. R3-1 zoning district.

PREMISES AFFECTED – 182 Girard Street, between Oriental Boulevard and Hampton Street, Block 8749, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time of complete construction pursuant to a previously-granted special permit for the enlargement of a single-family home, which expired on January 27, 2013, as well as an amendment of such approval to facilitate compliance with

MINUTES

FEMA flood regulations; and

WHEREAS, a public hearing was held on this application on September 23, 2015, after due notice by publication in *The City Record*, with continued hearings on April 14, 2015, June 23, 2015, and August 18, 2015, and then to decision on September 18, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the west side of Girard Street, between Hampton Avenue and Oriental Boulevard, in an R3-1 zoning district; and

WHEREAS, the subject site has a total lot area of 6,240 sq. ft., and is occupied by a two-family home with a floor area of approximately 3,657 sq. ft. (0.59 FAR); and

WHEREAS, on January 27, 2009, under the subject calendar number, the Board granted a special permit under ZR §§ 73-622 and 73-03, to permit the enlargement of an existing two-family residence to be converted into a single-family home, contrary to the zoning requirements for floor area, lot coverage, open space and rear yard, as set forth in ZR §§ 23-141(b) and 23-47; and

WHEREAS, specifically, the 2009 grant authorized a floor area of approximately 6,160 sq. ft.; a lot coverage of approximately 42 percent; an open space of approximately 58 percent; and a rear yard with a minimum depth of 20'-0"; and

WHEREAS, pursuant to the conditions of the grant, substantial construction was to be completed by January 27, 2013; however, the applicant represents that as of that date, substantial construction had not been completed; and

WHEREAS, accordingly, the applicant now requests an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, the applicant states that construction pursuant to the grant was delayed due to a lack of funding and, subsequently, flooding caused by Hurricane Irene, in 2011, and Superstorm Sandy, in 2012; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to complete construction is appropriate, with certain conditions as set forth below; and

WHEREAS, in light of the aforementioned flooding, the applicant represents that the site, which was previously designated as within FEMA Zone X, is now, pursuant to FEMA advisory maps issued in 2013, located in Zone AE, necessitating a revision of the previously approved plans to allow for the raising of the first floor of the proposed building; and

WHEREAS, the New York City Department of Buildings issued a decision, dated May 21, 2015, acting on Department of Buildings Application No. 320821740, which reads, in pertinent part:

Raising building First Floor base plane 5'-2" above grade to satisfy new FEMA and Free Board elevations must be referred back to BSA for review;

and

WHEREAS, in order to comply with the foregoing, the proposed building was raised 2'-2" (to 5'-2") to meet FEMA Freeboard elevation (13' NAVD 88), which is above the Zone AE flood elevation of 11' NAVD 88 (the elevations are in NAVD 11 per Brooklyn Datum 9.37); and

WHEREAS, the applicant notes that the cellar of the proposed building will remain unexcavated; and

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated January 27, 2009, so that as amended the resolution reads: "to grant an extension of time to complete construction for a term of four years from the date of this grant, to expire on September 18, 2019" and also reads "to permit the noted modifications, including raising the building as specified on BSA-approved plans"; *on condition* that all work will substantially conform to drawings, filed with this application marked 'Received August 26, 2015'-(12) sheets; and *on further condition*:

THAT substantial construction will be completed by September 18, 2019;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s); and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted including, without limitation, those regulations applicable to flood plain elevation, excavation and cellar occupancy."

(DOB Application No. 320821740)

Adopted by the Board of Standards and Appeals, September 18, 2015.

1207-66-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Apple Art Supplies of New York, LLC., owner.

SUBJECT – Application December 10, 2014 – Extension of Term of a previously granted variance for the continued operation of a UG6 art supply and bookstore which expired July 5, 2012; Waiver of the Rules. R6 zoning district.

PREMISES AFFECTED – 305 Washington Avenue aka 321 DeKalb Avenue, northeast corner of Washington Avenue & DeKalb Avenue, Block 1918, Lot 7501, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to November 24, 2015, at 10 A.M., for continued hearing.

156-03-BZ

APPLICANT – Goldman Harris LLC., for Flushing Square, LLC., lessee.

SUBJECT – Application March 10, 2015 – Extension of

MINUTES

Time to Complete Construction of a previously granted Variance (72-21) for the construction of a seventeen story mixed-use commercial/community facility/residential condominium building which expires on January 31, 2016; Amendment. R6/C2-2 zoning district.

PREMISES AFFECTED – 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard, Block 04958, Lot(s) 48, 38, Borough of Queens.

COMMUNITY BOARD #7Q

THE VOTE TO REOPEN HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 27, 2015, at 10 A.M., for decision, hearing closed.

127-15-BZ

APPLICANT – Goldman Harris LLC., for Flushing Square, LLC., owner.

SUBJECT – Application May 29, 2015 – Special Permit (§73-66) to permit the construction of building in excess of the height limits established pursuant Z.R. §§61-211 & 61-22. The proposed building was approved by the Board pursuant to BSA Calendar Number 156-03-BZ. C2-2/R6 zoning district

PREMISES AFFECTED – 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard, Block 04958, Lot(s) 48, 38, Borough of Queens.

COMMUNITY BOARD #7Q

THE VOTE TO REOPEN HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 27, 2015, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

245-12-A & 266-13-BZ

APPLICANT – Law Offices of Marvin B. Mitzner LLC, for 515 East 5th Street, LLC, owner.

SUBJECT – Application August 9, 2012 – Appeal pursuant to Section 310(2) of the Multiple Dwelling Law, requesting that the Board vary several requirements of the MDL. R7B Zoning District.

SUBJECT – Application September 6, 2013 – Variance (§72-21) to legalize the enlargement of a six-story, multi-unit residential building, contrary to maximum floor area (§23-145). R7B zoning district.

PREMISES AFFECTED – 515 East 5th Street, north side of East 5th Street between Avenue A and B, Block 401, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the following resolution is issued in conjunction with two applications before the Board; the first is an application under ZR § 72-21, to permit, in an R7B zoning district, the legalization of a residential building (Use Group 2) that does not comply with the regulations regarding maximum floor area ratio (“FAR”), contrary to ZR § 23-145 and under the common law doctrine of good-faith reliance; the second is an application pursuant to Multiple Dwelling Law (“MDL”) § 310 to legalize the enlargement of such building, contrary to MDL regulations; and

WHEREAS, because the two applications present overlapping issues of law and fact, the Board heard the cases together and the record is the same for both; and

WHEREAS, a public hearing was held on these applications on May 20, 2014, after due notice by publication in *The City Record*, with continued hearings on July 15, 2014, August 19, 2014, September 16, 2014, November 25, 2014, January 13, 2014, March 3, 2015, May 12, 2015, and August 18, 2015, and then to decision on September 18, 2015; and

WHEREAS, former Chair Srinivasan, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 3, Manhattan, recommends disapproval of the application; and

WHEREAS, Councilmember Rosie Mendez submitted testimony in opposition to the application; and

WHEREAS, the Greenwich Village Society for Historic Preservation submitted testimony in opposition to the application; and

WHEREAS, certain tenants of the subject building have formed a tenants’ association and, through counsel, oppose the application; and

WHEREAS, collectively, the parties opposed to the

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subject applications (the “Opposition”) identify the following specific objections: (1) that the sixth and seventh stories of the building have already been declared illegal and the permit unlawfully issued by the Board; (2) that the tenants of the building oppose legalization of the enlargement; (3) that the hardship at the site is self-created; (4) that the Board already denied an application seeking recognition of a vested right to continue under the R7-2 district regulations; (5) that the site is not unique; (6) that the owner has received the benefit of the enlarged portion of the building since 2006, which alleviates any alleged hardship; (7) that the enlargement alters the essential character of the neighborhood, interferes with light and ventilation for adjacent properties and violates the Multiple Dwelling Law (“MDL”); (8) that the proposed variance has not been shown to be the minimum necessary to afford the owner relief; (9) that the variance, if granted, will set a precedent that will lead to similar variances; (10) that the owner of the building has harassed tenants in the subject building and in other buildings within the community district; (11) that the cases involving the subject site have been a drain on city resources; and (12) that the applicant did not provide the tenants with 30 days’ notice of the initial hearing; and

WHEREAS, the subject site is located on the north side of East Fifth Street, between Avenue A and Avenue B, within an R7B zoning district; previously, the site was located within an R7-2 zoning district; however, on November 19, 2008, the site was rezoned R7B in connection with the East Village-Lower East Side Rezoning; and

WHEREAS, the site has approximately 25 feet of frontage along East Fifth Street and 2,434 sq. ft. of lot area; and

WHEREAS, at the time this application was filed, the site was occupied by a seven-story mixed residential (Use Group 2) and community facility (Use Group 4) building with 9,094 sq. ft. of floor area (3.73 FAR) (7,725 sq. ft. of residential floor area (3.17 FAR) and 1,369 sq. ft. of community facility floor area (0.56 FAR)), a building height of 69’-0”, and 17 dwelling units; and

WHEREAS, the building was enlarged pursuant to a permit (the “Permit”) first issued in connection with the Application on March 31, 2006; the record reflects that the enlargement of the building was substantially completed in 2007; and

WHEREAS, the applicant represents that the subject building is over 100 years old; and

WHEREAS, the site has been the subject of several cases before the Board and New York courts; and

WHEREAS, on September 11, 2007, under BSA Cal. No. 67-07-A (the “Sliver Law Appeal”), the Board granted an appeal of a February 15, 2007 final determination by DOB that the Application complied with ZR § 23-692; on appeal, DOB defended the final determination, however, the Board found that the Permit was issued contrary to ZR § 23-692, in that it authorized the enlargement of the building beyond a height of 60’-0”; and

WHEREAS, on May 20, 2008, the Board’s decision in the Sliver Law Appeal was affirmed by the New York Supreme Court in *Matter of 515 East 5th Street, LLC v. BSA*, 2008 Slip Op 31406(U) (Sup Ct NY Cnty 2008); and

WHEREAS, on November 25, 2008, under BSA Cal. No. 82-08-A (the “MDL Jurisdiction Appeal”), the Board granted an appeal of DOB’s March 6, 2008 determination that DOB had the authority to approve alternatives to strict compliance with the MDL and that the alternatives proposed under the Application were an equally safe alternative; on appeal, DOB defended the aforesaid determination, however, the Board found that DOB lacked the authority to approve alternative safety measures as they apply to MDL waivers; further, the Board found that the Application should have complied with the MDL requirements for fireproof construction and did not, and the Board revoked the Permit; and

WHEREAS, on July 24, 2009, in *Matter of 515 East 5th St, LLC, 514 East 6th St, LLC, & 516 East 6th St, LLC v. BSA*, 2009 Slip Op 31652 (U) (Sup Ct NY Cnty 2009), the New York Supreme Court ruled that the MDL Jurisdiction Appeal was not ripe; accordingly, the Court directed the petitioner (the applicant in this matter) to exhaust its administrative remedies with respect to the MDL non-compliances; and

WHEREAS, consistent with the Court’s decision on the MDL Jurisdiction Appeal, the applicant has filed the subject appeal seeking certain MDL waivers under BSA Cal. No. 245-12-A (the “MDL Waiver Appeal”); and

WHEREAS, finally, as noted above, the site was rezoned from R7-2 to R7B on November 19, 2008; as of that date, a certificate of occupancy had not been issued for the work performed under the Permit; accordingly, on November 19, 2008, the Permit lapsed by operation of law; and

WHEREAS, due to such lapse, the applicant filed an application with the Board seeking recognition of a vested right to continue construction under the R7-2 regulations under BSA Cal. No. 246-12-A (the “Vested Rights Appeal”); the Board denied the Vested Rights Appeal on September 10, 2013, finding that the Permit was not lawfully issued and therefore could not be the basis for a vested right; and

WHEREAS, accordingly, the applicant now seeks the subject variance under BSA Cal. No. 266-13-BZ (the “Good-Faith Reliance Variance”) to legalize the sixth story of the building, which complied under the R7-2 bulk regulations but does not comply under the R7B regulations, under the common law doctrine of good-faith reliance; and 1

The Good-Faith Reliance Variance

WHEREAS, the decision of the Department of Buildings (“DOB”), dated August 19, 2013, acting on DOB Application No. 104368845 (the “Application”), reads in pertinent part:

ZR § 23-145 – Max FAR is 3.0. Proposed enlargement exceeds maximum permitted; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R7B zoning district, the legalization of a residential building (Use Group 2) that does not comply with the regulations regarding maximum floor area ratio (“FAR”), contrary to ZR § 23-145 and under the common law doctrine of good-faith reliance; and

WHEREAS, as stated, the applicant has demolished the

1 The applicant does not seek a variance to maintain the seventh story of the building, which has been demolished.

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seventh story of the building; and

WHEREAS, the applicant states that a variance is required notwithstanding the demolition of the seventh story because the resulting reduction in floor area from 9,094 sq. ft. (3.73 FAR) to 8,675 sq. ft. (3.56 FAR) still exceeds the maximum FAR for the site which, per ZR § 23-145, is 3.0; and

WHEREAS, the applicant notes that with the removal of the seventh story, the building complies with ZR § 23-692, in that it is limited to a height of 60'-0"; and

WHEREAS, the Board notes that New York State courts have recognized that property owners may invoke the good faith reliance principle when they have made expenditures towards construction that was performed pursuant to a building permit which was later revoked due to non-compliance that existed at the time of the issuance of the permit; the principle is raised within the variance context when applicants assert that the reliance creates a unique hardship and seek to substitute it for the customary uniqueness finding under ZR § 72-21(a); and

WHEREAS, in *Jayne Estates, Inc. v. Raynor*, 22 NY2d 417 (1968), the Court of Appeals determined that the expenditures the property owner made in reliance on the invalid permit should be considered in the variance application because: (1) the property owner acted in good faith, (2) there was no reasonable basis with which to charge the property owner with constructive notice that it was building contrary to zoning, and (3) the municipal officials charged with carrying out the zoning resolution had granted repeated assurances to the property owner; and

WHEREAS, more recently, in *Pantelidis v. Board of Standards and Appeals*, 10 N.Y.3d 846, 889 N.E.2d 474, 859 N.Y.S.2d 597 (2008), the Court of Appeals, in a limited opinion, held that it was appropriate that the state Supreme Court conducted a good faith reliance hearing to determine whether the property owner could claim reliance, rather than remand the case to the Board to do so, in the context of an Article 78 proceeding to overturn the Board's denial of a variance application; the Court established that the Board should conduct such a hearing and that good-faith reliance is relevant to the variance analysis; and

WHEREAS, most recently, in *Woods v. Srinivasan*, 108 AD3d 412 (1st Dept 2013) *lv to appeal denied*, 22 NY3d 859, 981 NYS2d 370 (2014), the Appellate Division found that, where the issue was whether construction documents and plans complied with the side lot line requirements of ZR § 23-49, DOB, rather than the property owner, was in the best position to avoid the erroneous issuance of the permit; accordingly, the Appellate Division found that the owner had relied in good faith on DOB's permit issuance and remanded the matter to BSA to consider whether petitioner satisfied the remaining elements required for a variance; and

WHEREAS, accordingly, the Board identifies the findings for good-faith reliance under the common law as: (1) that a permit was issued and later revoked based on a permit defect that existed when the permit was first issued; (2) that the permit approval process included an inquiry into the issue that would subsequently be the basis for the revocation of such permit; (3) that the owner could not have known that the permit was defective despite municipal

assurances to the contrary; and (4) that construction was performed and expenditures were made subsequent to the issuance of the permit; and

WHEREAS, the applicant states that the Permit was issued in 2006 and later revoked based on permit defects that existed when the permit was first issued; and

WHEREAS, specifically, the applicant states that the Permit authorized a two-story enlargement to an existing, five-story, non-fireproof multiple dwelling; as originally issued, the Permit allowed a building height in excess of 60'-0" and it included a series of alternative safety measures in lieu of strict compliance with the applicable provisions of the MDL; and

WHEREAS, the applicant states that in the Sliver Law Appeal and the MDL Jurisdiction Appeal, the Board found that the Permit was issued in error in that: (1) the proposed building height of greater than 60'-0" violated ZR § 23-692; and (2) DOB lacked the authority to approve alternative safety measures in lieu of strict compliance with the MDL; subsequent to the Board's decisions DOB revoked the Permit; and

WHEREAS, thus, the Board finds that the Permit was issued and later revoked based on defects that existed in the Permit when initially issued; and

WHEREAS, as to whether the permit approval process included an inquiry into the issue that would subsequently be the basis for the Permit's revocation, the applicant contends that the DOB Borough Commissioner specifically reviewed the Permit for compliance with ZR § 23-692 and with the MDL; and

WHEREAS, the Board notes that the Borough Commissioner's specific review of the Application for compliance with ZR § 23-692 and the MDL is similar to DOB's high-level, issue-specific inquiry in *Pantelidis* and a substantially more authoritative inquiry than occurred in *Woods*, where only a plan examiner had reviewed the issue of side-yard compliance; and

WHEREAS, therefore, the Board agrees with the applicant that the permit approval process included an inquiry into the issue that would subsequently be the basis for the revocation of such permit; and

WHEREAS, turning to whether the applicant could have known that the permit was defective despite municipal assurances to the contrary, the applicant contends that it could not reasonably have known that the Permit was defective with respect to either ZR § 23-692 or MDL compliance; and

WHEREAS, the applicant states, as noted above, that DOB issued a specific final determination regarding the Permit's compliance with ZR § 23-692 and the MDL and DOB defended its determinations—and therefore its initial issuance of the Permit—before the Board; in addition, the applicant contends that the interpretations DOB supported in both the Sliver Law Appeal and the DOB Jurisdiction Appeal were long-standing and allowed for "hundreds" of tenement enlargements over the years; and

WHEREAS, the Opposition asserts that since the Board found DOB's interpretations to be contrary to the clear, unambiguous requirements of ZR § 23-692 and the MDL, the

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applicant had constructive notice that the Permit was erroneous; and

WHEREAS, the Board disagrees with the Opposition and notes that DOB's expertise in examining plans and construction documents is well-established and entitled to substantial deference; *see Perrotta v. City of New York, Dep't of Bldgs.*, 107 A.D.2d 320, 324, 486 N.Y.S.2d 941, 944-45 (1st Dept 1985); and

WHEREAS, accordingly, the Board finds that where DOB issues a permit and vigorously defends the interpretations underlying such permit before the Board, it would be unreasonable for the Board to conclude that the permit holder (the owner) should have known that the permit was defective when issued; and

WHEREAS, finally, the applicant states that construction was performed and expenditures were made subsequent to the issuance of the Permit; specifically, the applicant represents that it completed construction under the Permit in 2007 and expended approximately \$1,139,925 before the Permit was revoked; and

WHEREAS, the Board agrees with the applicant that it performed substantial construction and made substantial expenditures subsequent to the issuance of the Permit and prior to its revocation; and

WHEREAS, consequently, the Board finds that the applicant has satisfied the elements for a finding of good-faith reliance on the Permit; and

WHEREAS, the Board also finds that, in accordance with *Jayne Estates, Inc.*, the owner's good-faith reliance on the Permit satisfies ZR § 72-21(a); contrary to the Opposition's assertion, where the Board recognizes that good-faith reliance has affected a site, the site need not be otherwise unique per ZR § 72-21(a); and

WHEREAS, to satisfy ZR § 72-21(b), the applicant submitted a feasibility study which analyzed the rate of return of: (1) restoring the building to its pre-enlarged condition; and (2) maintaining only the sixth story but removing the seventh story; and

WHEREAS, the applicant contends that restoring the building to its pre-enlarged condition would result in a negative rate of return on investment; in contrast, maintaining the sixth story only would result in a positive rate of return; and

WHEREAS, the Opposition states that the Board must consider the income generated from the occupancy of the sixth and seventh stories of the building since it was determined that the Permit was issued contrary to ZR § 23-692 and the MDL, and that if the Board considers such income, the owner has been compensated for its reliance on the Permit; therefore, the Opposition contends that 72-21(b) cannot be satisfied; and

WHEREAS, the Board does not agree with the Opposition that it must consider the income already generated by sixth and seventh stories of the building; as noted above, the Board finds that the owner relied in good faith on the Permit and completed construction before it was determined that the Permit should not have been issued; accordingly, until the Board ruled on the validity of the Permit, the owner had a reasonable expectation of a permanent increase in the value of the building and expended substantial sums in pursuit of that

increase in income; and

WHEREAS, thus, the Board finds that the proper comparison is the value of the building with the sixth story versus the value of the building without the sixth story, in light of the costs of construction; and

WHEREAS, moreover, the Board notes that, under this application, the applicant seeks a variance to permit only that portion of the enlargement that would have been permitted under the bulk regulations that were in effect when the Permit was issued in 2006; had the site not been rezoned from R7-2 to R7B, a variance would not be required; and

WHEREAS, based upon its review of the record, the Board has determined that, owing to the owner's good-faith reliance on the Permit, there is no reasonable possibility that development in strict conformance with the R7B requirements (removal of both the sixth and seventh stories) will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the subject block is primarily developed with five- and six-story tenements, including many buildings that are non-complying with respect to FAR; and

WHEREAS, the applicant states that the proposal complies with all bulk requirements of the subject R7B district except FAR and fully complies with the R7-2 bulk regulations, which were in effect when the Permit was issued; and

WHEREAS, as noted above, the Opposition asserts that the proposal does not satisfy ZR § 72-21(c) because: (1) adjacent buildings' light and ventilation are adversely impacted; and (2) the variance will set a precedent for permitting FAR waivers in the neighborhood; and

WHEREAS, the Board does not agree with the Opposition and finds that the sixth story is consistent with both the built character of the block and the bulk regulations in effect when it was constructed; as such, its impact is minimal; and

WHEREAS, as for the Opposition's concern about precedent, the Board observes that the role of good-faith reliance in establishing the (a), (b), (d), and (e) findings for this variance limits the precedential effect of the Board's decision; and

WHEREAS, the Board finds that this action will not

2 As noted above, in order to maintain the sixth story, the applicant must obtain, in addition to the instant zoning variance, certain MDL waivers, which the applicant is seeking under the MDL Waiver Appeal. Typically, when a permit lapses due to a change in zoning, an owner seeks recognition of a vested right. The prerequisite for that relief, however, is that the permit was lawfully issued, and, in this case, the Board determined that the Permit was not lawfully issued.

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alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board also finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the owner's good-faith reliance on DOB's issuance of the Permit; and

WHEREAS, finally, the Board finds that the proposal is the minimum variance necessary to afford relief, as set forth in ZR § 72-21(e); and

WHEREAS, as for the Opposition's remaining concerns, the Board finds that none forms a sufficient basis for denying the variance application; specifically, the Board finds that: (1) the denial of a vested rights appeal is irrelevant to whether the applicant has satisfied the criteria for a good-faith reliance variance; (2) landlord-tenant disputes, including the tenant harassment alleged by the Opposition, are beyond the scope of the Board's jurisdiction; and (3) the applicant complied with the Board's notice requirements for a variance application, as set forth in the 2 RCNY § 1-05.6; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

MDL Waiver Appeal

WHEREAS, by letter dated July 10, 2012, sent to the Applicant's representative in reference to the Application, DOB stated, in relevant part, that:

To the extent that the BSA has the authority to ... waive the MDL requirements identified in the BSA resolution of November 25, 2008 [the MDL Jurisdiction Appeal] ... you may request such relief from BSA. This is a final determination which may be used for purpose of appeal to BSA...; and

WHEREAS, the MDL Jurisdiction Appeal notes the determination of the Manhattan Borough Commissioner, dated March 6, 2008, to uphold the approval of Alteration Permit No. 104744877, which permitted an enlargement of the subject building and stated, in pertinent part, that:

[t]he Department has determined that the applicant's proposed design upgrades the level of fire protection afforded the occupants that is at least equivalent to what would be required under the MDL. For instance, the design includes the installation of a sprinkler system throughout the building, even though the MDL would not require any sprinklers. Additionally, the Department will require hard-wired smoke detectors in all apartments in the building to replace any battery operated ones, even though there would otherwise be no obligation to do so.

Further, many other upgrades that increase the level of safety, such as increasing the fire-resistive rating of the stair and entrance hall walls and the cellar ceilings by adding layers of fire-rated sheetrock, and the construction of fire passages from the back yards. Thus, the fire-safety upgrades in the proposed design maintain

the spirit and intent of the MDL, given the practical difficulties and unnecessary hardships that would be caused in this particular case by the compliance with the strict letter of the MDL provisions.

... The addition of the sprinkler system and the hard-wired smoke detectors will benefit current tenants by dramatically increasing the level of fire protection afforded them.

This shall be considered a Final Determination by the Department on 515 East 5th Street . . . , Manhattan; and

WHEREAS, thus, the subject application, under BSA Cal. No. 245-12-A, is brought pursuant to MDL § 310 to vary the strict application of the MDL as it pertains to the subject building; and

WHEREAS, specifically, a waiver of MDL § 211.1 is sought herein since the appellant has contended that there are practical difficulties in complying with the following provisions of the MDL: MDL § 102.1 (required fireproof public corridor); MDL § 52.3 (required stair dimensions); MDL § 150.2 (stairway vestibule); MDL § 148 (enclosed stairway); MDL § 149.2 (fireproof entrance hall); MDL § 143 (first floor construction); and

WHEREAS, the Board notes that, pursuant to MDL § 310(2)(a), it has the authority to vary or modify certain provisions of the MDL for multiple dwellings that existed on July 1, 1948, provided that the Board determines that strict compliance with such provisions would cause practical difficulties or unnecessary hardships, and that the spirit and intent of the MDL are maintained, public health, safety and welfare are preserved, and substantial justice is done; and

WHEREAS, in support of its contention that strict compliance with the MDL will cause unnecessary hardship, the Applicant submitted a report prepared by McQuilkin Associates, LLC, dated September 11, 2012 (the "McQuilkin Report"), which quantified the construction costs associated with bringing the subject building into strict compliance with the MDL; and

WHEREAS, moreover, the Applicant represents that the proposed upgrades to the subject building will significantly enhance the fire safety of the subject building and will therefore constitute a substantial increase to the public health, safety, and welfare, which far outweighs any impact from the proposed enlargement; and

WHEREAS, the Applicant supported the foregoing representation by submitting a statement from NY Fire Consultants, Inc. on November 30, 2012; and

WHEREAS, specifically, the applicant submits that the following fire safety and egress improvements will be provided at the subject building: (1) the installation of fire-proof self-closing doors from dwelling units into common areas of the building; (2) the installation of two (2) layers of fire-retardant gypsum board on the walls of the egress stairwell and halls within the building; (3) the installation of two (2) layers of fire-retardant gypsum board in the entrance hall and corridor of the building; (4) the installation of two (2) layers of fire-retardant gypsum board on the ceiling of the building cellar; (5) the

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replacement of the existing cellar stair with a fire-retardant stair; (6) the cladding of the main stairwell in the building with fire-retardant treads and risers and the placement of two (2) layers of fire-retardant gypsum board underneath such stairs; (7) the sprinklering of the entire building, including the egress stairwell, public halls, and all residential units therein; (8) the installation of hard-wired smoke detectors in all residential units in the building; (9) the installation of non-combustible floors in the common areas of the building; and (10) extension of the front and rear fire escapes to the 6th floor and roof of the subject building (collectively, the "Fire Safety Upgrades"); and

WHEREAS, based on the foregoing, the Board finds that the proposed modifications to the subject building and MDL waivers will maintain the spirit and intent of the MDL, preserve public health, safety and welfare, and ensure that substantial justice is done; and

WHEREAS, accordingly, the Board finds that the applicant has submitted adequate evidence in support of the findings required to be made under MDL § 310(2)(a) and that the requested waivers of the above-stated MDL requirements are appropriate, subject to the conditions set forth below; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement ("EAS") CEQR No. 14-BSA-037M, dated 12-31-2013; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a negative declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21, and grants a variance to permit, in an R7B zoning district, the legalization of a residential building (Use Group 2) that does not comply with the regulations regarding maximum FAR, contrary to ZR § 23-145 and under the common law doctrine of good-faith reliance; further, the Board finds that the Applicant has submitted adequate evidence in support of the findings required to be

made under MDL § 310(2)(a) such that the requested variance of the requirements of MDL §§ 211.1, 102.1, 52.3, 150.2, 148, 149.2, and 143 are appropriate; all of the foregoing *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 18, 2015" – Eleven (11) sheets; and *on further condition*:

THAT the following are the bulk parameters of the building: six stories, a maximum building height of 60'-0" (exclusive of bulkheads and permitted obstructions), and a maximum floor area of 8,675 sq. ft. (3.56 FAR), as indicated on the BSA-approved plans;

THAT all of the Fire Safety Upgrades shall be performed and maintained as indicated on the BSA-approved plans;

THAT a Certificate of Occupancy will be obtained by January 1, 2017;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 18, 2015.

91-15-A

APPLICANT – Edward Lauria, for Gerard Petri, owner.

SUBJECT – Application April 23, 2015 – Proposed construction of building that does not front on a legally mapped street, pursuant Article 3 Section 36 of the General City Law. M1-1 zoning district.

PREMISES AFFECTED – 55 Englewood Avenue, 593.35' east of Arthur Kill Road, Block 07380, Lot 0029, Borough of Staten Island

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB") dated April 10, 2015 acting on DOB Application No. 520231614, reads in pertinent part:

The street giving access to the proposed building is not duly placed the official map of the City of New York, therefore,

A) No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 of the General City Law;

B) Proposed construction does not have at least 8% of the total perimeter of building(s) fronting

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directly upon a legally mapped street or frontage space contrary to section 501.3.1 of the 2014 Building Code; and

WHEREAS, this is an application to allow the construction of a single-story commercial building which does not front on a mapped street, contrary to General City Law (“GCL”) § 36; and

WHEREAS, a public hearing was held on this application on August 25, 2015, after due notice by publication in *The City Record*, continued hearing, and then to decision on September 18, 2015; and

WHEREAS, Commissioner Montanez performed an inspection of the subject site and neighborhood; and

WHEREAS, Community Board 3, Staten Island, recommended approval of this application; and

WHEREAS, the subject site contains approximately 26,280 sq. ft. of lot area, with approximately 105 feet of frontage along the north side of Englewood Avenue, a paved 25 foot wide street of record which opens westerly to Arthur Kill Road; the site is located east of Cosmen Street and West of Goethals Avenue, within an M1-1 zoning district, within the Special South Richmond Development District; and

WHEREAS, the applicant proposes to construct a single-story, with mezzanines, concrete block with metal wall and roof commercial building with 12,120 sq. ft. of floor area (including mezzanines), consisting of nine bays; and

WHEREAS, by letter dated August 18, 2015, the Fire Department states that it has no objection to the proposal under the following conditions: (1) that the proposed building is fully sprinklered; (2) that no parking signs shall be posed along the roadway in accordance with NYC Fire Code Chapter (5 FC503.2.7.2); and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant approval of the application subject to certain conditions set forth herein.

Therefore it is Resolved, that the decision of the DOB, dated April 10, 2015, acting on DOB Application No. 520231614, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received August 21, 2015”- (1) sheet; and *on further condition*:

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

THAT the proposal will comply with all applicable zoning district requirements;

THAT the building shall be fully sprinklered in conformity with the sprinkler provisions found in the New York City Fire Code and the New York City Building Code;

THAT no parking signs shall be posed along the roadway in accordance with NYC Fire Code Chapter (5 FC503.2.7.2);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its

jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals September 18, 2015.

113-15-A

APPLICANT – Goldman Harris, LLC., for Lightstone Acquisitions X, LLC., owner.

SUBJECT – Application May 26, 2015 – Proposed construction of a building located partially within the bed of mapped unbuilt street, pursuant Article 3 Section 35 of the General City Law. C6-4 zoning district.

PREMISES AFFECTED – 90 & 94 Fulton Street, corner of Fulton and Gold Streets, with a through lot portion from Gold Street to William Street, Block 00077, Lot(s) 21 & 22, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 6, 2015, acting on DOB Application No. 121192903, reads in pertinent part:

1. 91-31 Setback Regulations for Special Lower Manhattan District: For “Type 3” as defined on Map 2 in Appendix A, *street walls*, the required setbacks shall be measures from a line drawn at or parallel to the *street line* so that as least 70 percent of the *aggregate width of street walls* of the *building* at the minimum base height are within such line and the *street line* (Street widening line).
2. GCL 35 Proposed development which rests partially within the bed of the mapped street is contrary to GCL 35 and therefore must be referred to NYC BSA for approval with any related bulk waivers pursuant to ZR 72-01(g); and

WHEREAS, a public hearing was held on this application on September 18, 2015, after due notice by publication in *The City Record*, hearing closed and then to decision on September 18, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

WHEREAS, this is an application to allow the construction of a 54-story mixed-use building (the “Building”) on lot 15 of block 77, in Manhattan, which, the applicant represents, consists of former lots 15, 21, 22, and 23, all of which have been merged into the existing lot 15 to facilitate the proposed development; and

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WHEREAS, the Building will be partially located within the widening line of Fulton Street; and

WHEREAS, the subject site is located in a C6-4 zoning district, and also within the Special Lower Manhattan District;

WHEREAS, the site has approximately 70.5 feet of frontage along Fulton Street, with approximately 21 percent of the proposed building footprint to be located within the widening area of Fulton Street; and

WHEREAS, by letter dated August 31, 2015, the Fire Department states that it has reviewed the proposal and does not have any objections; and

WHEREAS, by letter dated August 31, 2015, the Department of Environmental Protection (“DEP”) states that: (1) there is an existing 3’-6” x 2’-4” combined sewer in the bed of Fulton Street between William Street and Gold Street; and (2) there are existing 24” diameter, 20” diameter, and 12” diameter water mains in the bed of Fulton Street at the site; and

WHEREAS, DEP further states in its August 31, 2015, letter, that it has no objections to the proposed application; and

WHEREAS, by letter dated August 27, 2015, the Department of Transportation (“DOT”) states that: (1) according to the Manhattan Borough President’s Topographical Bureau, Fulton Street from William Street to Gold Street is mapped at a 90’-0” width on the Final City Map; (2) the City does not have title to the southerly portion within Block 77; (3) the improvement of Fulton Street at this location is not presently included in DOT’s Capital Improvement Program; and

WHEREAS, DOT further notes that the applicant should provide adequate sidewalks that are aligned with the surrounding properties; and

WHEREAS, the Board notes that pursuant to GCL Section 35, it may authorize construction within the bed of the mapped street subject to reasonable requirements; and

WHEREAS, the Board notes that pursuant to ZR § 72-01(g), the Board may waive bulk regulations where construction is proposed in part within the bed of a mapped street; such bulk waivers will be only as necessary to address non-compliances resulting from the location of construction within and outside of the mapped street, and the zoning lot will comply to the maximum extent feasible with all applicable zoning regulations as if the street were not mapped; and

WHEREAS, in particular, the Board notes that, if the built width of Fulton Street (rather than its wider, mapped width) were used to measure the setbacks required under ZR § 91-32, such setbacks would comply; and

WHEREAS, therefore, consistent with GCL § 35 and ZR § 72-01(g), the Board finds that applying the bulk regulations across the portion of the subject lot within the mapped street and the portion of the subject lot outside the mapped street as if the lot were unencumbered by a mapped street is both reasonable and necessary to allow the proposed construction; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the Board modifies the

decision of the DOB, dated May 6, 2015, acting on DOB Application No. 121192903, by the power vested in it by Section 35 of the General City Law, and also waives the bulk regulations associated with the presence of the mapped but unbuilt street pursuant to Section 72-01(g) of the Zoning Resolution to grant this appeal, limited to the decision noted above *on condition* that construction will substantially conform to the drawing filed with the application marked “Received September 18, 2015”- (1) sheet; and *on further condition*:

THAT DOB will review and approve plans associated with the Board’s approval for compliance with the underlying zoning regulations as if the unbuilt portion of the street were not mapped;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on September 18, 2015.

ZONING CALENDAR

156-14-BZ

APPLICANT – Lewis E. Garfinkel, for Harold Feder, owner.

SUBJECT – Application July 3, 2014 – Special Permit (§73-621) for the enlargement of an existing single family home contrary to floor area, lot coverage and open space (ZR 23-141(b)). R4 zoning district.

PREMISES AFFECTED – 1245 East 32nd Street, east side of East 32nd Street 350’, Block 07650, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated July 1, 2014, acting on DOB Application No. 320595049, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141(b) in that the proposed floor area ratio exceeds .75; and

WHEREAS, this is an application under ZR §§ 73-621

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and 73-03, to permit, within an R4 zoning district the proposed enlargement of a single-family dwelling which does not comply with the zoning requirements for floor area ratio contrary to ZR § 23-141(b); and

WHEREAS, a public hearing was held on this application on August 18, 2015 after due notice by publication in *The City Record*, and then to decision on September 18, 2015; and

WHEREAS, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 18, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site has 30 feet of frontage along the east side of East 32nd Street, between Avenue L and Avenue M, within an R4 zoning district, in Brooklyn; and

WHEREAS, the site contains approximately 3,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story single-family dwelling which contains approximately 1,585.77 sq. ft. of floor area (.53 FAR); and

WHEREAS, the applicant proposes to enlarge the first and second floors of the subject building, and add an attic, so that the floor area will increase to 2,963 sq. ft. (.99 FAR); and

WHEREAS, the special permit authorized by ZR § 73-621 is available to enlarge buildings containing residential uses that existed on December 15, 1961, or, in certain districts, on June 20, 1989; therefore, as a threshold matter, the applicant must establish that the subject building existed as of that date; and

WHEREAS, the applicant submitted recorded deeds to establish that the subject premises existed before the relevant dates; and

WHEREAS, accordingly, the Board acknowledges that the special permit under ZR § 73-621 is available to enlarge the building; and

WHEREAS, ZR § 73-621 permits the enlargement of a building containing a residential use provided that the proposed floor area ratio does not exceed 110 percent of the maximum permitted; and

WHEREAS, the Board notes that ZR § 73-621 also permits, in the subject zoning district, the additional floor permitted under that provision to be computed using a base floor area ratios including the floor area permitted under a sloping roof with a structural headroom between five and eight feet when such space is provided in the building; and

WHEREAS, as to the floor area ratio, the Board finds that the proposed floor area does not exceed 110 percent of the maximum permitted; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 73-621; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding

area; and

WHEREAS, the Board finds that the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-621 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-621 and 73-03, to permit, within an R4 zoning district, the proposed enlargement of a single-family dwelling which does not comply with the zoning requirements for floor area ratio contrary to ZR § 23-141(b); *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “March 19, 2015”-(11) sheets and “June 3, 2015”-(1) sheet; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 2,963 sq. ft. (.99 FAR), as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only;

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

THAT substantial construction be completed in accordance with ZR § 73-70; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 18, 2015.

243-14-BZ

CEQR #15-BSA-081R

APPLICANT – Eric Palatnik, PC, for Victorystar, LTD, owner.

SUBJECT – Application October 9, 2014 – Special Permit (§73-243) to permit the legalization and continued use of an existing eating and drinking establishment (UG 6) with an accessory drive-through. C1-2/R3X zoning district.

PREMISES AFFECTED – 1660 Richmond Avenue, Richmond Avenue between Victory Boulevard and Merrill Avenue. Block 02236, Lot 133. Borough of Staten Island.

COMMUNITY BOARD #2SI

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ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated September 14, 2014, acting on DOB Application No. 520204207, reads:

An eating and drinking establishment (Use Group 6) located in a C1-2 zoning district with an accessory drive through facility is contrary to section 32-15 of the NYC Zoning Resolution Provide updated Board of Standards and Appeals approval pursuant to sections 32-31 and 73-243 of the NYC Zoning Resolution; and

WHEREAS, this is an application under ZR §§ 73-243 and 73-03, to legalize, on a site within an R3X (C1-2) zoning district, the operation of an existing accessory drive-through facility operating in conjunction with an eating and drinking establishment (Use Group 6), contrary to ZR § 32-15; and

WHEREAS, a public hearing was held on this application on June 16, 2015, with a continued hearing on August 18, 2015, and then to decision on September 18, 2015; and

WHEREAS, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 2, Staten Island, recommends that the Board approve this application; and

WHEREAS, the subject site located on the west side of Richmond Avenue, between Merrill Avenue and Victory Boulevard, an R3X (C1-2) zoning district, in Staten Island; and

WHEREAS, the site has approximately 102 feet of frontage along Richmond Avenue, and approximately 18,455 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story eating and drinking establishment (Use Group 6, operated as a McDonald’s franchise) with approximately 4,106 sq. ft. of floor area, an accessory drive-through, and 15 on-site accessory parking spaces; and

WHEREAS, the existing accessory drive-through was added to the eating and drinking pursuant to a special permit issued by the Board under BSA Cal. No. 775-89-BZ, the term of which expired on June 11, 1996; and

WHEREAS, because the previously-issued special permit is expired, the instant application seeks a new special permit, as per §1-07.3(b)(4)) of the Board’s Rules of Practice and Procedure; and

WHEREAS, under ZR § 73-243, the applicant must demonstrate that: (1) the drive-through facility provides reservoir space for not less than ten automobiles; (2) the drive-through facility will cause minimal interference with traffic flow in the immediate vicinity; (3) the eating and drinking establishment with accessory drive-through facility complies with accessory off-street parking regulations; (4) the character

of the commercially-zoned street frontage within 500 feet of the subject site reflects substantial orientation toward the motor vehicle; (5) the drive-through facility will not have an undue adverse impact on residences within the immediate vicinity; and (6) there will be adequate buffering between the drive-through facility and adjacent residential uses; and

WHEREAS, the applicant submitted a site plan indicating that the drive-through facility provides reservoir space for 12 vehicles; and

WHEREAS, the applicant represents that the facility will cause minimal interference with traffic flow in the immediate vicinity of the subject site, and notes that the site is adjacent, on two sides, to the Coral Lanes Shopping Center, and the site is benefitted by an easement that permits egress not only onto Richmond Avenue but also through the shopping center parking lot; and

WHEREAS, the applicant also states that the drive through facility has been maintained at the site for 23 years without causing an adverse impact on the adjoining properties; and

WHEREAS, in addition, the applicant submitted a zoning analysis form reflecting that the facility complies with the accessory off-street parking regulations for the R3X (C1-2) zoning district; there are 15 accessory spaces on the site, one space in excess of the 14 required spaces; and

WHEREAS, the applicant represents that the facility conforms to the character of the commercially zoned street frontage within 500 feet of the subject site, which reflects substantial orientation toward motor vehicles and is predominantly commercial in nature; and

WHEREAS, the applicant represents that the drive-through facility will not have an undue adverse impact on residences within the immediate vicinity of the subject site and states, *inter alia* that the drive through menu board at the site adjusts its volume based on outdoor ambient noise, thus mitigating any adverse impact of the amplification, and that waste removal at the site will occur five times per week and that trash will be enclosed on three sides by a brick wall at least six feet high; and

WHEREAS, accordingly, the applicant represents that the drive-through facility satisfies each of the requirements for a special permit under ZR § 73-243; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-243 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2 and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 15-BSA-081R dated

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October 8, 2014; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-243 and 73-03 to permit, on a site within an R3X (C1-2) zoning district, the operation of an accessory drive-through facility operating in conjunction with an as-of-right eating and drinking establishment (Use Group 6), contrary to ZR §32-15; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 16, 2015"- (5) sheets; and *on further condition*:

THAT the term of this grant will expire on September 18, 2020;

THAT the outdoor menu soundboard utilized by the operator of the subject site will feature automatic sound adjustment to decrease with a reduction in ambient sound;

THAT waste removal at the site will occur five times per week;

THAT parking and queuing space for the drive-through will be provided as indicated on the BSA-approved plans;

THAT all landscaping and/or buffering will be maintained as indicated on the BSA-approved plans;

THAT all signage, including directional signs, will conform to applicable zoning district regulations;

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, September 18, 2015.

258-14-BZ

CEQR #15-BSA-088K

APPLICANT – Sheldon Lobel, P.C., for Henry Atlantic Partners LLC, owner.

SUBJECT – Application October 16, 2014 – Variance (§72-21) to permit the construction of a 4-story mixed-use building of an existing with commercial use on the first floor in a (R6) zoning district located in Cobble Hill Historic District.

PREMISES AFFECTED – 112 Atlantic Avenue, southeast corner of the intersection formed by Atlantic Avenue and Henry Street, Block 285, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated October 9, 2014, acting on DOB Application No. 320626505, reads, in pertinent part:

ZR 22-12: The proposed commercial use is not permitted in the residence district; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R6 zoning district, within a Limited Height District, within the Cobble Hill Historic District, commercial use on the first floor of a proposed four-story, mixed-use building, contrary to ZR § 22-00; and

WHEREAS, a public hearing was held on this application on April 21, 2015, after due notice by publication in the *City Record*, with continued hearings on June 23, 2015 and September 1, 2015, and then to decision on September 18, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 6, Brooklyn, recommends approval of this application; and

WHEREAS, the site is located on the southeast corner of the intersection at Atlantic Avenue and Henry Street, within an R6 zoning district, within a Limited Height District, within the Cobble Hill Historic District; and

WHEREAS, the site has 97 feet of frontage along Atlantic Avenue and 80 feet of frontage along Henry Street, and approximately 7,785 sq. ft. in lot area; and

WHEREAS, the site is occupied by a one-story Use Group ("UG") 16 gasoline service station and repair shop (a use which is permitted pursuant to a pre-1961 variance), which contains approximately 1,590 sq. ft. of floor area, a pump island, an auto repair shop with three service bays, and four petroleum storage tanks; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 22, 1960 when, under BSA Cal. No. 741-59-BZ, the Board granted a variance to permit the construction and maintenance of a gasoline service station, lubritorium, minor auto repairs, car wash, office, sales and

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storage and parking of motor vehicles for a term of 15 years; and

WHEREAS, the grant under BSA Cal. No. 741-59-BZ was amended, and the term was extended at various times; and

WHEREAS, On February 8, 2000, under BSA Cal. No. 195-99-BZ, the Board granted an application under ZR § 11-411 to re-establish the expired variance granted under BSA Cal. No. 741-59-BZ, and on January 12, 2010, extended the term of the variance granted under BSA Cal. No. 195-99-BZ for a period of ten years, to expire on November 10, 2019; and

WHEREAS, the applicant proposes to demolish the existing service station and repair shop and construct a four-story, mixed-use building, with approximately 6,000 sq. ft. of ground floor retail floor area with 2,100 sq. ft. of accessory floor space in the cellar, and approximately 16,500 sq. ft. of residential floor area; and

WHEREAS, because the proposed retail space is not permitted in the subject R6 zoning district, the applicant seeks a use variance; and

WHEREAS, the applicant states that, per ZR § 72-21(a), the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in conformance with underlying district regulations: (1) environmental contamination resulting from the longstanding operation of a gasoline service station and automotive repair shop which results in excessive premium construction costs; (2) the absence of the commercial overlay which characterizes frontage along the major avenue on which the site is located, which puts the property at a relative disadvantage to other properties in the surrounding area; and (3) the site's dramatically underbuilt status, which puts it at a disadvantage relative to the other overbuilt and non-complying buildings in its immediate vicinity; and

WHEREAS, as to the environmental contamination at the site, the applicant states that its consultants undertook soil borings which revealed extensive gasoline related constituents in the vicinity of the trench drain at the western edge of the site, and notes that its consultants were unable to take borings east of this point because of additional subsurface storage tanks likely to have further contaminated the site; and

WHEREAS, the applicant states that in addition to elevated levels of VOCs and solvents, all of which must be removed from the site but which are likely attributed to the character of the fill present on the site, lead was identified in the soil at the site at significantly elevated levels sufficient to constitute a hazardous waste, which is not characteristic of typical fill; and

WHEREAS, the applicant states that in addition to the lead-based hazardous waste at the site, excessive levels of Tetrachloroethene, or "Perc," were identified at the site; and

WHEREAS, the applicant notes that Atlantic Avenue is, in the area surrounding the site, benefitted by a commercial overlay, but that the site is located on one of two blocks on the south side of the street which is not within such commercial overlay and, therefore, the site is uniquely burdened, relative to the surrounding area, in that the ground floor retail which characterizes the neighborhood is not permitted as-of-right; and

WHEREAS, the applicant argues that the prohibition on a retail use at the site amidst blocks of frontage characterized by such use on the ground floor, contributes to the site's economic hardship, as the site is located within a neighborhood that is commercial in nature, but unable to benefit from commercial rent; and

WHEREAS, lastly, the applicant argues that the site is dramatically underbuilt, with an FAR of .2, and is the second most underbuilt property within 600 feet of the site (the first being an accessory parking garage adjacent to a larger property which is in common ownership with the underbuilt garage); and

WHEREAS, the applicant submits that the fact that the site is dramatically underbuilt, relatively disadvantaged in that it was excluded from the commercial overlay which characterizes Atlantic Avenue, and severely contaminated, in the aggregate, constitute a hardship; and

WHEREAS, the Board agrees that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that, per ZR § 72-21(b), there is no reasonable possibility that the development of the site in conformance with the Zoning Resolution will bring a reasonable return; and

WHEREAS, the applicant provided a financial analysis for (1) a four-story plus cellar residential building with the maximum allowable residential zoning floor area and 10 cellar-level parking spaces with an automated parking system (the "As-of-Right Residential Plan"); (2) a five-story plus cellar mixed-use building with a two-story community facility (ambulatory diagnostic care) base and three upper residential floors (the "As-of-Right Community Facility Plan") and (3) the proposal; and

WHEREAS, the applicant represents that only the proposal would provide a reasonable return; and

WHEREAS, specifically, the applicant argues that with respect to the As-of-Right Residential Plan, the parking income along with potential residential condominium sales is not sufficient to produce an economically viable project because ground floor residential use is an anomaly along the Atlantic Avenue frontage and it presents a discounted valuation when located on the first floor of the busy commercial thoroughfare; and

WHEREAS, the applicant further argues that such discounted residential ground floor exacerbates the economic harm caused by the site's environmental conditions, making a reasonable return unrealistic; and

WHEREAS, the applicant also argues that the As-of-Right Community Facility Plan is inappropriate in this location; and

WHEREAS, specifically, the applicant represents that: (1) the former locally-oriented medical facility known as Long Island College Hospital recently closed, dramatically reducing demand for nearby spin-off medical space; (2) given the Long Island College Hospital closure there is a lower absorption rate for newly constructed medical

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facilities in the neighborhood; (3) rents for community facility are much lower than retail rents and therefore do not sustain the proposed new construction; (4) designing two floors of community facility space within the proposed building, which is subject to a 50-foot height limit, reduces ceiling heights throughout the residential portion of the building, thereby significantly reducing the economic return from the sale of the residential units therein; (5) the two-floor community facility use creates the need for dual and separate cores, creating space and cost inefficiencies; and (6) if the community facility tenant at the site used it as an urgent care facility, such use would have a significant detrimental impact on the value of the residential units on the upper floors of the proposed building; and

WHEREAS, based upon its review of the applicant's submissions, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the site is located on the southeast corner lot of Atlantic Avenue and Henry Street, an area with a historic character defined by brownstone buildings and its mixed-use character; the lack of curb cuts along Atlantic Avenue makes it a pedestrian-friendly neighborhood and the proliferation of ground-floor retail and eating and drinking establishments greatly enhance the neighborhood's appeal; and

WHEREAS, the applicant also notes that the existing gasoline service station and repair shop is out of character with the neighborhood and that its location on a corner lot makes it a danger to pedestrians in that approximately 75% of the site's sidewalk frontage – all corner – is interrupted by three curb cuts;

WHEREAS, the applicant also argues that replacing the legal non-conforming gasoline service station with a residential and commercial mixed-use building would bring the site into greater compliance with the applicable zoning regulations; and

WHEREAS, on December 16, 2014, the New York City Landmarks Preservation Commission (the "LPC") issued Certificate of Appropriateness No. 16-6016 (expires December 16, 2020) for the proposed building; and

WHEREAS, the Certificate of Appropriateness states that:

[w]ith regard to this proposal, the Commission found that the existing gas station is not a building for which the Cobble Hill Historic District was designated and its demolition will not diminish the special architectural or historic character of the historic district; that the facades of the proposed new building will maintain the

street wall and are in keeping with the scale of buildings found in this district and on this block; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the applicant represents that the proposal represents the minimum variance needed to allow for a reasonable and productive use of the site, and notes that no changes to the bulk of the building are proposed; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 15-BSA-088K, dated February 16, 2015; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the New York City Department of Environmental Protection's (DEP) Bureau of Environmental Planning and Analysis reviewed the project for potential hazardous materials; and

WHEREAS, DEP reviewed and accepted the June 2015 Remedial Action Plan and Construction Health and Safety Plan; and

WHEREAS, DEP requested that a Remedial Closure Report be submitted to DEP for review and approval upon completion of the proposed project;

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type I Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of

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1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, within an R6 zoning district, within a Limited Height District, within the Cobble Hill Historic District, commercial use on the first floor of a proposed four-story, mixed-use building with accessory floor space in the cellar, contrary to ZR § 22-00, *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received July 30, 2015”- twelve (12) sheets; and *on further condition*:

THAT substantial construction will be completed in accordance with ZR § 72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT all construction shall be in conformance with the LPC Certificate of Appropriateness No. 16-0016, dated December 16, 2014;

THAT DOB will not issue a Certificate of Occupancy until the applicant has provided DOB with DEP’s approval of the Remedial Closure Report;

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 18, 2015.

19-15-BZ

CEQR #15-BSA-149Q

APPLICANT – Herrick, Feinstein LLP, for Andon Investment LP, owner; Retro Fitness of NY LLC, lessee.

SUBJECT – Application January 29, 2015 – Special Permit (73-36) to permit a physical culture establishment (*Retro Fitness*) to be located at second-story level (plus entrance at ground-floor level) of a new two-story building. R7-1/C2-2 zoning district.

PREMISES AFFECTED – 92-77 Queens Boulevard, Through-block site with frontage on Queens Boulevard and 93 Street, between 62 Avenue and Harding Expressway, Block 02075, Lot 39, Borough of Queens.

COMMUNITY BOARD #6Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated January 5, 2015, acting on DOB Application No. 42094484, reads, in pertinent part:

Physical Culture Establishment not permitted as of right in C2-2 district without a special permit by

board of standards and appeals; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an R7-1(C2-2) zoning district, a physical culture establishment (the “PCE”) on the first and second floor of a four-story, with cellar, mixed-use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on August 25, 2015 after due notice by publication in the *City Record*, and then to decision on September 18, 2015; and

WHEREAS, Vice-Chair Hinkson performed an inspection of the site and surrounding neighborhood; and

WHEREAS, Community Board 6, Queens, recommends approval of this application; and

WHEREAS, the subject site is located on a through lot with approximately 105 feet of frontage along Queens Boulevard and 100 feet of frontage along 93rd Street, between 62nd Avenue and the Long Island Expressway, in Queens; and

WHEREAS, the site contains approximately 20,634 sq. ft. of lot area and is located within an R7-1(C2-2) zoning district, the subject building is currently under construction and, when completed, it will be a four-story, with cellar, building containing approximately 41,208 sq. ft. of floor area, with commercial retail use on the ground floor and transient hotel use on the third and fourth floors; and

WHEREAS, the new building will contain a total of 84 accessory parking spaces, which is in excess of the 50 accessory parking required by the PCE; and

WHEREAS, the PCE will occupy approximately 780 sq. ft. of floor area on the ground floor and the entire second floor of the building (14,348.42 sq. ft.), for a total of 15,128.42 sq. ft. of floor area; and

WHEREAS, the PCE will operate as Retro Fitness; and

WHEREAS, the hours of operation for the PCE will be Monday through Friday, from 5:00 a.m. to 11:00 p.m.; Saturday and Sunday, from 5:00 a.m. to 7:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

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WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-149Q, dated January 29, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site within an R7-1(C2-2) zoning district, a physical culture establishment (the "PCE") on the first and second floor of a four-story, with cellar, mixed-use building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received September 3, 2015," - Four (4) sheets and "Received September 17, 2015," - Two (2) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on September 18, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT fire safety measures shall be installed and/or maintained as shown on the BSA-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by September 18, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 18, 2015.

29-15-BZ

CEQR #15-BSA-157M

APPLICANT – Law Office of Stuart Klein, for 3rd and 60th Associates, LP, owner; Flywheel Sport, Inc., lessee.

SUBJECT – Application February 18, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Flywheel Sports*) at the cellar level of an existing building. C6-4 zoning district.

PREMISES AFFECTED – 200-204 East 61st Street aka 1011-102 3rd Avenue, east side of 3rd Avenue between East

60th and East 61st Street, Block 01415, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application granted.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated January 21, 2015, acting on DOB Application No. 122167939, reads, in pertinent part:

ZR32-31/ZR73-36 The proposed Physical Culture Establishment in zoning district C1-9 or R8B is not a permitted use as of right. A special permit is required from the Board of Standards and Appeals as per the cited zoning sections of the Zoning Resolution.

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site partially within a C1-9 zoning district, and partially within an R8B zoning district, a physical culture establishment (the "PCE") which operates in the sub-cellar of a 42-story mixed-use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on August 25, 2015, after due notice by publication in the *City Record*, and then to decision on September 18, 2015; and

WHEREAS, Community Board 8, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of Third Avenue, between East 60th Street and East 61st Street, in Manhattan; and

WHEREAS, the site contains approximately 19,983 sq. ft. of lot area and is located partially within a C1-9 zoning district, and partially within an R8B zoning district, the building occupying the site is a 42-story mixed-use building with commercial uses in the sub-cellar, cellar, and ground floor, with residential uses above; and

WHEREAS, the PCE occupies approximately 182 sq. ft. of floor area on the ground floor of the building and approximately 3,898 sq. ft. of floor space in a portion of the building's sub-cellar;

WHEREAS, the PCE operates as Flywheel Sports Inc. d/b/a Flywheel; and

WHEREAS, the PCE operates seven days a week, from 5:30 a.m. to 9:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, because the subject application is for a legalization, the Board asked the applicant to confirm that it has installed and received sign-off for the sprinkler system

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and has filed a permit for the installation of a fire alarm system within the PCE space; and

WHEREAS, the applicant states that it has installed and received sign-off for the sprinkler system, and has submitted proof thereof to the Board; the applicant states further that it has installed the fire alarm system and provided the Board with photographs of the installed system at the subject premises; and

WHEREAS, in light of the foregoing, the Fire Department states that it has no objection to the proposal; and

WHEREAS, at hearing, the Board inquired as to sound attenuation at the PCE; and

WHEREAS, the applicant states that the PCE space is above the building's parking garage and that the space above the PCE space is occupied by a portion of the ground floor restaurant and the building's courtyard; and

WHEREAS, the applicant provided the Board with evidence of the sound attenuation measures in place at the PCE premises, including information related to the platforms on which the spin studio bicycles sit, which include neoprene isolation pads and kinetic isolator bushing assemblies; and

WHEREAS, the Board asked for clarification of the second means of egress from the PCE space; and

WHEREAS, in response, the applicant submitted an amended existing/proposed conditions plan showing the emergency door at the sub-cellar which leads to a staircase that allows for access to the street; and

WHEREAS, the applicant states that the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-157M, dated February 17, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes

each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site partially within a C1-9 zoning district, and partially within an R8B zoning district, a physical culture establishment (the "PCE") which operates in the sub-cellar of a 42-story mixed-use building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received September 3, 2015," - Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on January 1, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT fire safety measures shall be installed and/or maintained as shown on the BSA-approved plans;

THAT sound attenuation measure shall be implemented and/or maintained as shown on the BSA-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by September 18, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 18, 2015.

40-15-BZ

CEQR #15-BSA-165M

APPLICANT – Francis R. Angelino, Esq., for 465 Lexington Avenue, LLC., owner; 8 Fit Strategies, LLC, lessee.

SUBJECT – Application March 3, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment within portions of an existing building. C5-3 zoning district. Companion case 41-15-BZ

PREMISES AFFECTED – 465 Lexington Avenue, east side between East 46th and 47th Streets, Block 01300, Lot 0020, Borough of Manhattan.

COMMUNITY BOARD #6M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

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Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated February 3, 2015, acting on DOB Application No. 122240146, reads, in pertinent part:

ZR32-31/ZR73-36 The proposed Physical Culture Establishment in zoning districts C5-3 and C5-2.5 is not a permitted use as of right. A special permit is required from the Board of Standards and Appeals as per the cited zoning sections of the Zoning Resolution.

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site partially within a C5-3 zoning district, and partially within a C5-2.5 zoning district, in the Special Midtown District, a physical culture establishment (the “PCE”) which operates in portions of two buildings in Manhattan, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on September 1, 2015, after due notice by publication in the *City Record*, and then to decision on September 18, 2015; and

WHEREAS, Community Board 6, Manhattan, has no objection to the application; and

WHEREAS, the subject site is located on the east side of Lexington Avenue, between East 46th Street and East 45th Street, in Manhattan; and

WHEREAS, the site contains approximately 4,042 sq. ft. of lot area and is located within a C5-3 zoning district, the building occupying the site is a 5-story with cellar mixed-use building; and

WHEREAS, the subject PCE will occupy a portion of the cellar, first floor and second floor of the building known as and located at 465 Lexington Avenue (“465 Lexington Avenue”), and will also occupy a portion of the cellar of the adjacent 11 story with cellar mixed-use building, known as and located at 140 East 46th Street (block 1300, lot 50) (“140 East 46th Street”); and

WHEREAS, the cellars of the two buildings occupied by the subject PCE are interconnected, thus, the PCE will occupy a total of 11,477 sq. ft. of floor space, consisting of 3,669 sq. ft. of floor space in the cellar of 465 Lexington Avenue, 948 sq. ft. of floor area on the first floor of 465 Lexington Avenue, 2,371 sq. ft. of floor area on the second floor of 465 Lexington Avenue, and 4,489 sq. ft. of floor space in the cellar of 140 East 46th Street; and

WHEREAS, because the PCE will occupy two buildings, on two zoning lots, DOB has issued separate objections for each building, thus, the applicant has filed two applications with the Board; a companion to the instant application, for that portion of the PCE which is located at 140 East 46th Street, has been filed under BSA Cal. No. 41-15-BZ, and is granted herewith; and

WHEREAS, the PCE shall operate as B Fit Strategies LLC (“B Fit”), d/b/a Brick; and

WHEREAS, the PCE operates Monday through

Friday, from 5:15 a.m. to 9:00 p.m., and on weekends from 7:30 a.m. to 4:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-165M, dated March 3, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site partially within a C5-3 zoning district, and partially within a C5-2.5 zoning district, in the Special Midtown District, a physical culture establishment (the “PCE”) which will operate in portions of two buildings in Manhattan, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received September 16, 2015”– Two (2) sheets and “Received September 9, 2015”– Eight (8) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on September 18, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT fire safety measures shall be installed and/or maintained as shown on the BSA-approved plans;

THAT sound attenuation measure shall be implemented and/or maintained as shown on the BSA-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed

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in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by September 18, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 18, 2015.

41-15-BZ

CEQR #15-BSA-166M

APPLICANT – Francis R. Angelino, Esq., for 140 East 46th Street, LLC., owner; 8 Fit Strategies, LLC, lessee.

SUBJECT – Application March 3, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment within portions of an existing building. C5-3 & C5-2.5 zoning district. Companion case 40-15-BZ

PREMISES AFFECTED – 140 East 46th Street, south east corner of East 47th Street and Lexington Avenue, Block 01300, Lot 0050, Borough of Manhattan.

COMMUNITY BOARD #6M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated February 3, 2015, acting on DOB Application No. 122240146, reads, in pertinent part:

ZR32-31/ZR73-36 The proposed Physical Culture Establishment in zoning districts C5-3 and C5-2.5 is not a permitted use as of right. A special permit is required from the Board of Standards and Appeals as per the cited zoning sections of the Zoning Resolution.

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site partially within a C5-3 zoning district, and partially within a C5-2.5 zoning district, in the Special Midtown District, a physical culture establishment (the “PCE”) which operates in portions of two buildings in Manhattan, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on September 1, 2015, after due notice by publication in the *City Record*, and then to decision on

September 18, 2015; and

WHEREAS, Community Board 6, Manhattan, has no objection to the application; and

WHEREAS, the subject site is a corner lot located on the southeast corner of the intersection of Lexington Avenue and East 46th Street, in Manhattan; and

WHEREAS, the site contains approximately 15,063 sq. ft. of lot area and is located partially within a C5-3 zoning district, and partially within a C5-2.5 zoning district, the building occupying the site is an 11 story with cellar mixed-use building; and

WHEREAS, the subject PCE will occupy a portion of the cellar of the subject building, known as and located at 140 East 46th Street (“140 East 46th Street”), and will also occupy a portion of the cellar, first floor and second floor of the adjacent building, which is known as and located at 465 Lexington Avenue (block 1300, lot 20) (“465 Lexington Avenue”); and

WHEREAS, the cellars of the two buildings occupied by the subject PCE are interconnected, thus, the PCE will occupy a total of 11,477 sq. ft. of floor space, consisting of 3,669 sq. ft. of floor space in the cellar of 465 Lexington Avenue, 948 sq. ft. of floor area on the first floor of 465 Lexington Avenue, 2,371 sq. ft. of floor area on the second floor of 465 Lexington Avenue, and 4,489 sq. ft. of floor space in the cellar of 140 East 46th Street; and

WHEREAS, because the PCE will occupy two buildings, on two zoning lots, DOB has issued separate objections for each building, thus, the applicant has filed two applications with the Board; a companion to the instant application, for that portion of the PCE which is located at 465 Lexington Avenue, has been filed under BSA Cal. No. 40-15-BZ, and is granted herewith; and

WHEREAS, the PCE shall operate as B Fit Strategies LLC (“B Fit”), d/b/a Brick; and

WHEREAS, the PCE operates Monday through Friday, from 5:15 a.m. to 9:00 p.m., and on weekends from 7:30 a.m. to 4:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings

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pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No.15-BSA-166M, dated March 3, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site partially within a C5-3 zoning district, and partially within a C5-2.5 zoning district, in the Special Midtown District, a physical culture establishment (the "PCE") which will operate in portions of two buildings in Manhattan, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received September 16, 2015" – Two (2) sheets and "Received September 9, 2015" – Eight (8) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on September 18, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT fire safety measures shall be installed and/or maintained as shown on the BSA-approved plans;

THAT sound attenuation measure shall be implemented and/or maintained as shown on the BSA-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by September 18, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 18, 2015.

75-15-BZ

APPLICANT – Sheldon Lobel, PC, for TEP Charter School Assistance, Inc., owner.

SUBJECT – Application April 3, 2015 – Variance (§72-21) to permit the construction of a school (UG 3) (*TEP Charter School*) contrary to front setback requirements (§24-522). C1-4/R7-2 zoning district.

PREMISES AFFECTED – 153-157 Sherman Avenue, 100' east of the intersection of Academy Street and Sherman Avenue, Block 02221, Lot 0005, Borough of Manhattan.

COMMUNITY BOARD #12M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated April 1, 2015, acting on Department of Buildings Application No. 122147765, reads in pertinent part:

1. The proposed height and setback for a community facility building located in R7-2 Zoning District with C1-4 overlay is contrary to the maximum height above the street line of 60' and the required setback of 15', as per ZR 24-522 for community facility uses and is referred to BSA; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R7-2 (C1-4) zoning district the construction of a school building which does not comply with the zoning regulations for height and setback, contrary to ZR §24-522; and

WHEREAS, the application is brought on behalf of the TEP Charter School Assistance, Inc. (the "Applicant"), a 501(c)(4) non-profit institution which was established to advance the interests of The Equity Project Charter School (the "School"), a 501(c)(3) non-profit educational institution; and

WHEREAS, the School is a public middle school chartered in 2008 which serves low-income students who reside in Inwood, Washington Heights, and Harlem, 20 percent of whom have been identified by the New York City Department of Education ("DOE") as having special educational needs; and

WHEREAS, the School is currently operating out of 30 temporary trailers, the proposed Use Group 3 school building is intended to be a permanent location for the School; and

WHEREAS, a public hearing was held on this application on August 18, 2015, after due notice by publication in the *City Record*, and then to decision on September 18, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Ottley-Brown performed inspections of the subject site and surrounding neighborhood; and

WHEREAS, Community Board 12, Manhattan,

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recommends approval of this application; and

WHEREAS, the subject site has approximately 75 feet of frontage along the south side of Sherman Avenue, between Academy Street, to the west, and West 204th Street, to the east, in an R7-2 (C1-4) zoning district, in Manhattan; the site has a depth of 160 feet and a total lot area of 12,000 sq. ft.; and

WHEREAS, the site is vacant; and

WHEREAS, the Applicant represents that, due to the presence of groundwater at depths of nine and eleven feet below the surface of the site, as well as other subsurface conditions including rock and contaminated soil (collectively, the "Subsurface Conditions"), excavation at the site has been minimized such that the lowest level of the proposed building is located four feet below street level; and

WHEREAS, the School proposes to build a six-story plus mechanical Use Group 3 school building with a complying floor area of approximately 58,559 sq. ft. (4.9 FAR) and a complying total height of approximately 85'-10"; and

WHEREAS, the proposed building will have the following existing non-compliances: (1) a wall height of approximately 63'-6" (a maximum wall height of 60'-0" is permitted as per ZR § 24-522); and (2) a setback of 10'-0" at the sixth floor (a minimum setback of 15'-0" is required as per ZR § 24-522); and

WHEREAS, because of the aforementioned non-compliances, the School seeks a variance; and

WHEREAS, the Applicant represents that the waivers are sought to enable the School to construct a facility that meets its programmatic needs; and

WHEREAS, the School identifies the following primary programmatic needs: (1) to accommodate its student body, which consist of approximate 480 students in grades five through eight, with each grade consisting of four 30-student classes, and a core curriculum of english, social studies, math, and science; (2) to provide space for daily physical education classes; (3) to facilitate music studies for all of its students; and

WHEREAS, the Applicant represents that School requires that each of the four standard subject classrooms in each grade be adjacent to each other, as well as that fifth and sixth grade students be separated from seventh and eighth grade students to accommodate differing rules that relate to hallways; and

WHEREAS, the Applicant represents that, in order to comply with wall height and setback regulations, a full cellar with a depth of 12'-0" would have to be constructed below the proposed building, but that doing so, in light of the Subsurface Conditions would impose significant premium construction costs; and

WHEREAS, the applicant submitted a boring report and a financial analysis to substantiate its claims that the Subsurface Conditions would impose premium costs on the Applicant and School; and

WHEREAS, the Applicant further represents that an alternative complying design, without the full cellar, cannot accommodate the School's program, specifically, the

required adjacencies and classroom layouts could not be accomplished and the School's music rooms would be located on different floors; and

WHEREAS, the Applicant represents that in order to meet its programmatic needs without imposing premium construction costs, it proposes to locate the building's mechanical systems on top of the building, thereby requiring the requested setback waiver; the Applicant further represents that raising the building to accommodate the Subsurface Conditions requires the wavier of the wall height regulations; and

WHEREAS, the Applicant states that because the School is a non-profit educational institution, the Board must grant it deference and allow it to rely on its programmatic needs to form the basis for its waiver requests; the applicant cites to the decisions of New York State courts in support of its claim that the school warrants deference; and

WHEREAS, the Board acknowledges that the School, as an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in *Cornell Univ. v Bagnardi*, 68 NY2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the School along with the existing constraints of the Site create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the School is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the School represents that, pursuant to ZR § 72-21(c), the variance, if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the Board notes that the a community facility, such as the Use Group 3 school building, is permitted as-of-right in the subject zoning district;

WHEREAS, the Applicant represents that the proposed street wall height is consistent with neighborhood character, which is characterized by five and six story multi-family residential buildings; and

WHEREAS, the Applicant represents further that that the height of the proposed building is consistent with other schools located within 1,000 feet of the subject site; and

WHEREAS, the Applicant states that students of the School will arrive and depart primarily by walking or public

MINUTES

transportation, with only 20 percent of the students utilizing yellow bus to attend the School; and

WHEREAS, the Applicant notes that the proposed building will include sound attenuation measures that comply with the NYC Noise Code (Local Law 113) and include measures for acoustical isolation; specifically, the gym will be enclosed by a minimum one foot thick cavity wall with a Sound Transmission Class (“STC”) rating of approximately STC-60, and that the cafeteria will have a glass wall system with a rating of STC-32; and

WHEREAS, the Applicant notes further that the School’s music rooms will have a room-within-room construction and an exterior wall which together will have a rating of STC-32; and

WHEREAS, the Applicant represents that School’s gym, terrace and roof terrace will be open from 7:00 a.m. through 6:30 p.m., Monday through Friday, and from 9:00 a.m. through 6:30 p.m. on weekends when extracurricular activities are held; and

WHEREAS, the Applicant represents that food will be prepared in the kitchen and served in the cafeteria, and that food and waste refuse will be stored onsite in an indoor refrigerated facility until it is brought to the sidewalk for collection; and

WHEREAS, based upon the above, the Board finds that the subject variance will not alter the essential character of the surrounding neighborhood, impair the appropriate use and development of adjacent property, or be detrimental to the public welfare; and

WHEREAS, the Applicant states that the unnecessary hardship encountered by compliance with the zoning regulations is created by its programmatic needs in connection with the physical constraints of the site; and

WHEREAS, the Applicant concludes, and the Board agrees, that the practical difficulties and unnecessary hardship that necessitate this application have not been created by the Applicant or School, or a predecessor in title; and

WHEREAS, the Applicant states that the requested bulk waivers represent the minimum variance necessary to allow the School to meet its programmatic needs; and

WHEREAS, as discussed, the Applicant analyzed two complying developments, neither of which could accommodate the School’s programmatic needs; and

WHEREAS, the Board therefore finds that the requested waivers represent the minimum variance necessary to allow the School to meet its programmatic needs; and

WHEREAS, accordingly, based upon its review of the record and its site visits, the Board finds that the applicant has provided sufficient evidence to support each of the findings required for the requested variances; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open

Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R7-2 (C1-4) zoning district the construction of a school building which does not comply with the zoning regulations for height and setback, contrary to ZR §24-522; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received September 11, 2015”–(13) sheets; and *on further condition*:

THAT the proposed buildings will have the following parameters: (1) floor area of 58,559 sq. ft.; (2) an FAR of 4.9 FAR, (3) a maximum wall height of 63’-6” and a total height of approximately 85’-10””; and (4) a setback of 10’-0” at the sixth floor, all as depicted on the Board-approved plans;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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

THAT exterior lighting at night shall be limited to that which is necessary to meet egress requirements;

THAT there shall be no rooftop sound amplification;

THAT construction will be substantially completed in accordance with the requirements of ZR § 72-23; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 18, 2015.

MINUTES

60-14-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for Sephardic Congregation of Kew Gardens Hills, owners.

SUBJECT – Application April 11, 2014 – Variance (§72-21) to enlarge a community facility (*Sephardic Congregation*), contrary to floor lot coverage rear yard, height and setback (24-00). R4-1 zoning district.

PREMISES AFFECTED – 141-41 72nd Avenue, 72nd Avenue between Main Street and 141st Street, Block 6620, Lot 41, Borough of Queens.

COMMUNITY BOARD #8Q

ACTION OF THE BOARD – Laid over to October 27, 2015, at 10 A.M., for continued hearing.

61-15-BZ

APPLICANT – Deirdre A. Carson, Esq., for 540 W. 26th St. Property Investors IIA, LLC., owner; Avenue World Holdings LLC., lessee.

SUBJECT – Application March 19, 2015 – Special Permit (§73-19) to permit the operation of a portion of a school known as Avenues (*The School*) Use Group 3A, located in a M1-5 zoning district.

PREMISES AFFECTED – 540 West 26th Street, an interior lot on the south side of West 26th Street, 100’ east of intersection of 11th Avenue and West 26th Street, Block 0697, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for deferred decision.

179-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Lillian Romano and Elliot Romano, owners.

SUBJECT – Application July 29, 2014 – Special Permit (§73-622) for the enlargement and conversion of an existing two family residence to single family residence contrary to the rear yard requirement (ZR 23-47). R5 zoning district.

PREMISES AFFECTED – 1937 East 14th Street, east side of East 14th Street between Avenue S and Avenue T, Block 07293, Lot 74, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to October 27, 2015, at 10 A.M., for continued hearing.

270-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Carnegie Park land Holding LLC c/o Related Cos., owner; Equinox-East 92nd LLC, lessee.

SUBJECT – Application November 3, 2014 – Special Permit 73-36 to allow the physical culture establishment (*Equinox*) within portions of a new mixed use building, located within an C4-6 zoning district.

PREMISES AFFECTED – 203 East 92nd Street, north side of East 92nd Street, 80 ft. east of intersection with 3rd Avenue, Block 01538, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for decision, hearing closed.

SPECIAL HEARING

FRIDAYAFTERNOON, SEPTEMBER 18, 2015

1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

36-15-BZ

CEQR #15-BSA-163K

APPLICANT – Warsaw Burstein, LLP, for CAC Atlantic, LLC, owner; 66 Boerum Place Fitness Group, LLC., lessee.

SUBJECT – Application February 25, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Planet Fitness*) on portions of the cellar, first and second floors of a new building. C6-2A (SDBD) zoning district.

PREMISES AFFECTED – 66 Boerum Place aka 239 Atlantic Avenue, northwest corner of the intersection formed by Atlantic Avenue and Boerum Place, Block 00277, Lot(s) 1 & 10, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated February 5, 2015, acting on DOB Application No. 320728735, reads, in pertinent part:

The proposed Physical Culture Establishment is not permitted as of right in a C6-2A zoning district as per ZR32-10 ...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-2A zoning district, within the Special Downtown Brooklyn District, a physical culture establishment (the “PCE”) on the cellar, first, and second floor of an 11-story mixed use building which is under construction, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on September 18, 2015 after due notice by publication in the *City Record*, and then to decision on the same date; and

WHEREAS, Commissioner Montanez and

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Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 2, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the northwest corner of the intersection formed by Atlantic Avenue and Boerum Place, within a C6-2A zoning district, within the Special Downtown Brooklyn District, in Brooklyn; and

WHEREAS, the site has approximately 172 feet of frontage along Atlantic Avenue, 173 feet of frontage along Boerum Place, and 211 feet of frontage along State Street, and contains approximately 187,349 sq. ft. of lot area; and

WHEREAS, the building which is being constructed at the site will have a height of 120 feet and will contain a mix of commercial, community facility and residential uses; and

WHEREAS, the PCE will occupy approximately 16,737 sq. ft. of floor space, as follows: 10,970 sq. ft. of floor space in the cellar of the building; 628 sq. ft. of floor area on the first floor, and 5,139 sq. ft. of floor area on the second floor; and

WHEREAS, the PCE will operate as Planet Fitness; and

WHEREAS, the hours of operation for the PCE will be 24 hours per day, seven days per week; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-163K, dated February 25, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-2A zoning district, within the Special Downtown Brooklyn District, a physical

culture establishment (the "PCE") on the cellar, first, and second floor of an 11-story mixed use building which is under construction, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received August 31, 2015," – Seven (7) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on September 18, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all fire safety and sound attenuation measures shall be installed and/or maintained as shown on the BSA-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by September 18, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 18, 2015.

269-14-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for 89-40 Realty LLC/Yaron Rosenthal, owner; Sun Star Services, lessee.

SUBJECT – Application November 3, 2014 – Special Permit §73-36) to permit the physical culture establishment (*Massage Envy Spa*) on the first floor level of an existing commercial building in a C2-2 in R4 zoning district.

PREMISES AFFECTED – 89-44 Metropolitan Avenue, southeast corner of Metropolitan Avenue and Aubrey Avenue, Block 03872, Lot 33, Borough of Queens.

COMMUNITY BOARD #5Q

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for continued hearing.

MINUTES

72-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Florence Polizzotto, owner; Blink Flatlands Avenue, Inc., lessee.

SUBJECT – Application March 31, 2015 – Special Permit (§73-36) to permit a physical culture establishment (*Blink Fitness*) within an existing commercial building under alteration. C2-3(R5D+R4-1) zoning district.

PREMISES AFFECTED – 9029 Flatlands Avenue, northeast corner of intersection of Flatlands Avenue and East 92nd Street, Block 08179, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #18BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for decision, hearing closed.

78-15-BZ

APPLICANT – Eric Palatnik, P.C., for 201 East 66th Street LLC., owner; 66th Street Fitness Corp., lessee.

SUBJECT – Application April 9, 2015 – Special Permit (§73-36) to permit the operation of a Physical Culture Establishment (*Crunch Fitness*) on the first floor and sub-cellar of a twenty one (21) story mixed-use building. C1-9 zoning district.

PREMISES AFFECTED – 201 East 66th Street aka 1131 Third Avenue, between 66th and 67th Street, Block 01421, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 27, 2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director

BULLETIN

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September 30, 2015

DIRECTORY

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Affecting Calendar Numbers:

69-15-BZ	245 Page Avenue, Staten Island
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DOCKETS

New Case Filed Up to September 22, 2015

222-15-BZ

86-09 Roosevelt Avenue, Located on the north side of Roosevelt Avenue between 86th and 87th Street, Block 1474, Lot(s) 037, Borough of **Queens, Community Board: 3**. Special Permit (§73-36) to allow the operation of a physical culture establishment(fitness center) on a portion of the existing building's ground and cellar floors, located within an C2-3/R6 zoning district. C2-3/R6 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

OCTOBER 27, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, October 27, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

183-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Dynasty 23 Street Realty, Incorporated, owner; Horizon 881 LLC, lessee.
SUBJECT – Application February 25, 2015 – Extension of Term of a previously approved Special Permit (§73-36) permitting the operation of physical culture establishment on the second floor of a five story commercial building, which expired on October 26, 2014; Amendment to permit the change in operation as well as minor deviations from the previously approved plans; Waiver of the Rules. C6-3X zoning district.

PREMISES AFFECTED – 206 West 23rd Street, southside of West 23rd Street between 7th Avenue and 8th Avenue, Block 00772, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #4M

266-04-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Gwynne Five LLC, owner; TSI Cobble Hill, LLC dba NY Sports Club, lessee.

SUBJECT – Application February 17, 2015 – Extension of the Term and Amendment (73-11) to request an extension of the term of a previously granted special permit to allow the operation of a physical culture establishment at the premises and also request an Amendment to change the hours of operation. C2-3 zoning district.

PREMISES AFFECTED – 96 Boreum Place, southwesterly corner of Boerum Place and Pacific Street, Block 00279, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #2M

340-05-BZ

APPLICANT – The Law Office Fredrick A. Becker, for Chelsea Eighth Realty LLC, owner; TSI West 16, LLC dba NY Sports Club, lessee.

SUBJECT – Application November 19, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the legalization of a physical culture establishment (PCE), located in the portions of the cellar and first floor of an existing 22-story mixed-use building, which expired on October 25, 2014. C1-6A, C6-2A, R8B zoning districts.

PREMISES AFFECTED – 270 West 17th Street aka 124-128 Eight Avenue, east side of 8th Avenue, with additional frontage, between West 16th Street and West 17th Street, Block 00766, Lot(s) 1101, 1102, Borough of Manhattan.

COMMUNITY BOARD #4M

47-10-BZ

APPLICANT – Eric Palatnik, P.C., for 2352 Story Avenue Realty, owner; Air Gas Use, LLC, lessee.

SUBJECT – Application April 13, 2015 – Extension of Time to Complete Construction of a previously approved Variance (§72-21) permitting manufacturing use on a residential portion of a split zoning lot, which expired on April 12, 2011; Waiver of the Rules. M1-1/R3-2 zoning district.

PREMISES AFFECTED – 895 Zerega Avenue aka 2351 Story Avenue, Block 03698, Lot 36, Borough of Bronx.

COMMUNITY BOARD #9BX

89-10-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for Mercer Sunshine LLC, owner.

SUBJECT – Application June 30, 2015 – Extension of Time to Complete Construction of a previously approved variance allowing the conversion of the first floor and cellar level of an existing three-story building to a commercial retail use (UG6); Waiver of the Rules. M1-5B zoning district.

PREMISES AFFECTED – 53 Mercer Street, West side of Mercer Street, between Grand and Broome Street, Block 0474, Lot 014, Borough of Manhattan.

COMMUNITY BOARD #2M

16-12-BZ

APPLICANT – Eric Palatnik, P.C., for Congregation Adas Yereim, owner.

SUBJECT – Application April 2, 2015 – Amendment of a previously approved Special Permit (§73-19) permitting a school (*Congregation Adas Yereim*) contrary to use regulations (§42-00). The amendment seeks changes to the interior, an increase in the height of the building. M1-2 zoning district.

PREMISES AFFECTED – 184 Nostrand Avenue, northwest corner of Nostrand Avenue and Willoughby Avenue, Block 01753, Lot 0042, Borough of Brooklyn.

COMMUNITY BOARD #3BK

CALENDAR

APPEALS CALENDAR

12-15-A & 13-15-A

APPLICANT – Prospect Place Development, LLC, for Prospect Place Development LLC, by Leonid Loyfman, owner.

SUBJECT – Application January 21, 2015 – Proposed construction of one family detached dwelling does not front on a legally mapped street contrary to Section 36, of the General City Law. R3X zoning district.

PREMISES AFFECTED – 53 Prospect Place, north side of Prospect Place, 476.88’ from the corner formed by the intersection of the west side of Amboy Road, Block 04306, Lot 27, Borough of Staten Island.

COMMUNITY BOARD #3SI

73-15-A & 74-15-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Ashland Building LLC., owner.

SUBJECT – Application March 31, 2015 – Proposed construction of buildings that do not front on a legally mapped street, pursuant to Section 36 Article 3 of the General City Law. R3X (SRD) zoning district.

PREMISES AFFECTED – 170 Arbutus Avenue, east side of Arbutus Avenue, 513.26’ north of intersection of Arbutus Avenue and Louise Street, Block 06552, Lot 0058, Borough of Staten Island.

COMMUNITY BOARD #3SI

97-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP., for Douglas Road Development, LLC., owner.

SUBJECT – Application May 5, 2015 – Proposed construction of residential building that does not front on a legally mapped street, pursuant to Article 3, Section 36 of the General city Law. R1-1 NA LDGMA zoning district.

PREMISES AFFECTED – 221 Douglas Road, southeast corner of intersection of Douglas Road and Briggins Lane, Block 0830, Lot 035, Borough of Staten Island.

COMMUNITY BOARD #2SI

132-15-A & 133-15-A

APPLICANT – Joseph Loccisano (Sanna Loccisano Architects, PC), for Selim Rusi, owner.

SUBJECT – Application June 4, 2015 – Proposed construction of a single family home not fronting on a legally mapped street contrary to Section 36 Article 3 of the General City Law. R1-1 zoning district.

PREMISES AFFECTED – 163 Benedict Road, east side of Benedict Road, 167.93’ north of the corner of St. James Avenue and Benedict Road, Block 0868, Lot 030, Borough of Staten Island.

COMMUNITY BOARD #2SI

OCTOBER 27, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, October 27, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

228-14-BZ

APPLICANT – Eric Palatnik, P.C., for Henry Trost, owner.
SUBJECT – Application September 22, 2014 – Special Permit (§73-622) for the enlargement of an existing two story single family home contrary to floor area, lot coverage and open space (ZR 23-141(b)). R3-1 zoning district.

PREMISES AFFECTED – 149 Hasting Street, Hastings Street, between Hampton Avenue and Oriental Boulevard, Block 08751, Lot 466, Borough of Brooklyn.

COMMUNITY BOARD #15BK

245-14-BZ

APPLICANT – Stroock & Stroock & Lavan, LLP., for Two Fulton Square, LLC., owner.

SUBJECT – Application October 9, 2014 – Special Permit (§73-66) to permit the penetration of the flight obstruction area of LaGuardia Airport contrary to §61-20. C4-2 zoning district.

PREMISES AFFECTED – 133-31 39th Avenue, 37th Avenue, Prince Street, 39th Avenue and College Point Boulevard, Block 04972, Lot 65, Borough of Queens.

COMMUNITY BOARD #7Q

24-15-BZ

APPLICANT – Cozen O'Connor, for Roosevelt 5 LLC, owner.

SUBJECT – Application February 11, 2015 – Special Permit (§73-66) to permit the construction of a new building in excess of the height limits established under ZR 61-21. C2-3/R6 zoning district.

PREMISES AFFECTED – 71-17 Roosevelt Avenue, frontage on Roosevelt Avenue and 72nd Street, Block 01282, Lot (s) 137,138,141,151,160, Borough of Queens.

COMMUNITY BOARD #3Q

CALENDAR

62-15-BZ

APPLICANT – Glen V. Cutrona, AIA, for 139 Bay Street Point, LLC, owner.

SUBJECT – Application March 20, 2015 – Variance (§72-21) enlargement of a mixed use building contrary floor area regulations, lot coverage, balconies below third story, distance from legally required windows, lot line and side yard regulation, located within an C4-2/SG zoning district.

PREMISES AFFECTED – 139 Bay Street, Bay Street between Slosson terrace and Central Avenue, Block 00001, Lot(s) 10,17,18,19, Borough of Staten Island.

COMMUNITY BOARD #1SI

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**REGULAR MEETING
TUESDAY MORNING, SEPTEMBER 22, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez.

SPECIAL ORDER CALENDAR

705-81-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Fraydun Enterprises, LLC, owner; Fraydun Enterprises, LLC, lessee.

SUBJECT – Application November 10, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the operation of a physical culture establishment which expired on May 10, 2013; Extension of Time to obtain a Certificate of Occupancy; Waiver of the Rules. R10 zoning district.

PREMISES AFFECTED – 1433 York Avenue, northeast corner of intersection of York Avenue and East 76th Street, Block 01471, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 27, 2015, at 10 A.M., for decision, hearing closed.

173-92-BZ

APPLICANT – Simons & Wright LLC, for Bremen House, Inc., owner.

SUBJECT – Application January 17, 2014 – Extension of Term of a previously approved Special Permit (§73-36) permitting the operation of martial arts studio which expires on January 24, 2014; Amendment to permit the relocation of the facility from the 2nd floor to the cellar. C2-8A zoning district.

PREMISES AFFECTED – 220 East 86th Street, 86th Street between 2nd and 3rd Avenues, Block 01531, Lot 38, Borough of Manhattan

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to November 24, 2015, at 10 A.M., for continued hearing.

131-93-BZ

APPLICANT – Eric Palatnik, P.C., for Paul Memi, owner.
SUBJECT – Application April 25, 2014 – Extension of Term (§11-411) of a previously approved variance which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses which expires on November 22, 2014. C2-2/R5 zoning district.

PREMISES AFFECTED – 3743-3761 Nostrand Avenue, north of the intersection of Avenue "Y", Block 7422, Lot 53,

Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for continued hearing.

318-06-BZ

APPLICANT – Eric Palatnik, LLP for Sun Company Inc. (R&M), owner.

SUBJECT – Application August 9, 2013 – Extension of Term (§11-411) of a previously approved variance which permitted the operation of an automotive service station (UG 16B), which expired on May 22, 2013; Extension of Time to Obtain a Certificate of Occupancy which expired on November 22, 2007; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 49-05 Astoria Boulevard, Noreast corner of Astoria Boulevard and 49th Street. Block 1000, Lot 35, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for continued hearing.

526-76-BZ

APPLICANT – Vito J Fossella, P.E., for 1492 Victory Blvd. LLC., owner.

SUBJECT – Application May 19, 2014 – Amendment of a previously approved variance which permitted the conversion of a three story building consisting of two family residence and a store into a three story office building which expired on December 21, 1981. The Amendment seeks to eliminate the term. R2 zoning district.

PREMISES AFFECTED – 1492 Victory Boulevard, south side of Victory Boulevard, Block 00681, Lot 33, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for postponed hearing.

27-91-BZ

APPLICANT – Land Planning and Engineering Consultants, P.C., for Eldar Blue, LLC, owner.

SUBJECT – Application July 14, 2014 – Extension of Term of a previously approved variance for a two-story commercial building which expired June 14, 2014; Amendment to eliminate the length of term of variance due to the recently zoning change. C1-2/R3 zoning district.

PREMISES AFFECTED – 1931 Richmond Avenue, Block 02030, Lot 8, Borough Staten Island.

COMMUNITY BOARD #5SI

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for continued hearing.

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156-92-BZ

APPLICANT – Eric Palatnik, P.C., for Parisi Patel, Inc., owner.

SUBJECT – Application December 22, 2014 – Extension of Term of the variance (§72-21) which permitted medical office use in an existing building contrary to side yard regulation at the basement and first floor levels, which expired March 1994; Waiver. R5 zoning district.

PREMISES AFFECTED – 1835 Bay Ridge Parkway, between 18th Avenue and 19th Avenue, Block 06216, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #11BK

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

199-14-A

APPLICANT – Alfonso Duarte, for Hector Florimon, owner.

SUBJECT – Application August 20, 2014 – Proposed legalization of accessory parking in open portion of site that lies within a bed of mapped street pursuant to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 102-11 Roosevelt Avenue, North side 175.59' west of 103rd Street, Block 01770, Lot 47, Borough of Queens.

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for continued hearing.

67-13-A

APPLICANT – Board of Standards and Appeals
OWNER OF PREMISES – OTR MEDIA GROUP, INC & OTR 945 Zerega.

SUBJECT – Application August 13, 2014 – Reopening by court remand for supplemental review of whether a sign at the subject site was a permitted non-conforming advertising sign in light of the Board's decision in BSA Cal. No. 96-12-A. M1-1 zoning district.

PREMISES AFFECTED – 945 Zerega Avenue, between Quimby Avenue and Bruckner Boulevard, Block 3700, Lot 31, Borough of Bronx.

COMMUNITY BOARD #9BX

ACTION OF THE BOARD – Laid over to October 27, 2015, at 10 A.M., for continued hearing.

ZONING CALENDAR

182-14-BZ

APPLICANT – Eric Palatnik, PC, for Izhak Lati, owner.

SUBJECT – Application August 5, 2014 – Special Permit (§73-622) for the enlargement of an existing single family, two story dwelling contrary to floor area (ZR 23-141(b); side yards (ZR 23-461) and less than the minimum rear yard (ZR 23-47). R5 zoning district.

PREMISES AFFECTED – 1977 Homecrest Avenue, between Avenue "S" and Avenue "T", Block 7291, Lot 136, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings ("DOB"), dated July 8, 2014, acting on DOB Application No. 320931328, reads in pertinent part:

1. Proposed plans are contrary to ZR § 23-141(b) in that the proposed Floor Area Ratio (FAR) exceeds the maximum permitted;
2. Proposed plans are contrary to ZR § 23-461(a) in that the proposed side yard is less than the minimum required;
3. Proposed plans are contrary to ZR § 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R5 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio ("FAR"), side yards, and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on April 14, 2015, after due notice by publication in *The City Record*, with a continued hearing on July 21, 2015, and then to decision on September 22, 2015; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of Homecrest Avenue, between Avenue S and Avenue T, within an R5 zoning district; and

WHEREAS, the site has 40 feet of frontage along Homecrest Avenue, a depth of 100 feet, and 4,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with attic and cellar, single-family residence with approximately 2,140 sq. ft. of floor area (0.53 FAR); and

WHEREAS, ZR § 73-622 provides that:

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The Board of Standards and Appeals may permit an *enlargement* of an existing *single-* or *two family detached* or *semi-detached residence* within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage*, *open space*, *floor area*, *side yard*, *rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*;
- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and
- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single-* or *two family detached* or *semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building's non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins. Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply.

The Board shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge an existing single family residence, as contemplated in ZR § 73-622; and

WHEREAS, the applicant initially sought to increase the floor area of the structure from 2,140 sq. ft. (.53 FAR) to 5,156.9 sq. ft. (1.28 FAR); maintain the degree of non-compliance of the northern side yard (which has a width of 2'-1.2") and reduce the southern side yard from a width of 9'-3.6" to a width of 8'-0"; and reduce the existing 43'-0" rear yard to 20'-0"; and

WHEREAS, in response to the Board's concerns that the initially proposed enlargement was not compatible with, and would therefore alter, the essential character of the neighborhood in which the building is located, the applicant modified the proposed enlargement; and

WHEREAS, specifically, at hearing, the Board expressed concern about the impact of the proposed 20'-0" rear yard on the open space at the interior of the subject block; and

WHEREAS, the Board rejected the applicant's proposal to reduce the width of the southern side yard because, notwithstanding that the reduction from 9'-3.6" to 8'-0" would comply with the ZR § 23-461(a) required minimum width of any single side yard, it would result in an increase in the degree of non-compliance with the ZR § 23-461(a) required total width of side yards on the subject lot; and

WHEREAS, thus, the applicant now seeks to enlarge the subject building as follows: (1) increase the floor area of the structure from 2,140 sq. ft. (.53 FAR) to 4,861 sq. ft. (1.22 FAR) (the maximum permitted floor area ratio is 1.25 FAR pursuant to ZR § 23-141(b)); (2) maintain the non-complying northern side yard (which has a width of 2'-1.2") and extend it along the length of the building and maintain the existing 9'-3.6" width of the southern side yard (two side yards with a minimum width of 5'-0" are required, with a total width of 13'-0" pursuant to ZR § 23-461(a)); and (3) reduce the existing rear yard to 20'-0" at the ground floor and 25'-0" at the second floor of the building (a 30'-0" rear yard is required pursuant to ZR § 23-47); and

WHEREAS, the applicant represents that the modified proposal will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R5 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio ("FAR"), side yards, and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the

MINUTES

objections above-noted, filed with this application and marked "Received September 2, 2015" –(11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,861 sq. ft. (1.22 FAR), side yards of 2'-1" and 9'-3", and a rear yard with a minimum depth of 20'-0" at the ground floor and 25'-0" at the second floor, all as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by September 22, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 22, 2015.

61-15-BZ

CEQR #15-BSA-178M

APPLICANT – Deirdre A. Carson, Esq., for 540 W. 26th St. Property Investors IIA, LLC., owner; Avenue World Holdings LLC., lessee.

SUBJECT – Application March 19, 2015 – Special Permit (§73-19) to permit the operation of a portion of a school known as Avenues (*The School*) Use Group 3A, located in a M1-5 zoning district.

PREMISES AFFECTED – 540 West 26th Street, an interior lot on the south side of West 26th Street, 100' east of intersection of 11th Avenue and West 26th Street, Block 0697, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated March 10, 2015, acting on Department of Buildings Application No. 121184690, reads in pertinent part:

The proposed Use Group 3A school is not permitted within M1-5 districts, contrary to ZR 42-12; and

WHEREAS, this is an application under ZR §§ 73-19 and 73-03 to permit, on a site within an M1-5 zoning district, within the Special West Chelsea District, the operation of a Use Group 3A school within a nine-story commercial building,

contrary to ZR § 42-10; and

WHEREAS, the application is filed on behalf of 540 West 26th Street Property Investors IIA, LLC (the "Owner"), the owner of the subject site, in order to permit Avenues: The World School (the "School") to operate a portion of its program on the site pursuant to a triple net lease for a term of 28 years¹; and

WHEREAS, a public hearing was held on this application on July 21, 2015, after due notice by publication in the *City Record*, and then to decision on September 22, 2015; and

WHEREAS, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 4, Manhattan, recommends approval of this application; and

WHEREAS, the subject site has 200 feet of frontage along the south side of West 26th Street, between 10th Avenue and 11th Avenue, within an M1-5 zoning district, within the Special West Chelsea District, in Manhattan; and

WHEREAS, the site has a lot area of 19,750 sq. ft., and is bounded, to the west, by a Metropolitan Transportation Authority ("MTA") vent structure, to the east, by a 10-story commercial building, and to the south, by three mixed-use commercial and residential buildings of six, one, and 20 stories; and

WHEREAS, the site is currently occupied by a two-story building which will be demolished and replaced with a nine-story building (the "Proposed Building"), which will contain galleries, office space, and the School's proposed use; and

WHEREAS, the Owner represents that the Proposed Building will comply with all applicable bulk regulations, and that all non-School uses within the Proposed Building will comply with all applicable use regulations, both of the M1-5 zoning district as well as the Special West Chelsea District; and

WHEREAS, the School's primary facility is located at 259 Tenth Avenue, approximately 400 feet from the subject site, within the West Chelsea Historic District (the "School Building"); and

WHEREAS, while the School's initial enrollment was 749 students, its current enrollment is approximately 1,375 students, and its projected enrollment within the next ten years is 2,120 students; and

WHEREAS, the School represents that the School Building was designed to accommodate a target enrollment of 1,600 students, necessitating the expansion of the School into the Proposed Building; and

WHEREAS, the School is divided into four component divisions: the Early Learning Center ("ELC"), which is comprised of nursery and pre-kindergarten classes; the "Lower School," comprised of kindergarten through grade 4; the "Middle School," comprised of grades 5 through 8, and the "Upper School," comprised of grades 9 through 12; and

WHEREAS, that portion of the Proposed Building which the School will lease from the Owner (the "School Space") will

¹ Counsel for the Owner of the site is referred to herein as the "Applicant."

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consist of five stories, of which the School will be the only occupant, and will contain approximately 64,437 sq. ft. of floor area; it has been designed to accommodate the School's programmatic needs and will include a devoted entrance, lobby, and elevator bank so that students of the School will be able to move throughout the School Space without accessing any other portion of the Proposed Building; and

WHEREAS, the Owner represents that the School Space will include three floors designed for the ELC and kindergarten classrooms, and one floor of new Science, Technology, Engineering, Arts and Mathematics Program ("STEAM Program") facilities for the Upper School; and

WHEREAS, the Owner notes that the School is not required to secure a permit as a child care service provider under §47.03 of the Health Code; and

WHEREAS, the applicant represents that the proposal meets the requirements of the special permit under ZR § 73-19 to permit a school in an M1-5 zoning district; and

WHEREAS, ZR § 73-19 states that:

In C8 or M1 Districts, the Board of Standards and Appeals may permit *schools* which have no *residential* accommodations except *accessory* accommodations for a caretaker, provided that the following findings are made:

- (a) that within the neighborhood to be served by the proposed *school* there is no practical possibility of obtaining a site of adequate size located in a district wherein it is permitted as of right, because appropriate sites in such districts are occupied by substantial improvements;
- (b) that such *school* is located not more than 400 feet from the boundary of a district wherein such *school* is permitted as of right;
- (c) that an adequate separation from noise, traffic and other adverse effects of the surrounding *non-residential districts* is achieved through the use of sound-attenuating exterior wall and window construction or by the provision of adequate open areas along *lot lines* of the *zoning lot*;
- (d) that the movement of traffic through the *street* on which the *school* is located can be controlled so as to protect children going to and from the *school*. The Board shall refer the application to the Department of [Transportation] for its report with respect to vehicular hazards to the safety of children within the block and in the immediate vicinity of the proposed site.

The Board may prescribe additional appropriate conditions and safeguard to minimize adverse effects on the character of the surrounding area; and

WHEREAS, as to the threshold issue of whether the School qualifies as a School for purposes of ZR § 73-19, the Applicant states that the School meets the ZR § 12-10 definition of "school" because it provides full-time day instruction and a course of study that meets the requirements of Sections 3204, 3205 and 3210 of the New York State Education Law; and

WHEREAS, further, the Applicant submitted copies of the School's Certificate of Amendment (amending its Certificate of Organization) as well as a letter of acknowledging the School's Basic Educational Data System Code number; and

WHEREAS, thus, the Board finds that the School is a school for purposes of ZR § 73-19; and

WHEREAS, with respect to ZR § 73-19(a), an applicant must demonstrate its inability to obtain a site for the development of a school within the neighborhood to be served, and with a size sufficient to meet the programmatic needs of the school, within a district where the school is permitted as-of-right; and

The Neighborhood to be Served

WHEREAS, with respect to the neighborhood to be served, the Applicant maintains, and the Board accepts, that the proposed school use must be in proximity to the existing School Building; and

The School's Programmatic Needs

WHEREAS, the Applicant submits that the School's programmatic needs have changed with the increased enrollment at the School; and

WHEREAS, specifically, with respect to the ELC students, the School maintains that current ELC and kindergarten students spend a significant portion of the school day in transit throughout the existing School Building in order to access, among other things, the rooftop playground, which is only accessible by elevators which serve the entire school population; and

WHEREAS, the School further maintains that that ELC and kindergarten classrooms in the School Building do not have bathrooms connected to said classrooms, and that accompanying three, four and five year old students to restroom facilities requires a significant devotion of staff and time; and

WHEREAS, with respect to the STEAM Program, an interdisciplinary program with a lab and studio-based model in which students complete project-based work, the Applicant states that existing facilities within the School Building are not purpose-built for STEAM Program activities and, as such, are inadequate; and

WHEREAS, in addition to asserting that it is inadequate, the Applicant states that most of the classroom space in the School Building which is currently devoted to the STEAM Program will have to be used to accommodate basic classroom requirements for the expanding student body; and

WHEREAS, the Applicant states that the ELC space within the School Space at the Proposed Building will occupy floors 2 through 4, and will be used by nursery, pre-kindergarten and kindergarten students, each with eight sections of 15, 16 and 20 students; and

WHEREAS, the proposed second floor will contain ELC offices, a reception area, common space for nursery students, approximately eight nursery classrooms, and a rear terrace that will serve as a play area and outdoor classroom; and

WHEREAS, the proposed third floor will contain

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approximately eight pre-kindergarten classrooms, common spaces, a pantry, and a teaching kitchen; and

WHEREAS, the proposed fourth floor will contain approximately eight kindergarten classrooms, common space, a pantry, and a teacher resource area; and

WHEREAS, all of the classrooms within the ELC dedicated space will have bathrooms accessible from within such classrooms; and

WHEREAS, the Applicant submits that, at full enrollment, utilization of homerooms within the ELC and kindergarten dedicated space would range from 77.7% to 83.8% and utilization of programmed space would average 71.3%, with all required movement between floors accomplished via School-devoted elevators or stairs; and

WHEREAS, the Applicant states that, in addition to the foregoing ELC and kindergarten specific space, queuing space will be provided at the lobby of the Proposed Building to meet the School's need to provide safe entry for School students; and

WHEREAS, with respect to the STEAM Program space, the Applicant notes that STEAM programs are increasingly deemed to be essential components of a high school education, and that the STEAM Program floor of the Proposed Building will contain approximately 15,300 gross sq. ft. in order to house a fabrication laboratory, a design studio, three art studios, and three seminar rooms within two science laboratories; and

WHEREAS, the Applicant submits that, at full enrollment, the School will utilize 100% of the classrooms and other sections of the STEAM Program; and

WHEREAS, thus, the Applicant has demonstrated that its stated requirements related to size and configuration are justified by its programmatic needs; and

The Search for an Adequate Site Within a District Where

the School is Permitted As-of-Right

WHEREAS, the Applicant represents that the School has conducted an exhaustive search for potential expansion sites using the following criteria: (1) suitability of the site for educational use; (2) the size (between 60,000 and 80,000 sq. ft. of floor area) and configuration of available space; (3) the ability of the property owner to timely prepare the site for the School's use; (4) distance from the School Building; and (5) cost; and

WHEREAS, the Applicant represents that the School considered 28 sites in Manhattan, 14 of which were located in commercial or residential districts where the school use is permitted as-of-right, including: (1) 210 Eleventh Avenue; (2) 279 10th Avenue; (3) 260 Eleventh Avenue; (4) 251-255 10th Avenue; (5) 550 West 20th Street; (6) 90 Fifth Avenue; (7) 140 West Street; (8) 287 Park Avenue South; (9) 109 East 16th Street; (10) 276 Fifth Avenue; (11) 450 West 41st Street; (12) 500 West 41st Street; (13) 360 West 33rd Street; (14) 13-17 Laight Street; and

WHEREAS, the Applicant represents that each of the foregoing 14 sites was unsuitable for the School's use, in that: (1) 210 Eleventh Avenue did not have sufficient space for the School; (2) 279 10th Avenue was prohibitively

expensive and could not be made available fast enough to meet the School's urgent need; (3) 260 Eleventh Avenue was too large a space and the owner of the site would not divide the space; (4) 251-255 10th Avenue was unavailable because the owner of those parcels was unable to coordinate their availability; (5) 550 West 20th Street is too far from the School Building and unsuitable for educational use; (6) 90 Fifth Avenue is too far from the School Building and cannot be configured to suit the School's programmatic requirements; (7) 140 West Street is too far from the School Building and cannot be configured to suit the School's programmatic requirements; (8) 287 Park Avenue South is too far from the School Building and is prohibitively expensive; (9) 109 East 16th Street is too far from the School Building and could not be made available fast enough to meet the School's urgent need; (10) 276 Fifth Avenue is too far from the School Building and cannot be configured to suit the School's programmatic requirements; (11) 450 West 41st Street is too far from the School Building and unsuitable for educational use; (12) 500 West 41st Street is too far from the School Building and unsuitable for educational use; (13) 360 West 33rd Street is too far from the School Building and could not be made available fast enough to meet the School's urgent need; (14) 13-17 Laight Street is too far from the School Building, prohibitively expensive, and unsuitable for educational use because of traffic and access concerns; and

WHEREAS, thus, the Applicant maintains that the site search establishes that there is no practical possibility of obtaining a site of adequate size in a nearby zoning district where a school would be permitted as-of-right; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (a) are met; and

WHEREAS, ZR § 73-19 (b) requires an applicant to demonstrate that the proposed school is located no more than 400 feet from the boundary of a district in which such a school is permitted as-of-right; and

WHEREAS, the Applicant states that the Proposed Building is immediately adjacent to a C6-3 zoning district boundary line and that the entire site is within 400 feet of said C6-3 zoning district, and notes that school uses are permitted as-of-right in C6-3 zoning districts; and

WHEREAS, the Applicant submitted a radius diagram which reflects that the subject site is adjacent to a C6-3 zoning district; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (b) are met; and

WHEREAS, ZR § 73-19 (c) requires an applicant to demonstrate how it will achieve adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district; and

WHEREAS, the Applicant states that the Proposed Building has been designed for the School's use, and represents that sound will be attenuated by the Proposed Building's curtain wall system and 8'-10" concrete slabs between floors; and

WHEREAS, the Applicant states that peak exterior noise levels at the site are below 70 dBA, and notes that the

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CEQR Technical Manual recommends that buildings with school uses should be designed to maintain interior noise levels of 45 dBA or lower; and

WHEREAS, the Applicant states that the windows in the Proposed Building will be made of at least one-inch insulated glass and that the Proposed Building will consist of nearly 100% glazing with minimal framing and with no features that will allow for substantial noise transmission, thus, the Applicant maintains, the interior noise level of the Proposed Building will be 45 dBA or lower (specifically, the Applicant maintains that the interior noise level of the Proposed Building will be between 21.7 dBA and 27.5 dBA); and

WHEREAS, as discussed in greater detail, below, the Applicant represents that students at the Proposed Building will be separated from traffic on West 26th Street; specifically, the Applicant notes that ELC students will be accompanied by parents or School employees at all times during their arrival and departure from the Proposed Building, and that designated School faculty and staff will be deployed along the Proposed Building's West 26th Street frontage to ensure that ELC students are within designated drop-off and pick-up zones as they enter and exit vehicles; and

WHEREAS, the Applicant notes that neither ELC, kindergarten, nor Upper School students will have to cross any street when traveling between the Proposed Building and the School Building; and

WHEREAS, the Board finds that the conditions surrounding the site and the Proposed Building's use will adequately separate the proposed school use from noise, traffic and other adverse effects of any of the uses within the surrounding M1-5 zoning district; thus, the Board finds that the requirements of ZR § 73-19 (c) are met; and

WHEREAS, ZR § 73-19 (d) requires an applicant to demonstrate how the movement of traffic through the street on which the school will be located can be controlled so as to protect children traveling to and from the school; and

WHEREAS, with respect to ELC and kindergarten students, the School represents that all will be escorted into and away from the Proposed Building, either by their parents or by School personnel, and further represents that because there is adequate space within the School Space, no students will have to wait on the street when they arrive at the Proposed Building; and

WHEREAS, with respect to the Upper School students accessing the School Space to use the STEAM Program classrooms, the School represents that all such students will be able to walk from the School Building to the Proposed Building without crossing any streets, and notes that students are familiar with this route as they currently travel past the subject site when walking from the School Building to the School's physical education classes at Chelsea Piers; and

WHEREAS, the Applicant notes that the incremental increase in vehicular traffic on West 26th Street caused by the School's expansion will not be significant; and

WHEREAS, the Board referred the application to the School Safety Engineering Office of the Department of

Transportation ("DOT"); and

WHEREAS, by letter dated June 1, 2015, DOT states that it has no objection to the proposed construction and will, upon approval of the application, prepare a safe route plan; and

WHEREAS, by letter dated September 18, 2015, DOT, as an interested agency in the Board's CEQR review of the subject application, makes the following recommendations which the Board hereby incorporates as conditions to this approval:

- (1) Once the School is operating in the School Space, it must, if needed based on field conditions, contact in writing, with a copy to BSA and DOT, the parties responsible for the packages located in front of the stairs at 516 and 526 West 26th Street to relocate the packages to an area not directly fronting the stairs of each property so that a wider sidewalk width is provided;
- (2) The Applicant must petition DOT to designate the existing curbside regulations applicable to the West 26th Street frontage of the subject site "NO STANDING 7:00 AM-6:30 PM SCHOOL DAYS";
- (3) The School must work with DOT to develop a comprehensive transportation management plan ("TMP") to enhance pedestrian safety and minimize potential pedestrian/vehicle conflicts, which (a) will be in effect on school days from 7:30 AM to 4:00 PM when School faculty and staff escort students from the proposed pick-up and drop-off zone to their classrooms, (b) will be at the sole cost and expense of the School, and (c) will require (i) that the School provide two monitors to supervise drop-off and pick-up, and to ensure the smooth flow of traffic by minimizing the instance of double or illegal parking in front of the Proposed Building; (ii) for each bus, a designated faculty member to be in charge of transferring students to their classrooms; (iii) that during departure time, upon the arrival of each bus, a traffic monitor communicate via radio to a designated faculty member that said faculty member must prepare to transfer students to said bus; (iv) that after 4:00 PM, ESL students will be picked up inside the Proposed Building and escorted away by a parent or approved guardian bearing a school-issued identification badge; (v) that no busses will pick up students from after-school programs; (vi) that parents of after-school students will be informed that they are not permitted to double-park or illegally park in front of the Proposed Building;
- (4) School security guards must be present at the Proposed Building as well as the School Building during School hours and that there

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will be an open line for radio communication between guards at all times and that (a) when students utilizing the STEAM Program classrooms in the Proposed Building exit either the Proposed Building or the School Building, the guard at such building will alert the guard at the other building that students are travelling between the two buildings, and a guard will go out onto the street to monitor the students' travel; and (b) if a delivery truck is blocking a sidewalk, School personnel must stand next to the truck and monitor students' safe passage around it; and

- (5) The School must reevaluate the pedestrian management and safety needs in the future conditions after the School becomes operational in the Proposed Building as described in the Environmental Assessment Statement to assess the pedestrian safety for the student population at the Proposed Building as well as any increase in student population at the School Building; and

WHEREAS, the Board finds that the above-mentioned measures will control traffic so as to protect children going to and from the proposed school; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (d) are met; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-19; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-03; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement ("EAS") CEQR No. No. 15-BSA-178M, dated September 22, 2015; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type I Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-19 and 73-03 and grants a special permit, to allow, on a site within an M1-5 zoning district, within the Special West Chelsea District, the operation of a Use Group 3A school within a nine-story commercial building, contrary to ZR § 42-10; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 19, 2015" – Seventeen (17) sheets; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT once the School is operating in the School Space, it must, if needed based on field conditions, contact in writing, with a copy to BSA and DOT, the parties responsible for the packages located in front of the stairs at 516 and 526 West 26th Street to relocate the packages to an area not directly fronting the stairs of each property so that a wider sidewalk width is provided;

THAT the Applicant must petition DOT to designate the existing curbside regulations applicable to the West 26th Street frontage of the subject site "NO STANDING 7:00 AM-6:30 PM SCHOOL DAYS";

THAT the School must work with DOT to develop a comprehensive transportation management plan ("TMP") to enhance pedestrian safety and minimize potential pedestrian/vehicle conflicts, which (a) will be in effect on school days from 7:30 AM to 4:00 PM when School faculty and staff escort students from the proposed pick-up and drop-off zone to their classrooms, (b) will be at the sole cost and expense of the School, and (c) will require (i) that the School provide two monitors to supervise drop-off and pick-up, and to ensure the smooth flow of traffic by minimizing the instance of double or illegal parking in front of the Proposed Building; (ii) for each bus, a designated faculty member to be in charge of transferring students to their classrooms; (iii) that during departure time, upon the arrival of each bus, a traffic monitor communicate via radio to a designated faculty member that said faculty member must prepare to transfer students to said bus; (iv) that after 4:00 PM, ESL students will be picked up inside the Proposed Building and escorted away by a parent or approved guardian bearing a school-issued identification badge; (v) that no busses will pick up students from after-school programs; (vi) that parents of after-school students will be informed that they are not permitted to double-park or illegally park in front of the Proposed Building;

THAT School security guards must be present at the

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Proposed Building as well as the School Building during School hours and that there will be an open line for radio communication between guards at all times and that (a) when students utilizing the STEAM Program classrooms in the Proposed Building exit either the Proposed Building or the School Building, the guard at such building will alert the guard at the other building that students are travelling between the two buildings, and a guard will go out onto the street to monitor the students' travel; and (b) if a delivery truck is blocking a sidewalk, School personnel must stand next to the truck and monitor students' safe passage around it; and

THAT the School must reevaluate the pedestrian management and safety needs in the future conditions after the School becomes operational in the Proposed Building as described in the Environmental Assessment Statement to assess the pedestrian safety for the student population at the Proposed Building as well as any increase in student population at the School Building; and

THAT any change in the operator of the school requires review and approval by the Board;

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

THAT substantial construction be completed in accordance with ZR § 73-70;

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 22, 2015.

72-15-BZ

CEQR #15-BSA-187K

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Florence Polizzotto, owner; Blink Flatlands Avenue, Inc., lessee.

SUBJECT – Application March 31, 2015 – Special Permit (§73-36) to permit a physical culture establishment (*Blink Fitness*) within an existing commercial building under alteration. C2-3(R5D+R4-1) zoning district.

PREMISES AFFECTED – 9029 Flatlands Avenue, northeast corner of intersection of Flatlands Avenue and East 92nd Street, Block 08179, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated March 26, 2015, acting on DOB Application No. 321096452, reads, in pertinent part:

Proposed physical culture establishment in C2-3

zoning district is contrary to section 32-10 ZR and requires a special permit from BSA (73-36); and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site partially within an R5D (C2-3) zoning district, partially within an R4-1 (C2-3) zoning district, partially within an R4-1 zoning district, and partially within an R5D zoning district, a physical culture establishment (the “PCE”) on the first and second floors of a proposed two-story building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on September 18, 2015, after due notice by publication in the *City Record*, and then to decision on September 22, 2015; and

WHEREAS, Commissioner Ottley-Brown performed a site and neighborhood inspection of the premises and surrounding area; and

WHEREAS, Community Board 18, Brooklyn, recommends that the Board approve this application; and

WHEREAS, the subject site is a corner lot with approximately 100 feet of frontage along East 92nd Street and approximately 160 feet of frontage along Flatlands Avenue, in Brooklyn; and

WHEREAS, the site contains approximately 16,695 sq. ft. of lot area and is located partially within an R5D (C2-3) zoning district, partially within an R4-1 (C2-3) zoning district, partially within an R4-1 zoning district, and partially within an R5D zoning district; and

WHEREAS, the applicant states more than 50 percent of the lot area of the site is located within the C2-3 overlay, and that the greatest distance from the C2-3 district boundary to a lot line not within the C2-3 overlay does not exceed 25 feet, thus the C2-3 use and bulk regulations may apply to the entire site; and

WHEREAS, the site is occupied by a vacant one-story building; the owner of the subject site has filed an application to add a second floor to the existing one-story building; and

WHEREAS, the PCE shall occupy a total of 15,101 sq. ft. of floor area in the proposed two-story building; 5,962 sq. ft. of floor area on the first floor and 9,139 sq. ft. of floor area on the second floor; and

WHEREAS, the PCE shall operate as Blink Fitness; and

WHEREAS, the PCE will operate Monday through Saturday, from 5:30 a.m. to 11:00 p.m., and on Sunday from 7:00 a.m. through 9:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

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WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15-BSA-187K, dated March 31, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site partially within an R5D (C2-3) zoning district, partially within an R4-1 (C2-3) zoning district, partially within an R4-1 zoning district, and partially within an R5D zoning district, a physical culture establishment (the "PCE") on the first and second floors of a proposed two-story building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received September 4, 2015" - Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on September 22, 2025;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT the PCE will operate Monday through Saturday, from 5:30 a.m. to 11:00 p.m., and on Sunday from 7:00 a.m. through 9:00 p.m.;

THAT fire safety measures shall be installed and/or maintained as shown on the BSA-approved plans;

THAT sound and vibration attenuation measures shall be installed and/or maintained as shown on the BSA-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by September 22, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not

related to the relief granted.

Adopted by the Board of Standards and Appeals, September 22, 2015.

153-11-BZ

APPLICANT – Eric Palatnik, P.C., for Theodoros Parais, owner.

SUBJECT – Application September 21, 2011 – Reinstatement (§§11-411 & 11-412) to permit the continued operation of an automotive repair use (UG 16B); amendment to enlarge the existing one story building; Waiver of the Board's Rules. C1-3 zoning district.

PREMISES AFFECTED – 27-11 30th Avenue, between 27th Street and 39th Street. Block 575, Lot 23. Borough of Brooklyn.

COMMUNITY BOARD #4BK

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for continued hearing.

30-12-BZ

APPLICANT – Eric Palatnik, P.C., for Don Ricks Associates, owner; New York Mart Group, Inc., lessee.

SUBJECT – Application February 8, 2012 – Remand Back to Board of Standards and Appeals; seeks a judgment vacating the resolution issued on January 15, 2013 and filed on January 17, 2013. R6-/C2-2 zoning district.

PREMISES AFFECTED – 142-41 Roosevelt Avenue, northwest corner of Roosevelt Avenue and Avenue B, Block 5020, Lot 34, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to December 8, 2015, at 10 A.M., for continued hearing.

193-13-BZ

APPLICANT – Eric Palatnik, Esq., for Centers FC Realty LLC, owner.

SUBJECT – Application July 2, 2013 – Special Permit (§73-44) for the reduction in parking from 190 to 95 spaces to facilitate the conversion of an existing building to UG 6 office and retail use. C2-2/R6A & R-5 zoning districts

PREMISES AFFECTED – 4770 White Plains Road, White Plains Road between Penfield Street and East 242nd Street, Block 5114, Lot 14, Borough of Bronx.

COMMUNITY BOARD #12BX

ACTION OF THE BOARD – Laid over to December 8, 2015, at 10 A.M., for continued hearing.

264-13-BZ

APPLICANT – Francis R. Angelino, Esq., for David Lowenfeld, owner; BB Fitness dba Brick Crossfit NYC, lessee.

SUBJECT – Application September 6, 2013 – Special Permit (§73-36) to legalize a physical culture establishment

MINUTES

(Brick CrossFit) on the ground floor and cellar of an existing 10-story building. C6-2A zoning district.

PREMISES AFFECTED – 257 West 17th Street, north side, West 17th Street, between 7th & 8th Avenues, Block 767, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 27, 2015, at 10 A.M., for decision, hearing closed.

303-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for SoBro Development Corporation, owner.

SUBJECT – Application November 15, 2013 – Variance (§72-21) to allow a new mixed use building with 36 residential units and community facility space. R6 & C1-4 zoning districts.

PREMISES AFFECTED – 506-510 Brook Avenue, east side of Brook Avenue between 147th and 148th Street, Block 2274, Lot(s) 6, 7 and 8, Borough of Bronx.

COMMUNITY BOARD #1BX

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for continued hearing.

5-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Israel Ashkenazi & Racquel Ashkenazi, owner.

SUBJECT – Application January 9, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141); side yards (§23-461) and rear yard (§23-47) regulations. R3-2 zoning district.

PREMISES AFFECTED – 1807 East 22nd Street, east side of East 22nd Street between Quentin Road and Avenue R, Block 6805, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to October 27, 2015, at 10 A.M., for continued hearing.

29-14-BZ

APPLICANT – Lewis Garfinkel for Leon Goldenberg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-14a); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1255 East 27th Street, East side of East 27th Street, 325 feet from the North corner of Avenue M. Block 7645, Lot 25. Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to

November 17, 2015, at 10 A.M., for continued hearing.

41-14-BZ

APPLICANT – The Law Office of Jay Goldstein, for United Talmudical Academy, owner.

SUBJECT – Application March 7, 2014 – Special Permit (§73-19) to legalize an existing school/yeshiva (UG 3). M1-2 zoning district.

PREMISES AFFECTED – 21-37 Waverly Avenue aka 56-58 Washington Avenue, between Flushing Avenue and Park Avenue front both Washington and Waverly Avenues, Block 1874, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for continued hearing.

59-14-BZ

APPLICANT – Caroline G. Harris, for School Settlement Association Inc., owner.

SUBJECT – Application April 10, 2014 – Variance (§72-21) to permit the construction of a four-story plus penthouse community facility (UG 4), contrary to (24-11). R6B zoning district.

PREMISES AFFECTED – 114-122 Jackson Street, located on the SW corner of the Intersection of Jackson Street and Manhattan Avenue. Block 2748, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #1BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for decision, hearing closed.

173-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 244 Madison Realty Corp., owner; Coban's Muay Thai Camp NYC, lessee.

SUBJECT – Application July 22, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Evolution Muay Thai Camp*) in the cellar of an existing 16-story mixed-used residential and commercial building, located within an C5-2 zoning district.

PREMISES AFFECTED – 20 East 38th Street aka 244 Madison Avenue, southwest corner of Madison Avenue and East 38th Street, Block 867, Lot 57, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for decision, hearing closed.

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219-14-BZ

APPLICANT – Slater & Beckerman, P.C., for People 4 Parks LLC., owner.

SUBJECT – Application September 4, 2014 – Variance (§72-21) to permit the construction of a three-story, single-family residence with one parking space. M1-1 zoning district.

PREMISES AFFECTED – 64 DeGraw Street, south side of DeGraw Street between Columbia and Van Brunt Streets, Block 00329, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #6BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for decision, hearing closed.

220-14-BZ and 221-14-BZ

APPLICANT – Slater & Beckerman, P.C., for Post Industrial Thinking, LLC, owner.

SUBJECT – Application September 4, 2014 – Variance (§72-21) to permit the construction of two 3-story single family residences. M1-1 zoning district.

PREMISES AFFECTED – 8 & 10 Underhill Avenue, west side of Underhill Avenue between Atlantic Avenue and Pacific Street, Block 01122, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #8K

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for decision, hearing closed.

319-14-BZ

APPLICANT – Eric Palatnik, P.C., for Shore Plaza LLC, owner; Staten Island MMA1, Inc., lessee.

SUBJECT – Application December 5, 2014 – Special Permit (§73-36) to permit the legalization of a physical culture establishment (*UFC Gym*). C43 zoning district.

PREMISES AFFECTED – 1781 South Avenue, within West Shore Plaza 1745-1801 South Avenue, Block 02800, Lot 37, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for decision, hearing closed.

REGULAR MEETING

TUESDAY AFTERNOON, SEPTEMBER 22, 2015
1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

69-15-BZ

APPLICANT – Glenn V. Cutrona, AIA, for Murray Page 74 LLC, owner.

SUBJECT – Application March 30, 2015 – Variance (§72-21) a proposed eating and drinking establishment with accessory drive through facility, located within an R3X/C1-1/SRD zoning district.

PREMISES AFFECTED – 245 Page Avenue, between Richmond Valley Road and Amboy Road, Block 08008, Lot 74, Borough of Staten Island.

COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez... 4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director

BULLETIN

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Affecting Calendar Numbers:

330-13-BZ	2801 Brown Street, Brooklyn
149-14-BZ	3173 Bedford Avenue, Brooklyn
323-14-BZ	282 Corbin Place, Brooklyn
43-15-BZ	2617 Avenue R, Brooklyn

DOCKETS

New Case Filed Up to October 16, 2015

223-15-A

638 Sharrotts road, 300-27 feet West of Sharrotts Road, Block 7400, Lot(s) 50, Borough of **Staten Island, Community Board: 3**. Proposed construction of a proposed one story 15,000 square foot building with mezzanines throughout which does not have frontage on a legally mapped street contrary to Article 3, Section 36 of the General City Law. M1-1 Zoning District. M1-1 district.

224-15-BZ

37 82nd Street, located along 82nd Street between Harbor View Terrace and Narrows Avenue, Block 5975, Lot(s) 125, Borough of **Brooklyn, Community Board: 10**. Special Permit (§73-622) request an enlargement of a single-family detached residence within an R2 zoning district. R2SBRD district.

225-15-BZ

12-134 East 78th Street, , Block 1412, Lot(s) 58,61, Borough of **Manhattan, Community Board: 8**. Variance (§72-21) proposed an "Allen-Stevenson" for a nonprofit private kindergarten through Grade 9 school for boys and seeks respect to height and setback requirements of the zoning resolution necessary for the expansion of the townhouse located within C1-8X, R8-BLH-1 district.

231-15-BZ

5278 Post Road, Through lot upon Post Road and Broadway, south side of W. 253rd Street, Block 5835, Lot(s) 3055/56, Borough of **Bronx, Community Board: 8**. Variance (§72-21) Propose nine story, 120 unit multiple dwelling with cellar community facility (doctors, 6074 sqft) and subcellar retail pharmacy (Use Group 6), 9cated within an R6 zoning district.: R6 district.

232-15-A

840 West End Avenue, North East Corner West End Avenue and West 101 Street, Block 1873, Lot(s) 01, Borough of **Manhattan, Community Board: 7**. Proposed vertical enlargement of an existing six story building to allow for a new penthouse floor and roof above the sixth floor which requires a waiver of the Multiple Dwelling Law and Building Code. R8 zoning district. R8 district.

233-15-BZ

45 Vernon Boulevard, Between 5th Street and Vernon Boulevard & between 46th Avenue and Anable Basin, Block 026, Lot(s) 4,8,10, Borough of **Queens, Community Board: 2**. Variance (§72-21) propose use and bulk variance to permit a predominantly residential development 9Proposed Development) within Queens Community District 2, located with an M1-3 waterfront & flood Hazard district. M1-3 waterfront district.

234-15-BZ

1223 67th Street, north side of 67th Street, distant 140 ft. east from the corner formed by the intersection of 67th Street and 12th Avenue, Block 05760, Lot(s) 70, Borough of **Brooklyn, Community Board: 10**. Special Permit (§73-621) to permit the legalization of an enlargement of an existing single-family, semi-detached residential building. R4-1 zoning district. R4-1 district.

235-15-A

8 Cornell Lane, western side of Cornell Lane north of Northern Boulevard, Block 08129, Lot(s) 156, Borough of **Queens, Community Board: 11**. Proposed construction of building that does not provide adequate frontage on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R2A zoning district. R2A district.

236-15-BZ

1677 George Street, west side of George Street between Wyckoff Avenue and Cypress Avenue, Block 03551, Lot(s) 68, Borough of **Queens, Community Board: 5**. Variance (§72-21) to permit the development of a two-story and cellar commercial building contrary to minimum front yard requirments. M1-4D zoning district M1-4D district.

237-15-BZ

109 Metropolitan Avenue, northerly side of Metropolitan Avenue 69' easterly of Wythe Avenue, Block 02358, Lot(s) 4, Borough of **Brooklyn, Community Board: 1**. Special Permit (§73-36) to permit the operatio of a physical Culture Establishment (Modo Yoga). M1-2/R6A zoning district. M1-2/R6A district.

DOCKETS

238-15-A

102-04 Dunton Court, located on Dunton Court between 102nd Street and Rau Court, Block 14240, Lot(s) 1306, Borough of **Queens, Community Board: 14**. Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-1 zoning district. district.

239-15-A

102-08 Dunton Court, located on Dunton Court between 102nd Street and Rau Court, Block 14240, Lot(s) 1307, Borough of **Queens, Community Board: 14**. Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-1 zoning district. district.

240-15-A

102-12 Dunton Court, located on Dunton Court between 102nd Street and Rau Court, Block 14240, Lot(s) 809, Borough of **Queens, Community Board: 14**. Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-1 zoning district. district.

241-15-A

102-16 Dunton Court, located on Dunton Court between 102nd Street and Rau Court, Block 14240, Lot(s) 10, Borough of **Queens, Community Board: 14**. Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-1 zoning district. district.

242-15-A

102-20 Dunton Court, located on Dunton Court between 102nd Street and Rau Court, Block 14240, Lot(s) 11, Borough of **Queens, Community Board: 14**. Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-1 zoning district. district.

243-15-A

102-24 Dunton Court, located on Dunton Court between 102nd Street and Rau Court, Block 14240, Lot(s) 1, Borough of **Queens, Community Board: 14**. Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-1 zoning district. district.

244-15-A

677 Fifth Avenue, an interior lot on the east side of 5th Avenue, 50-42' north of the intersection of East 53rd Street and East 54th Street., Block 01269, Lot(s) 0003, Borough of **Manhattan, Community Board: 5**. Appeal challenging NYC Department of Building's determination that a video display wall with in a new store , is a sign as per the definiton of sign as provided in ZR Section 12-10 of the Zoning Resolution. C5-3 (Midtown-5th Avenue Subdistrict). district.

245-15-BZ

350 West 50th Street, Bounded by West 49th Street, Ninth Avenue, West 50th and Eighth Avenue, Block 01040, Lot(s) 7501, Borough of **Manhattan, Community Board: 4**. C6-4 district.

246-15-BZ

1462 62nd Street, South side of 62nd street between 14th Avenue and 15th Avenue, Block 5734, Lot(s) 35, Borough of **Manhattan, Community Board: 11**. Variance (72-21) seek a variance for the legalization of the existing Use Group 3 Yeshiva at the third floor, the creation of a mezzanine on the first floor, and the use of the entire four-story and cellar structure, located within an M1-1 zoning district M1-1 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

REGULAR MEETING NOVEMBER 17, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, November 17, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

472-37-BZ

APPLICANT – Eric Palatnik, P.C., for 246 Sears Road Realty Corp., owner.

SUBJECT – Application October 14, 2014 – Extension of Term (§11-411) for the continued operation of an automotive service station which expired on January 27, 2014; Amendment (§11-412) to permit the conversion of repair bays into convenient store, the addition of a new canopy and relocation of fuel storage tanks. R5 zoning district.

PREMISES AFFECTED – 2765 Cropsey Avenue, southeast corner of 28th Avenue and Cropsey Avenue, Block 06915, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #13BK

241-47-BZ

APPLICANT – Sheldon Lobel, P.C., for Naohisa Matsumoto/Yasuko Matsumoto, owners.

SUBJECT – Application April 3, 2015 – Amendment (§11-413) of a previously approved variance which permitted the operation of Contractor's Establishment (Use Group 16A). The Amendment seeks to change the use to permit Custom Woodworking and furniture shop (Use Group 16A) and Art Studio (Use Group 9A); Extension of Term of the variance which expired on January 29, 2014 for an additional 10 years; Waiver of the Rules of Practice and Procedure. R5B zoning district.

PREMISES AFFECTED – 16-23/25 Hancock Street, approximately 24-5' northeast of the intersection formed by Wyckoff Street and Hancock Street, Block 03548, Lot 0097, Borough of Queens.

COMMUNITY BOARD #5Q

1059-84-BZ

APPLICANT – Troutman Sanders, LLP., for BMS Realty Company LLC, owner;

Bally Total Fitness Corporation, owner.

SUBJECT – Application February 27, 2015 – Extension of term of a Special Permit for the operation of a physical culture establishment (24 Hour Fitness) which expired on May 7, 2015; Amendment to reflect a change in ownership. C4-2 & C8-2 (OP) zoning district.

PREMISES AFFECTED – 943/61 Kings Highway, aka 2032 Coney Island Avenue, northwest corner of intersection Kings Highway and Coney Island Avenue, Block 06666,

Lot 0018, Borough of Brooklyn.
COMMUNITY BOARD #15BK

364-87-BZ

APPLICANT – Sheldon Lobel P.C., for 1710 Flatbush Realty Corp., owner.

SUBJECT – Application January 23, 2015 – Extension of Term (§11-411) of a previously granted variance permitting an automotive repair facility which expired on March 22, 2013; Waiver of the Rules. C2-2/R5 zoning district.

PREMISES AFFECTED – 1710-1720 Flatbush Avenue, corner of the intersection formed by East 34th Street and Flatbush Avenue, Block 07598, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #18BK

248-03-BZ

APPLICANT – Troutman Sanders LLP, for Ross & Ross, owner; Bally Total Fitness of Greater NY, Inc., lessee.

SUBJECT – Application February 5, 2015 – Extension of time to Obtain a Certificate of Occupancy of a previously approved Variance (72-21) which permitted the operation of a Physical Cultural Establishment (*Bally's Total Fitness*) which expired on January 22, 2015; Amendment to reflect a change in ownership. C1-5/R8A & R7A zoning district.

PREMISES AFFECTED – 1915 Third Avenue, southeast corner of East 106th Street and Third Avenue, Block 01655, Lot 45, Borough of Manhattan.

COMMUNITY BOARD #11M

APPEALS CALENDAR

58-15-A

APPLICANT – Goldman Harris LLC, for D.A.B. Group LLC, owner; Arcade Orchard Street LLC., lessee.

SUBJECT – Application March 16, 2015 – Appeal seeking a determination that the owner has obtained a vested right to complete construction commenced under the prior zoning district. C4-4 zoning district.

PREMISES AFFECTED – 139-141 Orchard aka 77,79,81 Rivington Street, through-block lot with frontage on Orchard Street, Rivington Street and Allen Street, Block 0415, Lot(s) 61,62,63,66,67, Borough of Manhattan.

COMMUNITY BOARD #3M

CALENDAR

REGULAR MEETING NOVEMBER 17, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, November 17, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

35-14-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA., for Demetrius Partridge, owner; Mara Parr Corp. dba CKO Kickboxing, lessee.

SUBJECT – Application February 12, 2014 – Special Permit (§73-36) to permit the operation a physical culture (CKO Kickboxing) within the existing building. C4-2A zoning district.

PREMISES AFFECTED – 40-06 Astoria Boulevard, Astoria Boulevard South 28.0 feet east of the intersection of Steinway Street and Astoria Boulevard, Block 00686, Lot 12, Borough of Queens.

COMMUNITY BOARD #1Q

240-14-BZ

APPLICANT – Gregory J. Tarone, Esq., for Laura Ziba Bauta & Marteza Bauto, owner.

SUBJECT – Application October 3, 2014 – Special Permit (§73-622) for the enlargement of a single family home contrary to floor area, open space and lot coverage (ZR 23-141(b); side yard requirement (ZR 23-461); and perimeter wall height (ZR 23-361(b). R3-1 zoning district.

PREMISES AFFECTED – 1620 Shore Boulevard, south side of Shore boulevard between Oxford and Norfolk Streets, Block 08757, Lot 87, Borough of Brooklyn.

COMMUNITY BOARD #15BK

60-15-BZ

APPLICANT – Eric Palatnik, P.C., for Jacob Klein, owner; Bree and Oliver NYC II. Inc., lessee.

SUBJECT – Application March 17, 2015 – Special Permit (§73-36) to allow for a physical culture establishment (*Cross Fit*) within the cellar of a ten story mixed use building. C6-4/LM zoning district.

PREMISES AFFECTED – 111 Fulton Street, between William Street and Nassau Street, Block 091, Lot 7502, Borough of Manhattan.

COMMUNITY BOARD #1M

Ryan Singer, Executive Director

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SPECIAL HEARINGS FRIDAY MORNING, OCTOBER 16, 2015 11:30 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.

SPECIAL ORDER CALENDAR

340-41-BZ

APPLICANT – Nasir J. Khanzada, PE, for Paul Sinanis, owner; S & J Service Station, Incorporated, lessee.

SUBJECT – Application June 27, 2014 – Extension of Term (§11-411) of a previously approved variance permitting the operation of an Automotive Service Station (UG 16B), with accessory uses, which expired on May 1, 2012; Amendment to permit the enlargement of an existing canopy, the addition of a fuel dispenser and small convenience sales area; Waiver of the Rules. C1-2/R4 zoning district.

PREMISES AFFECTED – 72-09 Main Street, Block 06660, Lot 1, Borough of Queens.

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4

Negative:.....0

Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, an extension of term and an amendment to the approved plans to allow for the enlargement of the existing canopy and addition of a pump island and small sales area; and

WHEREAS, a public hearing was held on this application on July 21, 2015, after due notice by publication in *The City Record*, with a continued hearing on September 1, 2015, and then to decision on October 16, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Montanez and Commissioner Ottley-Brown; and

WHEREAS, Community Board 8, Queens, recommends approval of this application; and

WHEREAS, the subject site is located on the block formed by Main Street, Vleigh Place, 72nd Avenue and 72nd Road, within an R4 (C1-2) zoning district; and

WHEREAS, the site has 200 feet of frontage along Main Street, 205 feet of frontage along Vleigh Place, 67 feet of frontage along 72nd Avenue and 21 feet of frontage along 72nd Road for a total lot area of 8,833 sq. ft.; and

WHEREAS, the site is occupied by a one-story building with approximately 1,795 sq. ft. of floor area (0.20 FAR); the building is occupied by a gasoline service station with accessory uses (Use Group 16) and small convenience store

(350 sq. ft.); and

WHEREAS, the Board has exercised jurisdiction over the site since June 24, 1941, when, under the subject calendar number, it granted a variance authorizing the operation of a gasoline service station, with accessory uses, contrary to the use regulations of the 1916 Zoning Resolution, for a term of ten years, to expire on June 24, 1951; this grant was amended and the term of the variance was extended at various times; the term of the subject variance last expired on May 1, 2012; and

WHEREAS, the applicant proposes to install a canopy, an additional pump island with fuel dispenser and to legalize a small convenience sales area; and

WHEREAS, the Board notes that Technical Policy and Procedure Notice (TPPN) # 10/99, provides that a retail convenience store located on the same zoning lot as a gasoline service station will be deemed accessory if: (i) the accessory convenience store is contained within a completely enclosed building; and (ii) the accessory convenience store has a maximum retail selling space of 2,500 sq. ft. or 25 percent of the zoning lot area, whichever is less; and

WHEREAS, the applicant states that the proposed convenience store is located within an enclosed building and has a retail selling space of less than 350 sq. ft. (four percent of the zoning lot area); and

WHEREAS, pursuant to ZR § 11-412, the Board may grant a request for changes to the site, including enlargement of the existing canopy and addition of a pump island and small sales area; and

340-41-BZ

WHEREAS, at the Board's request, the applicant submitted the following evidence into the record: (1) a landscape plan with confirmation that the trees are evergreens; (2) confirmation that the opaque slats in the chain link fence abutting the refuse area are to be replaced; (3) photographs reflecting the removal of all non-complying signage; and (4) a description of the plans to repair and paint the perimeter masonry wall; and

WHEREAS, based upon the above, the Board finds that the evidence in the record supports the findings required to be made under ZR § 11-411 for a ten-year extension of term from the date of the most recent expiration and under ZR § 11-412 for the noted amendments to the site, with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, and, pursuant to ZR §§ 11-411 and 11-412, *approves* a ten-year extension of term and amendments to a previously-granted variance to permit, on a site located within an R4 (C1-2) zoning district, the operation of a gasoline service station (Use Group 16), contrary to use regulations; *on condition* that all work will substantially conform to plans, filed with this application marked 'Received October 14, 2015-(9) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years, to expire on May 1, 2022;

THAT signage, fencing, and landscaping will be maintained in accordance with the BSA-approved plans;

THAT all conditions from prior resolutions not

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specifically waived by the Board will remain in effect;
THAT the site will be maintained free of debris and graffiti;
THAT all signage will comply with C1 zoning district regulations;
THAT landscaping will be maintained as reflected on the approved plans;
THAT the dumpster will be stored behind a fence with opaque slats;
THAT the above conditions will be noted in the certificate of occupancy;
THAT a certificate of occupancy will be obtained by October 16, 2016;
THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s); and
THAT DOB shall ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.
(DOB Application No. 420873629)
Adopted by the Board of Standards and Appeals, October 16, 2015.

69-95-BZ

APPLICANT – Fox Rothschild, LLP, for Hudson River Park Trust, owner; Chelsea Piers Management, Incorporated, lessee.
SUBJECT – Application May 18, 2015 – Extension of Term of a previously approved Special Permit (73-36) permitting the operation of a physical culture establishment (*The Sports Center at Chelsea Piers*) which expires on August 6, 2015. M2-3 zoning district.
PREMISES AFFECTED – 111B Eleventh Avenue, west side of West Street between West 19th and West 20th Streets, Block 00662, Lot 0016, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0
Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, this is an application for an extension of term for a previously granted variance for a Physical Culture Establishment (PCE), which expired on August 8, 2015; and
WHEREAS, a public hearing was held on this application on September 1, 2015, after due notice by publication in *The City Record*, and then to decision on October 16, 2015; and
WHEREAS, the premises and surrounding area had a site and neighborhood examination by Vice-Chair Hinkson; and
WHEREAS, Community Board 4, Manhattan, recommends approval of this application; and

WHEREAS, the subject premises is located on the west side of West Street, between West 19th and West 20th streets; and

WHEREAS, the PCE, operated as the Sports Center at Chelsea Piers, is located at Pier 60, and is within the Chelsea Piers Sports and Entertainment complex, which includes Piers 59 through 62; and

WHEREAS, Pier 60 is occupied by a two-story with mezzanines building and is located within an M2-3 zoning district; and

WHEREAS, the PCE occupies a portion of the first floor, and the entire second floor and second-floor mezzanine, for a total of 115,960 sq. ft. of floor area in the subject building; and

WHEREAS, the Board notes that the other portions of the sports complex are occupied by uses which do not require the special permit and therefore are not under the Board’s jurisdiction; and

WHEREAS, on August 8, 1995, the Board granted a special permit pursuant to ZR § 73-36, to permit the operation of the PCE in the subject building and in an additional part of the complex, located between Piers 61 and 62, known as the North Headhouse; and

WHEREAS, on March 15, 1994, under BSA Cal. No. 87-93-A, the Board granted an appeal to permit a variance of certain provisions of the Building Code relating to fire safety protection in anticipation of the development of the subject piers; and

WHEREAS, in 2006, the applicant also requested an amendment to reflect that, although the approved plans indicate PCE use at Pier 60 (115,960 sq. ft.) and in the North Headhouse (65,821 sq. ft.), the North Headhouse space was occupied by non-PCE use; and

WHEREAS, the applicant submitted new drawings and floor area calculations reflecting the as-built conditions, and illustrating that the PCE use was confined to Pier 60; and

WHEREAS, the applicant now requests an additional ten-year term from the term expiration of August 8, 2015; and

WHEREAS, at hearing, the Board requested that the applicant submit evidence that the Fire Department had approved the fire alarm system; and

WHEREAS, in response, the applicant submitted a letter, dated February 16, 2001, which reflects the Fire Department’s approval of the Class E fire alarm system and a letter, dated April 30, 2015 from Chelsea Piers, which describes the facility’s compliance with fire safety requirements and the conditions from the Board’s prior approvals; the applicant also submitted a letter from the Fire Department, dated October 16, 2015, which states that the agency does not have any objection to the current application; and

WHEREAS, based on the above, the Board finds that the requested extension of term is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated August 8, 1995, so that as amended this portion of the resolution shall read: “to grant an extension of the special permit for a term of ten years from the expiration of the last grant; *on condition* that the use and operation of the PCE shall substantially conform to

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BSA-approved plans, and that all work and site conditions will comply with drawings marked ‘Received September 21, 2015’–(6) sheets; and *on condition*:

THAT there will be no change in ownership or operating control of the PCE without prior approval from the Board;

THAT this grant will be limited to a term of ten years, expiring on August 8, 2015;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 100619957)

Adopted by the Board of Standards and Appeals, October 16, 2015.

146-96-BZ

APPLICANT – Stroock & Stroock & Lavan, LLP., for Scholastic 557 Broadway, LLC., owner.

SUBJECT – Application February 19, 2015 – Amendment of a previously approved Variance (§72-21) to permit the relocation of the building lobby from Broadway to Mercer Street and the conversion of an existing office lobby to retail space. M1-5B zoning district.

PREMISES AFFECTED – 557 Broadway aka 128-130 Mercer Street, west side of Broadway, 101’ south of the corner formed by the intersection of Prince Street and Broadway, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, this is an application for the reopening and amendment of a previously approved variance to permit certain modifications within a building built pursuant thereto; and

WHEREAS, a public hearing was held on this application on July 14, 2015 after due notice by publication in *The City Record*, with continued a hearing on September 1, 2015, and then to decision on October 16, 2015; and

WHEREAS, Community Board 2, Manhattan, recommended that the Board deny this application unless (1) the total retail use below the second story of the subject building does not exceed the amount approved in the Initial Variance (defined below); (2) retail uses at 557 Broadway are

restricted so that no single store can exceed 10,000 sq. ft. of retail space; and (3) future connections between the subject building and 557 Broadway are prohibited; and

WHEREAS, the subject site is a through-lot with 50 feet of frontage along Broadway and 50 feet of frontage along Mercer Street, between Prince Street and Spring Street, within an M1-5B zoning district, within the Soho-Cast Iron Historic District, in Manhattan; and

WHEREAS, the Board has exercised jurisdiction over the subject site since 1936 when, under BSA Cal. No. 105-36-A, it granted a building code variance for a previously existing building on the site; on August 5, 1997, under the subject calendar number, the Board granted an application to permit the construction of a ten-story office building with retail space contrary to the zoning regulations for floor area, rear yard equivalent, height and setback, and permitted uses below the second story (the “Initial Variance” pursuant to which the “Building” on the site was constructed); and

WHEREAS, subsequently, by letter dated August 12, 1999, the Board permitted certain modifications to the plans approved with the Initial Variance, including the addition of a mezzanine to the Building’s retail space, a reduction in the amount of the Building’s ground floor retail space, an increase in the Building’s lobby space, the creation of a setback and the relocation of stairs within the Building; and

WHEREAS, the applicant states that, as was the case when the Initial Variance was granted, the Building shares vertical and horizontal circulation with an adjacent building known as and located at 555 Broadway (“555 Broadway”); the applicant notes that 555 Broadway was purchased by the applicant after the Initial Variance, and is currently owned by the applicant; and

WHEREAS, the applicant now seeks to modify the existing Building to (1) relocate the office lobby and related common areas from the eastern portion of Building (facing Broadway) to the western portion of the Building (facing Mercer Street), and, correspondingly, relocate the retail space from the western portion of the Building (facing Mercer Street) to the eastern portion of the Building (facing Broadway); and (2) change the use on the second floor of the Building from office (Use Group 6B) to retail (Use Group 6A/6C); and

WHEREAS, initially, the applicant proposed to (1) increase the retail space on the first floor of the Building from 5,584 sq. ft. to 7,359 sq. ft.; (2) reduce the retail space on the first floor mezzanine from 1,059 sq. ft. to 733 sq. ft.; (3) reduce the office space on the first floor of the Building from 3,025 sq. ft. to 2,596 sq. ft.; (4) reduce the office space on the second floor of the Building from 9,087 sq. ft. to 1,349 sq. ft.; and (5) convert 8,607 sq. ft. of floor area on the second floor of the Building into retail (Use Group 6A/6C) space; and

WHEREAS, in hearing, the applicant modified the proposal such that the applicant now proposes to (1) increase the retail space on the first floor of the Building from 5,584 sq. ft. to 7,000 sq. ft.; (2) eliminate the retail space on the first floor mezzanine; (3) reduce the office space on the first floor of the Building from 3,025 sq. ft. to

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2,449 sq. ft.; (4) reduce the office space on the second floor of the Building from 9,087 sq. ft. to 871 sq. ft.; and (5) convert 8,505 sq. ft. of floor area on the second floor of the Building into retail (Use Group 6A/6C) space; and

WHEREAS, the applicant notes that proposed modifications will not impact the vertical and horizontal circulation common to the Building and 555 Broadway, both of which, the applicant states, are subject to an easement that authorizes certain shared building services and systems; and

WHEREAS, certain members of the community, including members associated with local civic groups, testified at the hearing and provided testimony in opposition to the subject application (collectively, the "Opposition"), citing the following concerns with the applicant's proposal: (1) the impact of retail establishments along Broadway on residents and small businesses in the subject neighborhood, specifically, impacts related to noise, pedestrian traffic, vehicular and delivery traffic, and illuminated signage; (2) the impact of large retail uses on design showrooms in the subject neighborhood; (3) the applicant's failure to demonstrate that the proposed modifications are consistent with the findings made by the Board in the Initial Variance; and

WHEREAS, the applicant represents that none of the findings made in granting the Initial Variance are disturbed by the proposed modifications, which, the applicant states, are necessary to create a modern workplace within the Building; and

WHEREAS, specifically, the applicant states that no changes to the envelope of the Building are proposed and, therefore, that the waivers for floor area, rear yard equivalent, and height and setback are not impacted by the proposed modifications; and

WHEREAS, the applicant also states that no new uses are proposed for the Building, and that the ground floor retail use, while reconfigured, will not increase in size; and

WHEREAS, the applicant notes, with respect to the second floor retail use, that such use is permitted as-of-right, and that such use was not an issue considered by the Board at the time of the Initial Variance; and

WHEREAS, with respect to the impact of the reconfiguration of the ground floor retail space on neighborhood character, the applicant notes that the Board did not include any discussion of the impact of the ground floor retail in the resolution accompanying the Initial Variance and suggests, therefore, that the Board's initial findings on neighborhood character are not disturbed by the proposed modifications; and

WHEREAS, the Board rejects the foregoing argument, and notes that it is incumbent upon the Board to evaluate neighborhood character where, as here, a proposed modification may have an impact on the essential character of a subject neighborhood or district, may impair the appropriate use or development of adjacent property, or may be detrimental to the public welfare; and

WHEREAS, with respect to such impacts, the applicant notes that the subject retail use, which will not be

increased at the ground floor of the Building, is ubiquitous in the surrounding neighborhood; and

WHEREAS, specifically, the applicant notes that of the buildings with frontages on Broadway between Spring Street and Prince Street, excluding the subject site, 94.7 percent have retail use on the ground floor fronting on Broadway; and

WHEREAS, with respect to the impact of the second floor retail space on neighborhood character, the applicant notes that such use is permitted as-of-right in the subject zoning district; and

WHEREAS, the applicant also notes that of the buildings with frontages on Broadway between Spring Street and Prince Street, excluding the subject site, 31.5 percent have second floor retail use fronting on Broadway; and

WHEREAS, as noted, the Opposition raised the concern, shared by the Board, that allowing second floor retail at the subject site might result in a retail use of more than 10,000 sq. ft.; and

WHEREAS, in response, the applicant states (1) that the Building cannot accommodate more than 10,000 sq. ft. of retail use on the second floor of the Building; and (2) that any retail use of 10,000 sq. ft. or more would be classified as a Use Group 10 use, and, therefore, would require further approval from the Board under the subject BSA Cal. No. as an additional amendment to the Initial Variance or a special permit from the City Planning Commission pursuant to ZR § 42-32 and 74-922; and

WHEREAS, as noted, Opposition also raised the concern, also shared by the Board, that allowing for second floor retail, and ground floor retail with frontage along Broadway, would increase the noise, traffic and negative impact of illuminated signage in the surrounding neighborhood; and

WHEREAS, in response, the applicant states that any tenant of the retail spaces in the Building will maintain reasonable hours for deliveries and will utilize signage that complies with the underlying district regulations as well as any regulations applicable to the historic district; and

WHEREAS, with respect to traffic, the applicant re-states that the surrounding neighborhood is already characterized by ground floor and second floor retail uses, and submits that, accordingly, neither the proposed reconfiguration of the ground floor retail space, nor the as-of-right use of the proposed second floor retail space, will negatively impact the character of the surrounding neighborhood; and

WHEREAS, with respect to the impact of illuminated signage, the Board notes its approval of the proposed modifications is conditioned upon the applicant mitigating such impact, as set-forth below; and

WHEREAS, the Board notes that the applicant obtained a Certificate of No Effect (CNE 17-0864), dated April 30, 2015, from the Landmarks Preservation Commission for the proposal; and

WHEREAS, the Board notes its previous finding, made at the time of the Initial Variance, that "the hardship

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was not created by the owner or a predecessor in title,” and concludes that such finding is not disturbed by the proposed modifications; and

WHEREAS, the Board also notes its previous finding, also made at the time of the Initial Variance, that “the proposal ... is the minimum necessary to afford the owner relief,” and concludes that the proposed modifications, which neither increase the amount of the ground floor retail space granted in the Initial Variance nor seek additional waivers to permit the as-of-right retail use at the second story of the Building, do not disturb such finding; and

WHEREAS, based on its review of the record, the Board finds that the proposed modifications, including the reconfiguration of the ground floor retail space and the conversion of second floor space from office (Use Group 6B) to retail (Use Group 6A/6C) use, are consistent with and do not impact the findings of the Initial Variance, and are therefore appropriate, subject to the conditions set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated August 5, 1997, so that as amended this portion of the resolution reads: “to permit the relocation of the office lobby and related common areas from the eastern portion of the ground floor of the Building (facing Broadway) to the western portion of the ground floor of the Building (facing Mercer Street), and, correspondingly, relocate the retail space from the western portion of the ground floor of the Building (facing Mercer Street) to the eastern portion of the ground floor of the Building (facing Broadway), as well as to permit a change in use on the second floor of the Building from office (Use Group 6B) to retail (Use Group 6A/6C)”; *on condition* that any and all work shall substantially conform to drawings filed with this application marked ‘Received August 4, 2015’- (13) sheets and “September 25, 2015”-(2) sheets; and *on further condition*:

THAT the signage will comply with all applicable regulations;

THAT all illuminated signage and window displays on the first floor of the Building shall be dimmed, by 50 percent, within one hour of the closing of the retail use located on such floor, or midnight, whichever is later;

THAT all illuminated signage and window displays on the second floor of the Building shall be turned off upon the closing of the retail use located on such floor, or 11:00 p.m., whichever is earlier;

THAT no retail use located, in whole or in part, within the subject Building, shall exceed 10,000 sq. ft. of floor area, absent further approval from this Board;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT the above conditions shall appear on the Building’s Certificate of Occupancy;

THAT all construction will be completed and a certificate of occupancy will be obtained by October 16, 2019;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted. (DOB Application No. 121192752)

Adopted by the Board of Standards and Appeals, October 16, 2015.

699-46-BZ

APPLICANT – Eric Palatnik, P.C., for Gurcharan Singh, owner.

SUBJECT – Application May 22, 2015 – Extension of Time to Complete Construction of a previously approved variance permitting the operation of an Automotive Service Station (UG 16B), which expired on May 19, 2015. R3X zoning district.

PREMISES AFFECTED – 224-01 North Conduit Avenue, between 224th Street and 225th Street, Block 13088, Lot 0044, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to November 24, 2015, at 10 A.M., for continued hearing.

202-62-BZ

APPLICANT – Warshaw Burstein, LLP, for NY Dealers Stations, LLC, owner.

SUBJECT – Application June 4, 2015 – Extension of Term and Waiver (§11-411) to extend the term and a Waiver of a previously granted variance for an automotive service station, which expired on April 3, 2011; Waiver of the Rules. C2-2/R4-1 zoning district.

PREMISES AFFECTED – 950 Allerton Avenue, southeast corner of the intersection of Allerton Avenue and Willamsbridge Road, Block 04447, Lot 062, Borough of Bronx.

COMMUNITY BOARD #11BX

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for continued hearing.

132-92-BZ

APPLICANT – Willy C. Yuin, RA, for Daniel Casella, owner.

SUBJECT – Application November 17, 2014 – Extension of Term of a previously approved variance (§72-21) which permitted day care use in the cellar of the subject premises in conjunction with a banquet hall use, which expired on July 19, 2014. R3X, C1-1 SRD zoning district.

PREMISES AFFECTED – 3948 Amboy Road, between Hillside Terrace and Brown Avenue, Block 05142, Lot 22, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for continued hearing.

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182-95-BZ

APPLICANT – Rothkrug & Spector LLP, for 2465 Broadway Associates LLC., owner.

SUBJECT – Application October 14, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a PCE (*Equinox Fitness Club*) which expires on November 1, 2015; Amendment to expand the PCE into the cellar and the full third floor; Waiver of the Rules. C4-6A/R8 zoning district.

PREMISES AFFECTED – 2465 Broadway, West side of Broadway, 50' south of southwest corner of intersection of Broadway and West 92nd Street, Block 01239, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to November 24, 2015, at 10 A.M., for continued hearing.

183-95-BZ

APPLICANT – Rothkrug & Spector LLP, for Haymes Broadway LLC, owner.

SUBJECT – Application October 14, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a PCE (*Equinox Fitness Club*) which expires on November 1, 2015; Amendment to expand the PCE into the cellar and the full third floor; Waiver of the Rules. C4-6A/R8 zoning district.

PREMISES AFFECTED – 2473 Broadway, southwest corner of intersection of Broadway and West 92nd Street, Block 01239, Lot 55, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to November 24, 2015, at 10 A.M., for continued hearing.

427-05-BZ

APPLICANT – Eric Palatnik, P.C., for Linwood holdings, LLC., owner.

SUBJECT – Application June 8, 2015 – Extension of Time to Complete Construction (§73-11) to seek an extension of time to complete construction which expired May 10, 2015. C4-2 zoning district.

PREMISES AFFECTED – 133-47 39th Avenue, between Price Street and College Point Boulevard, Block 04972, Lot 059, Borough of Queens.

COMMUNITY BOARD #7Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda..... 5
Negative:.....0

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for decision, hearing closed.

97-08-BZ

APPLICANT – Eric Palatnik P.C., for Yismach Moshe of Williamsburgh, Inc., owner.

SUBJECT – Application March 10, 2015 – Extension of Time to obtain a Certificate of Occupancy of a previously approved Special Permit (§73-19) permitting the legalization of an existing school (UG 3), which expired on March 16, 2012; Waiver of the Rules. M1-1 district.

PREMISES AFFECTED – 84 Sanford Street, between Park Avenue and Myrtle Avenue, Block 01736, Lot 0014, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

300-08-A

APPLICANT – Law office of Marvin B. Mitzner LLC, for Steven Baharestani, owner.

SUBJECT – Application April 24, 2014 – Extension of time to complete construction and obtain a Certificate of Occupancy for the construction of a hotel under common law vested rights. M1-2 /R5-B zoning district.

PREMISES AFFECTED – 39-35 27th Street, east side of 27th Street between 39th and 40th Avenues, Block 397, Lot 2, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for continued hearing.

317-12-A

APPLICANT – Eric Palatnik, P.C., for 4040 Plaza Management LLC, owner.

SUBJECT – Application June 16, 2015 – Extension of Time to complete construction in connection with a previously approved common law vested rights application. M1-3D zoning district.

PREMISES AFFECTED – 40-36 27th Street aka 4040 27th Street, west side of 27th Street, between 40th Avenue and 41st Avenue, Queens

COMMUNITY BOARD #1Q

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda..... 5
Negative:.....0

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for decision, hearing closed.

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ZONING CALENDAR

173-14-BZ

CEQR #14-BSA-031M

APPLICANT – Sheldon Lobel, P.C., for 244 Madison Realty Corp., owner; Coban's Muay Thai Camp NYC, lessee.

SUBJECT – Application July 22, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Evolution Muay Thai Camp*) in the cellar of an existing 16-story mixed-used residential and commercial building, located within an C5-2 zoning district.

PREMISES AFFECTED – 20 East 38th Street aka 244 Madison Avenue, southwest corner of Madison Avenue and East 38th Street, Block 867, Lot 57, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4
Negative:.....0

Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated June 22, 2014, acting on DOB Application No. 121913019, reads, in pertinent part:

 ZR 32-10 Proposed Physical Culture Establishment is not permitted as-of-right in a C5-2 district (ZR 32-10); and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C5-2 zoning district, the operation of a physical culture establishment (“PCE”) (martial arts center) in the cellar of an existing 16-story mixed-use residential and commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on April 21, 2015, after due notice by publication in the *City Record*, with a continued hearings on September 22, 2015, and then to decision on October 16, 2015; and

WHEREAS, Vice Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed site and neighborhood examinations of the premises and surrounding area; and

WHEREAS, Community Board 5, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the southwest corner of Madison Avenue and East 38th Street with 95 feet of frontage on East 38th Street and 99 feet of frontage on Madison Avenue and a total of 9,381 sq. ft. of lot area; and

WHEREAS, the site is the subject of a special permit granted on June 26, 1984 (BSA Cal. No. 149-84-BZ) for a Physical Culture Establishment, which was not related to the applicant; and

WHEREAS, on February 24, 2004, the Board revoked the prior special permit for failing to comply with the Board’s approval; and

WHEREAS, the PCE occupies portions of the cellar

(4,230 sq. ft.) and can be accessed by a main entrance on East 38th Street and the lobby of 244 Madison Avenue; and

WHEREAS, the cellar has been occupied by the martial arts fitness center known as Coban’s Muay Thai Camp since approximately February 14, 2014; and

WHEREAS, the applicant states that the other uses in the building include a restaurant, stores, and residential units on the upper floors; and

WHEREAS, the PCE’s proposed hours of operation are Monday through Friday, from 11:30 a.m. to 10:00 p.m., and on Saturday, from 10:30 a.m. to 5:00 p.m.; and

WHEREAS, at hearing, the Board requested information regarding the cellar’s fire safety measures, including proof of sprinkler installation; and

WHEREAS, in response, the applicant provided a TM1 form and Fire Department-approved fire alarm plans which show that the fire alarm systems have been installed and approved by the Fire Department for the cellar level; and

WHEREAS, the applicant also submitted revised plans which reflect that a sprinkler system has been installed on the cellar level; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither: (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the term of the grant will be dated from the February 14, 2014 commencement of the use at the site; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 14-BSA-031M, dated July 22, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-2 zoning district, the

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legalization of a PCE in a portion of the cellar of an existing 16-story mixed-use building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to drawings filed with this application marked “September 30, 2015”- Three (3) sheets; *on further condition*:

THAT the term of the PCE grant will expire on February 14, 2024;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 16, 2015.

260-14-BZ

CEQR #15-BSA-090M

APPLICANT – Goldman Harris LLC, for The Chapin School, Ltd., owner.

SUBJECT – Application October 17, 2014 – Variance (§72-21) to permit the construction of a three-story enlargement to the existing school, contrary to floor area, rear yard, height and setback requirements. (R8B/R10A) zoning districts.

PREMISES AFFECTED – 100 East End Avenue aka 106 East End Avenue, Block 1581, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4

Negative:.....0

Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated September 23, 2014, acting on Department of Buildings Application No. 122042048, reads in pertinent part:

1. ZR 24-11, 77-22 – Enlargement exceeds

maximum permitted floor area on pre-existing zoning lot;

2. ZR 24-36 – Enlarged portion does not meet rear yard requirement in R8B district;

3. ZR 24-50, 24-522, 23-633 – 15’ setback is not provided above the maximum base height in R8B district;

4. ZR 24-50, 24-522, 23-633 – Proposed building exceeds max. building height of 75’ in R8B district;

5. ZR 24-50, 24-522, 23-633 – 15’ setback on East 84th Street not provided in R10A district;

6. ZR 24-50, 24-522, 23-633 – 10’ setback on East End Avenue not provided in R10A district;

7. ZR 23-663 – 10’ rear setback above max. base height from rear yard line not provided in R8B district; and

WHEREAS, the decision of the Department of Buildings (“DOB”), dated February 9, 2015, also acting on Department of Buildings Application No. 122042048, reads in pertinent part:

1. ZR 24-11 – The proposed building in a[n] R8B/R10A zoning district exceeds[s] the allowable lot coverage permitted contrary to ZR 24-11; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within an R8B zoning district and partially within an R10A zoning district, the enlargement of an existing school building (Use Group 3), which does not comply with zoning regulations for rear yard, height and setback, lot coverage and floor area, contrary to ZR §§ 23-633, 24-11, 24-36, 24-50, 24-522 and 77-22; and

WHEREAS, a public hearing was held on this application on May 12, 2015, after due notice by publication in the *City Record*, with continued hearings on July 14, 2015, and September 1, 2015 and then to decision on October 16, 2015; and

WHEREAS, Community Board 8, Manhattan, recommends that the Board disapprove the instant application; and

WHEREAS, certain members of the community, including some members represented by counsel, testified at the hearing and provided testimony in opposition to the application (collectively, the “Opposition”), citing, *inter alia*, the following concerns: (1) that the purportedly as-of-right work the School performed during the pendency of this application was impermissible; (2) that the Board’s authorization of such work may result in “segmentation” such that the environmental impact of the Proposed Enlargement would not be properly analyzed; (3) that the School is not entitled to multiple variances; (4) that DEP’s noise sign-off does not address the proposed rooftop playground; (5) the visual impact of the proposed enlargement on the surrounding neighborhood; (6) the potential for shadows from the proposed enlargement to negatively impact Carl Schurz Park; (7) the negative impacts of the construction required to complete the proposed construction, including noise, vibration, dust, debris,

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and impediments to pedestrians; (8) that the proposed enlargement will alter the essential character of the neighborhood; (9) that the proposed enlargement will result in increased noise and traffic to the surrounding neighborhood; and

WHEREAS, this application is brought on behalf of the Chapin School (the "School"), a non-profit educational institution for girls founded in 1901; the School serves students from grades kindergarten through 12, and is organized into a "Lower School" (grades K-3), a "Middle School" (grades 4-7) and an "Upper School" (grades 8-12); and

WHEREAS, the applicant states that the School's current enrollment is 751 students; the School employs 130 teachers and 84 additional staff members; and

WHEREAS, the School represents that the subject proposal is designed to serve the School's current enrollment; and

WHEREAS, the subject site is comprised of a single zoning and tax lot (Block 1581, Lot 23); the site occupies the easterly portion of the block bounded by East End Avenue, East 84th Street, East 85th Street and York Avenue; the site has 102.17 feet of frontage along East End Avenue and 223 feet of frontage along East 84th Street, and 22,784 sq. ft. of lot area; the site is located partially within an R8B zoning district and partially within an R10A zoning district; the R10A portion of the site is mapped along East End Avenue to a depth of 100 feet; and

WHEREAS, the site is currently occupied by a single building consisting of three segments ranging from six to eight stories (the "Building"); the easterly, eight-story portion of the Building, with frontage along East End Avenue, is known as the "Main Building," and was constructed c. 1920; the westerly, six-story portion of the Building, the "Wing Building," was constructed c. 1932, and was acquired by the School in 1969; the six-story middle portion of the Building, which connects the Main Building and the Wing Building, is known as the "Cross-Over Building," and was constructed by the School between 1971 and 1997; and

WHEREAS, the Board has maintained jurisdiction over the site since 1969 when it approved a variance for a four-story enlargement to the Building; the School did not commence construction pursuant to the 1969 variance, and the 1969 variance lapsed; and

WHEREAS, in 1987, under BSA Cal. No. 498-87-BZ, the Board granted a variance to permit a three-story enlargement of the Wing Building, which did not comply with the zoning regulations for lot coverage and rear yards; the Board found that the waivers granted pursuant to such variance were the minimum relief necessary to meet the School's need for additional Lower School classrooms and a gymnasium; and

WHEREAS, in 1996, under BSA Cal. No. 171-95-BZ, the Board granted a variance to permit a three-story enlargement of the Cross-Over Building, which did not comply with the zoning regulations for height and setback and lot coverage; the Board found that the waivers granted pursuant to such variance were the minimum relief necessary to meet the School's need for a library, choral room and an additional gymnasium for the Middle School and Upper School; the

Board noted that Gym 5 was required because the large space located on the first floor of the Cross-Over Building, which had been used for both dining and gym purposes, could no longer be used as such and would only be used as a dining facility; and

WHEREAS, in 2006, also under BSA Cal. No. 171-95-BZ, the Board amended the School's 1996 variance to allow for the addition of three floors and a mezzanine to the Main Building in order to accommodate the School's need for science laboratories, additional classroom space, a greenhouse, a black box theatre, and offices for the Middle School and Upper School; because the 2006 enlargement was as-of-right, no waivers were granted by the Board; and

WHEREAS, on July 15, 2015, the Board issued a letter of substantial compliance, which stated that certain work being performed at the cellar and first floor of the Building substantially complied with the BSA-approved plans included with the 2006 amendment to the 1996 variance; and

WHEREAS, in order to meet certain of its programmatic needs, discussed in greater detail below, the School proposes to enlarge the Building as follows (the "Proposed Enlargement"): (1) construct a three-story enlargement above the Main Building which will contain a regulation-sized gymnasium and school-wide assembly space, accessory gymnasium and athletic space, dedicated space for dance and music, and an outdoor play roof; (2) the addition of a structure extending over the Cross-Over and Wing Buildings to provide required egress from the Building; and

WHEREAS, the applicant represents that the Proposed Enlargement will address the following of the School's programmatic needs: (1) the need for a regulation-size gymnasium; (2) the need for a performing arts space; (3) the need for dedicated Science, Technology, Engineering and Mathematics ("STEM") classrooms; (4) additional Upper School Classrooms; (5) Lower School dining space; and (6) an on-site health-care facility; and

WHEREAS, the applicant states that, in response to the Board's comments at hearing, it has modified the Proposed Enlargement from that which was originally proposed; specifically, the applicant states that the School has minimized the encroachment into the R8B portion of the site by relocating an exterior stair tower that was initially located on the R8B portion of the site to be within that portion of the Building which is located in the R10A portion of the site, thereby reducing the height of the encroachment into the R8B portion of the site by approximately 28 percent and the overall volume of the encroachment by approximately 60 percent; the applicant states further that the length of the encroachment into the R8B portion of the site has been reduced by one foot; and

WHEREAS, the applicant states that the Proposed Enlargement requires waivers of zoning regulations applicable in both the R10A and R8B zoning districts in which the Building is located; and

WHEREAS, with respect to that portion of the Building which is located in the R10A zoning district, the applicant represents that the Proposed Enlargement does not comply with the bulk regulations for setbacks pursuant to ZR §§ 24-50, 24-522 and 23-633; specifically (1) a setback of 15 feet above the

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maximum base height of 150 feet is required in the R10A portion of the site fronting on East 84th Street, and no setback is provided; and (2) a front setback of 10 feet above the maximum base height of 150 feet is required in the R10A portion of the site, fronting on East End Avenue, a setback of 2.5 feet at a height of 116.69 feet is proposed; and

WHEREAS, with respect to that portion of the Building which is located in the R10A zoning district, the applicant represents that the Proposed Enlargement does not comply with the bulk regulations for floor area ratio ("FAR") pursuant to ZR § 24-11; specifically the Proposed Enlargement exceeds the permitted floor area ratio in the R10A portion of the site in that the maximum permitted floor area is 102,170 sq. ft. and the Proposed Enlargement results in a total floor area of 102,813.35 sq. ft. within the R10A portion of the site; and

WHEREAS, with respect to that portion of the Building which is located in the R8B zoning district, the applicant represents that the Proposed Enlargement does not comply with the bulk regulations for setbacks pursuant to ZR §§ 24-50, 24-522, 23-633 and 23-663; specifically (1) within the R8B portion of the site, a setback of 15 feet above the maximum base height of 60 feet is required where the Building fronts on a narrow street, the applicant notes that there is no setback on such portion of the site and that the Proposed Enlargement will increase the degree of non-compliance with this requirement; and (2) a rear setback of 10 feet above the maximum base height of 60 feet is required in the R8B portion of the site, the applicant notes that there is no rear setback on such portion of the site and that the Proposed Enlargement will increase the degree of non-compliance with this requirement; and

WHEREAS, with respect to that portion of the Building which is located in the R8B zoning district, the applicant represents that the Proposed Enlargement does not comply with the bulk regulations for rear yards pursuant to ZR § 24-36; specifically the applicant states that there is an existing non-complying rear yard with a depth of 17 feet in that portion of the site which is located within the R8B zoning district, where a rear yard with a minimum depth of 30 feet is required; the applicant notes that the Proposed Enlargement will increase the degree of non-compliance with this requirement; and

WHEREAS, with respect to that portion of the Building which is located in the R8B zoning district, the applicant represents that the Proposed Enlargement does not comply with the bulk regulations for height pursuant to ZR § 23-633; specifically the applicant states a maximum building height of 75 feet is permitted within the subject R8B zoning district, and notes that the easternmost portion of the proposed 24'-1 1/2" westerly extension into the R8B zoning district (which extends 10'-10 1/2" into the R8B portion of the site) has a height of 180.08 feet (exclusive of the screen enclosure), and that the remainder of the westerly extension has a height of approximately 150 feet; and

WHEREAS, with respect to that portion of the Building which is located in the R8B zoning district, the applicant represents that the Proposed Enlargement does not comply with the bulk regulations for lot coverage pursuant to ZR § 24-11; specifically, the applicant states that the maximum lot coverage permitted in the R8B portion of the site is 70 percent (8,949 sq.

ft.), and further states that the Proposed Enlargement exceeds this limitation at the sixth floor of the Cross-Over Building by approximately 97 sq. ft., with a proposed lot coverage of 9,046 sq. ft.; and

WHEREAS, with respect to the entire site, the applicant represents that the Proposed Enlargement does not comply with the bulk regulations for FAR, pursuant to ZR § 24-11; specifically, the applicant notes that pursuant to ZR § 24-11, a maximum FAR of 5.1 for community facility use is permitted in the subject R8B zoning district, and a maximum FAR of 10.0 for community facility is permitted in the subject R10A zoning district, and states that pursuant to ZR § 77-22, which allows for the proportional application of the aforesaid bulk regulations based on the lot area within each zoning district, an average FAR of 7.29 (166,261.7 sq. ft.) is permitted at the site; however, the applicant states that the Proposed Enlargement contains 175,541 sq. ft. of floor area (7.71 FAR), which exceeds the maximum permitted for the site;¹ and

WHEREAS, as discussed in hearing, the applicant notes that the Proposed Enlargement does not require a waiver of ZR § 24-35 (side yards) because the Proposed Enlargement cantilevers over the non-complying open area up to the northern side lot line; and

WHEREAS, because the Proposed Enlargement does not comply with the above-noted bulk regulations, the applicant seeks the requested variance pursuant to ZR § 72-21; and

WHEREAS, the applicant contends that, per ZR § 72-21(a), the history of development of the site and the fact that the site is located in two zoning districts are unique physical conditions, which, when coupled with the School's programmatic needs, creates practical difficulties and unnecessary hardship in developing the site in compliance with the zoning regulations; and

WHEREAS, the applicant notes that the School was built in segments over a period of nearly 100 years, and, as stated, that the site is split between two zoning lots; and

WHEREAS, specifically, with respect to the history of the development of the site and the obsolescence of the existing building, the applicant states that the floor plates of the Main Building and Wing Building, constructed in the 1920s and 1930s, cannot accommodate a regulation-sized gymnasium, the provision of which, the School maintains, is an important programmatic need, and that the existing Building cannot accommodate additional classrooms, STEM classrooms, a performance arts space or a dedicated nurse's office; and

WHEREAS, indeed, in addition to the constraints imposed by the existing structure, the applicant also asserts that the School requires the requested waivers to meet its programmatic needs; and

WHEREAS, the applicant states that the programmatic

1 The applicant states that the R8B portion of the zoning lot generates 64,091.7 sq. ft. of floor area at 5.1 FAR, but that the Proposed Enlargement utilizes 72,727.5 sq. ft. of floor area in the R8B portion of the site, and that the R10A portion of the zoning lot generates 102,170 sq. ft. of floor area at 10.0 FAR, but that the Proposed Enlargement utilizes 102,813 sq. ft. of floor area in the R10A portion of the site.

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needs which will be addressed by the Proposed Enlargement are: (1) the need for a gymnasium that complies with National Federation of High School Associations (“NFHS”) rules, which mandate, *inter alia*, that basketball games be played on a court that is, at minimum, 70’ x 104’ (a 50’ x 84’ playing surface with a 10’ perimeter buffer), and which does not include spectator seating; (2) the need for improved performing arts spaces, including spaces for dance and vocal/instrument instruction; (3) additional Upper School classrooms; (4) STEM classrooms; (5) a health care facility; (6) improved dining facilities; and (7) outdoor play space; and

WHEREAS, with respect to the need for a gymnasium that complies with NFHS rules, the applicant notes that the School has been prohibited from hosting league tournament games since 2008, and that non-tournament games require a waiver which, the School has been advised, will not be available in the future if the School cannot meet the minimum NFHS dimensions; and

WHEREAS, the applicant also states that athletic support facilities are a required component of a contemporary high school gymnasium and that such facilities must be located in close proximity to the gymnasium, including locker rooms, fitness rooms, athletics supply storage, and personnel and safety offices; and

WHEREAS, the applicant represents that none of the existing gymnasiums in the Building are large enough to comply with NFHS rules, that none of the existing gymnasiums can be enlarged to comply with NFHS rules, and that the School cannot locate a new NFHS compliant gymnasium elsewhere in the Building; specifically, the applicant notes that locating the gymnasium in the Cross-Over Building, rather than in an addition to the taller Main Building, would require additional zoning waivers and would result in a larger building in the midblock, rather than on the avenue, and that locating the gymnasium in the cellar is impracticable because there is no full cellar in the Building and providing one suitable for a complying gymnasium would require extensive excavation and structural modifications to the building; and

WHEREAS, with respect to the need for improved performing arts spaces, including spaces for dance and vocal/instrument instruction, the applicant states that the Proposed Enlargement will allow for dedicated spaces for vocal instruction, instrumental instruction, and Middle School and Upper School dance classes; and

WHEREAS, the applicant states that by devoting one floor of the Proposed Enlargement to such performing arts spaces, the School will be able to provide, in addition to music and dance studios, four practice rooms, offices, a music library and an instrument storage space; and

WHEREAS, the applicant states that the existing Building is a vertical urban campus, the major circulation core of which (“Stair B”) is located in the R10A portion of the Building; the applicant states further that this core, known as “Main Street” among students, serves to link all elements of the Middle School and Upper School, thus, locating the proposed gymnasium in the R10A portion of the site, with athletic support and performing arts spaces below,

all accessible from Stair B, is critical to efficient student circulation and programmatic adjacency; and

WHEREAS, with respect to the need for additional Upper School classrooms, the applicant notes that the Upper School operates with a classroom utilization rate of approximately 95 percent, and that the Middle School operates with a classroom utilization rate of approximately 82 percent, and states that upon the construction of the proposed gymnasium, two of the School’s existing, inadequate, gymnasiums will be converted to other uses, including eight new Upper School Classrooms which will be located in close proximity to existing Upper School classroom space; and

WHEREAS, similarly, with respect to the need for STEM classrooms, the applicant states that upon the construction of the proposed gymnasium, the School will be able to provide for STEM classrooms where one of the School’s existing, inadequate gymnasiums is currently located; and

WHEREAS, with respect to the need for a health care facility, the applicant states that the Proposed Enlargement will enable the School to provide a reconfigured health care facility in space now occupied by one of the gymnasiums that will be eliminated upon the construction of the proposed gymnasium, and that such facility is required as the School’s nurse station currently receives up to 50 visits per day, is not wheelchair accessible, lacks space for private conversation, and does not have an adequate examination room; and

WHEREAS, with respect to the need for improved dining facilities, the applicant states that the School is proceeding with its plans to provide a below-grade Lower School cafeteria on an as-of-right basis, and notes that the Board issued a letter of substantial compliance authorizing such work; and

WHEREAS, with respect to the need for outdoor play space, the applicant states that the Proposed Enlargement will enable the School to locate a rooftop play area immediately above the proposed gymnasium, rather than utilize Carl Schurz Park, which is located opposite the School on East End Avenue; and

WHEREAS, the applicant states that all of the waivers sought herein are tied to the School’s well-established programmatic needs, save those which are required in order to provide required egress at the Building; and

WHEREAS, the applicant represents that no increase in enrollment is anticipated or planned and that the Proposed Enlargement seeks to address the School’s current space deficiencies and is not intended to allow the School to increase its enrollment; and

WHEREAS, the applicant examined the feasibility of various as-of-right scenarios, including locating the proposed gymnasium in the R10A portion of the Building only (the applicant represents that the required dimensions and egress cannot be accommodated solely within the R10A district); locating the proposed gymnasium in the cellar (the applicant represents that reconstruction of major structural systems throughout the building would be required in order to locate an adequate gymnasium in the cellar, and the relocation of the utility trench below the Building would be extremely costly

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and detrimental to the operation of the Building); locating the gym at the bottom of the Proposed Enlargement and setting back from a point above the gym (the applicant represents that this alternative would require additional waivers from the Board and would also require the relocation of the School's vertical circulation core); building over the Building's existing eighth floor greenhouse (the applicant represents that accessing a newly created area above the greenhouse would require the relocation of the School's vertical circulation core); procuring an off-site location (the applicant represents that the School was unable to find a suitable off-site location after a search that lasted approximately 18 months, and states further that in order to accommodate the required gymnasium, four contiguous townhouses would have to be acquired and demolished, and also an off-site location presents logistical issues and is inconsistent with the School's policy of housing all of its programs within a single building); and

WHEREAS, accordingly, the applicant states that the Proposed Enlargement most effectively meets the School's programmatic needs; and

WHEREAS, the Board acknowledges that the School, as an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, as noted by the applicant, under well-established precedents of the courts and this Board, an application for a variance that is needed in order to meet the programmatic needs of a non-profit educational institution is entitled to significant deference and shall be permitted unless the application can be shown to have an adverse effect upon the health, safety, or welfare of the community (*see, e.g., Cornell University v Bagnardi*, 68 NY2d 583 (1986)); and

WHEREAS, the Board acknowledges that, as set forth in *Cornell*, general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, the Board observes that *Cornell* deference has been afforded to comparable institutions in numerous other Board decisions, certain of which were cited by the applicant in its submissions; and

WHEREAS, the applicant states that based on an extensive review of its facility and operations, the proposal is the most efficient and effective use of its educational programmatic space, and the applicant concludes that the bulk relief requested is necessary to meet the School's programmatic needs; and

WHEREAS, the Board finds that the proposal has been designed to be consistent and compatible with adjacent uses and with the scale and character of the surrounding neighborhood and is, therefore, consistent with the standard established by the decision in *Cornell*; and

WHEREAS, the Board concurs that the waivers will facilitate construction that will meet the School's articulated needs; and

WHEREAS, in sum, the Board concludes that the applicant has fully explained and documented the need for the waivers to accommodate the School's programmatic

needs; and

WHEREAS, based upon the above, the Board finds that, consistent with ZR § 72-21(a), the programmatic needs of the School along with the existing constraints of the site create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the School is a non-profit educational institution and the variance is needed to further its educational mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant represents that the variance, if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the Proposed Enlargement is consistent with the scale and character of the neighborhood and is compatible with nearby uses; and

WHEREAS, in support of this statement, the applicant submitted a height study which states that the height of the Proposed Enlargement is not inconsistent with other tall buildings in the subject R8B zoning district, and notes that the horizontal encroachment into such district is limited and is no more than necessary to accommodate the minimum dimensions of the proposed gymnasium and to provide required egress; and

WHEREAS, the applicant also states that the Proposed Enlargement, including the rooftop play area, will be built below the maximum height permitted in the subject R10A zoning district; and

WHEREAS, the applicant provided a shadow study in support of its statement that the increased height of the Building will not have an adverse impact on Carl Schurz Park; and

WHEREAS, the applicant submitted a noise analysis in support of its statement that the proposed rooftop play area will have no adverse impact on the surrounding neighborhood, and has agreed to a number of sound and light attenuation measures which are included as conditions of this approval; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant states that, per ZR § 72-21(d), the hardship was not self-created, and that no development that would meet the programmatic needs of the School could occur given the history of development of the site; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the School; and

WHEREAS, the applicant represents that the requested waivers are the minimum necessary to accommodate the School's current and projected programmatic needs, in accordance with ZR § 72-21(e); and

WHEREAS, the Board notes that it reviewed numerous written submissions, held numerous hearings, and accepted

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testimony from the applicant, representatives from the School, the Opposition, counsel for the Opposition, and surrounding neighbors regarding the Proposed Enlargement, the requested waivers, and the potential impacts on neighborhood character and surrounding uses; the Board concludes that the School has modified the Proposed Enlargement to accommodate such concerns or provided detailed, programmatic needs-based reasons why it could not do so; and

WHEREAS, the Board notes that the as-of-right work complained of by the Opposition was authorized by DOB, and notes further that such work was deemed by the Board to be in substantial compliance with applicable BSA-approved plans; and

WHEREAS, with respect to the Opposition's concerns about segmentation, the Board notes that segmentation, the division of the environmental review of an action so that various activities, or stages of a development, are analyzed independently of each other in order to avoid a determination of significance, is not implicated where, as here, the as-of-right work the Opposition claims was excluded from the environmental review of the subject proposal was, indeed, considered as part of the project EAS; and

WHEREAS, with respect to the Board's authority to grant, and the School's entitlement to seek, additional variances, the Board notes that the Opposition's concerns are misplaced; the Board has granted multiple variances, and amended multiple variances, to meet the changing programmatic needs of educational institutions in New York City; and

WHEREAS, notwithstanding the foregoing, the Board notes that the School does not have plans to enlarge the Building again in the future, and the Board is concerned that any future enlargement may exceed an appropriate building height and floor area for the neighborhood; and

WHEREAS, the Board notes that the School, through counsel, has stated that it does not plan to increase its enrollment; thus, the Board finds that the Building, with the Proposed Enlargement, will meet the School's programmatic needs and allow for flexibility in the future to accommodate any new programmatic needs which may arise, such that additional enlargements, barring unforeseen circumstances, would not be warranted; and

WHEREAS, based on the foregoing, the Board finds that the requested relief, subject to the conditions set forth below, is the minimum necessary to allow the School to fulfill its programmatic needs; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 15-BSA-090M, dated September 16, 2015; and

WHEREAS, the EAS documents that the operation of the School would not have significant adverse impacts on Land

Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, the New York City Department of Environmental Protection's (DEP) Bureau of Environmental Planning and Analysis reviewed the project for potential hazardous materials; and

WHEREAS, DEP reviewed and accepted the Remedial Action Plan and Construction Health and Safety Plan; and

WHEREAS, DEP requested that a Remedial Closure Report be submitted to DEP for review and approval upon completion of the proposed project; and

WHEREAS, DEP reviewed and accepted the Noise Chapter in the Environmental Assessment Statement, the Noise Memorandum, and backup materials and determined that the proposed project would not result in any potential for significant adverse impacts with regards to Noise; and

WHEREAS, the New York City Department of Parks and Recreation reviewed and accepted the Shadows Chapter in the Environmental Assessment Statement and stated "that the shading would not likely rise to the significant impact threshold"; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site partially within an R8B zoning district and partially within an R10A zoning district, the enlargement of an existing school building (Use Group 3), which does not comply with zoning regulations for rear yard, height and setback, lot coverage and floor area, contrary to ZR §§ 23-633, 24-11, 24-36, 24-50, 24-522 and 77-22, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 16, 2015" – twenty-four (24) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the Proposed Enlargement: a maximum floor area of 175,540.5 sq. ft. (7.71 FAR), 72,727.5 sq. ft. of floor area in the R8B portion of the site and 102,813 sq. ft. of floor area in the R10A portion of the site; in the R10A portion of the site, a maximum building height of 210'-0", with a maximum height of 186'-0" to the roof (exclusive of bulkhead and screen enclosure); in the R8B portion of the site, a maximum height of 180'-1" to the roof

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(exclusive of screen enclosure) for that portion of the Building which extends 10'-10 1/2" westerly into the R8B zoning district, a maximum height of 150'-0" to the roof for the remainder of the 24'-1 1/2" westerly extension of the Building into the R8B zoning district, and a maximum building height of 75'-0" for the remainder of that portion of the Building which is located in the R8B zoning district, with a maximum height to roof of 95'-6"; no setback above the maximum base height in the R10A portion of the site fronting on East 84th Street; a front setback of 2'-6" above the maximum base height of 116'-8 1/2" feet in the R10A portion of the site fronting on East End Avenue; no setback above the maximum base height of 60 feet in the R8B portion of the site which fronts on a narrow street; no rear setback in the R8B portion of the site; a rear yard with a depth of 17'-0" in the R8B portion of the site; a lot coverage of 9,046 sq. ft. in the R8B portion of the site above the 5th floor and 10,475 sq. ft. in the R10A portion of the site; all as illustrated on the BSA-approved plans;

THAT any change in the use, occupancy, internal configuration of space, or operator of the School shall require review and approval by the Board;

THAT the use of the play roof shall be limited to the hours between sunrise and sunset;

THAT there shall be no lighting on the play roof, save that which is required by the Building Code for emergency egress, or other applicable state or municipal laws and rules;

THAT there shall not be any permanent sound amplification equipment installed on the play roof;

THAT no electronic amplification will be allowed at the play roof at any time;

THAT the School shall maintain a sidewalk shed at the subject site in order to reduce noise and improve pedestrian safety during any construction performed pursuant to this variance;

THAT the School shall employ a facilities manager to ensure that the subject site is well-maintained and that open pedestrian areas remain free of construction materials and debris;

THAT DOB will not issue a Certificate of Occupancy prior to DEP's approval of the Remedial Closure Report;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by October 16, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 16, 2015.

270-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Carnegie Park Land Holding LLC c/o Related Cos., owner; Equinox-East 92nd LLC, lessee.

SUBJECT – Application November 3, 2014 – Special Permit 73-36 to allow the physical culture establishment (*Equinox*) within portions of a new mixed use building, located within an C4-6 zoning district.

PREMISES AFFECTED – 203 East 92nd Street, north side of East 92nd Street, 80 ft. east of intersection with 3rd Avenue, Block 01538, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4

Negative:.....0

Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated October 22, 2014, acting on DOB Application No. 120921002, reads, in pertinent part:

ZR 32-10 Proposed Physical Culture Establishment is not permitted as-of-right in a C4-6 district as per ZR 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-6 zoning district, the operation of a physical culture establishment ("PCE") within portions of a proposed mixed-use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on May 19, 2015, after due notice by publication in the *City Record*, with continued hearings on June 23, 2015, July 14, 2015, August 25, 2015, and then to decision on October 16, 2015; and

WHEREAS, Vice Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed site and neighborhood examinations of the premises and surrounding area; and

WHEREAS, Community Board 8, Manhattan, recommends disapproval of this application; and

WHEREAS, the subject site is a through lot with 159 feet of frontage on the north side of East 92nd Street, 159 feet of frontage on the south side of East 93rd Street and a depth of 201 feet for a total of 31,958 sq. ft. of lot area; and

WHEREAS, the site is located within a C4-6 zoning district; and

WHEREAS, the site is currently under development with a planned 36-story mixed-use building; and

WHEREAS, the first through sixth floors will be occupied by a mix of residential, commercial and community facility uses, with residential use on the upper floors; and

WHEREAS, the proposed PCE will occupy portions of the cellar (5,511 sq. ft.), first floor (3,996 sq. ft.), fifth floor (14,014 sq. ft.) and sixth floor (14,522 sq. ft.) for a total of 32,532 sq. ft. of floor area; and

WHEREAS, the proposed PCE will be operated as

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Equinox; and

WHEREAS, the applicant states that the seventh floor (above the PCE) will be occupied by a leasing office, bicycle storage, mechanical rooms, a terrace, a residential meeting room and the building superintendent's apartment; and

WHEREAS, the PCE's proposed hours of operation are Monday through Saturday, from 5:30 a.m. to 11:00 p.m., and on Sunday, from 7:00 a.m. to 9:00 p.m.; and

WHEREAS, at hearing, the Board inquired into the sound attenuation measures in the sixth-floor ceiling; and

WHEREAS, the applicant responded that only low noise cardio activity will be located in the area below the superintendent's apartment and submitted a plan sheet, which reflects a hung ceiling to be fully enclosed and to include insulation material to mitigate any sound impact the PCE might have on the seventh floor; the applicant also submitted the sound consultant's notes on the expected STC ratings of the 8-inch concrete floor and the drop ceiling with gypsum board; and

WHEREAS, the applicant also included plans to reflect the proposed location of sound attenuation measures, including the only high activity areas on the fifth floor that would be adjacent to the proposed school on the fourth floor; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither: (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Unlisted Action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the site is the subject of a New York City Planning ULURP Action; and

WHEREAS, the site has existing institutional controls, specifically an "E designation, (E-311) relating to noise as identified in the August 21, 2013 Negative Declaration CEQR No. 13DCP121M; and

WHEREAS, the text of the 'E designation states as follows: In order to ensure an acceptable interior noise environment, future school/residential/commercial uses must

provide a closed window condition with up to 41dBA of window/wall attenuation in order to maintain an interior noise level of 45 dBA . In order to maintain a closed window condition, alternate means of ventilation that brings outside air into the building without degrading the acoustical performance of the building must also be provided. Alternate means of ventilation includes, but not limited to, central air conditioning. The specific attenuation requirements to be implemented throughout the project building facades are provided in the 203-205 East 92nd Street Technical Memorandum .Table 6 (CEQR No. 13DCP121M), August 2013; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

Therefore it is Resolved, that the Board of Standards and Appeals adopts the Negative Declaration determination issued by the New York City Department of City Planning on August 21, 2013 for CEQR No. 13DCP121M as prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-6 zoning district, the operation of a PCE on portions of the cellar, first floor, fifth floor and sixth floor of a new 36-story mixed-use building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to drawings filed with this application marked "July 2, 2015"- (18) sheets; *on further condition*:

THAT the term of the PCE grant will expire on October 16, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the hours of operation will be limited to Monday through Saturday, from 5:30 a.m. to 11:00 p.m., and on Sunday, from 7:00 a.m. to 9:00 p.m.;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the

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applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 16, 2015.

32-15-BZ

CEQR #15-BSA-160K

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 2857 West 8th Street Associates, LLC., owner; Blink West 8th Street, Inc., lessee.

SUBJECT – Application February 19, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Blink Fitness*) within portions of an existing building. C8-2 (OP) zoning district

PREMISES AFFECTED – 2847 West 8th Street, east side of West 8th Street, 125.67’ south of the intersection of West 8th Street and Sheepshead Bay Road, Block 07279, Lot 0162, Borough of Brooklyn.

COMMUNITY BOARD #13BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4

Negative:.....0

Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated February 12, 2015, acting on DOB Application No. 320864203, reads, in pertinent part:

Proposed Physical Culture Establishment on the second floor in a C8-2 (OP) District is contrary to Section 32-10 ZR and must be referred to the BSA. No parking as per ZRD-1 #23001 dated 6/29/12; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C8-2 zoning district within the Special Ocean Parkway District (OP), the operation of a physical culture establishment (“PCE”) on the second floor of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on September 1, 2015, after due notice by publication in the *City Record*, and then to decision on October 16, 2015; and

WHEREAS, Vice Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed site and neighborhood examinations of the premises and surrounding area; and

WHEREAS, the subject site is located on the east side of West 8th Street with a depth of 200 feet and a lot area of 35,107 sq. ft.; and

WHEREAS, the proposed PCE occupies 14,734 sq. ft. on the second floor and 679 sq. ft. of floor area on the first floor for a total of 15,413 sq. ft. of floor area; and

WHEREAS, the PCE, operated as Blink Fitness, has occupied the site since approximately September 1, 2015; and

WHEREAS, the PCE’s proposed hours of operation are Monday through Saturday, from 5:30 a.m. to 11:00 p.m., and on Sunday, from 7:00 a.m. to 9:00 p.m.; and

WHEREAS, at hearing, the Board requested information regarding the fire safety measures and sound attenuation; and

WHEREAS, in response, the applicant submitted an approval from the Fire Department regarding the fire alarm, evidence that the sprinklers passed testing requirements, and revised plans which include notes regarding the sound attenuation measures, including rubber flooring and insulated walls; and

WHEREAS, the applicant also proved a copy of the ZRD-1 referenced in the DOB objection, which allows a waiver of the accessory parking requirement; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the PCE does not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither: (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the term of the grant will be dated from the September 1, 2015 commencement of the use at the site; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15-BSA-160K, dated February 19, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C8-2 (OP) zoning district, the legalization of a physical culture establishment (“PCE”) on the second floor of a two-story building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to drawings filed with this application marked “September 29, 2015”- Four (4) sheets; *on further condition*:

MINUTES

THAT the term of the PCE grant will expire on September 1, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 16, 2015.

33-15-BZ

CEQR #15-BSA-161X

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Equity One (Northeast Portfolio) Inc., owner; Blink 5510-5530 Broadway, Inc., lessee.

SUBJECT – Application February 19, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Blink Fitness*) within a new commercial building. C8-2 (OP) zoning district.

PREMISES AFFECTED – 5510 Broadway, north east corner of Broadway and West 230th Street, Block 03266, Lot(s) 21 & 23, Borough of Bronx.

COMMUNITY BOARD #8BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough Commissioner, dated February 2, 2015, acting on Department of Buildings Application No. 220361034, reads in pertinent part:

“Proposed Physical Culture Establishment, in a C4-4 zoning district, is contrary to Section 32-10 ZR and requires a Special Permit from the Board of Standards and Appeals pursuant to Section 73-36 Zoning Resolution;” and

WHEREAS, this is an application under ZR §§ 73-36

and 73-03, to permit, on a site located within a C4-4 zoning district, the operation of a physical culture establishment (PCE), contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on September 1, 2015 after due notice by publication in *The City Record*, and then to decision on October 16, 2015; and

WHEREAS, Community Board 8, Bronx, recommends approval of this application; and

WHEREAS, Vice-Chair Hinkson performed an inspection of the site and surrounding neighborhood; and

WHEREAS, Lot 21 of the subject site is located at the northeast corner of Broadway and West 230th Street and Lot 23 of the subject site is located immediately north of Lot 21 on the east side of Broadway between West 230th Street and Verveelen Place, within a C4-4 zoning district, in the Bronx; and

WHEREAS, Lot 21 has approximately 100 feet of frontage along West 230th Street and 75 feet of frontage along Broadway, and 7,500 sq. ft. of lot area and Lot 23 has approximately 115 feet of frontage along Broadway and 11,500 sq. ft. of lot area; and

WHEREAS, Lot 21 is currently being developed with a two (2) story plus cellar commercial building with 14,924 sq. ft. in area under Department of Buildings Application No. 220361034 and, with regards to Lot 23, Department of Buildings Application No. 2203611310 is pending for development of a two (2) story plus cellar commercial building with 19,840 sq. ft. in area; and

WHEREAS, the parking requirements for the two sites, as set forth in ZR § 36-21, are waived under ZR § 36-232(a) because they total less than 40 spaces; and

WHEREAS, the proposed PCE will consist of 7,464 sq. ft. on the second floor of the new building to be developed on Lot 21 and 8,646 sq. ft. on the second floor and 194 sq. ft. on the first floor of the new building to be developed on Lot 23; and

WHEREAS, the proposed PCE will be accessible from the first floor of the building developed on Lot 23, where there will be a lobby and entry to an elevator and stairs to the second floor of the PCE facility; and

WHEREAS, the PCE will be operated as Blink Fitness; and

WHEREAS, the applicant represents that the PCE will include areas for stretching and a variety of aerobic and weight-lifting equipment; and

WHEREAS, the proposed hours of operation for the PCE are: Monday through Saturday, from 5:30 a.m. to 11:00 p.m. and Sunday, 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has deemed to be satisfactory; and

WHEREAS, the Fire Department states that it has no objections to the proposal, other than the IFA and Sprinkler installations; and

WHEREAS, the applicant has provided the Board with

MINUTES

plans representing that an approved interior fire alarm system—including area smoke detectors, manual pull stations at each required exit, local audible and visual alarms, and connection to a Fired Department-approved central station—shall be installed in the entire PCE space; and

WHEREAS, the applicant’s plans also include notes of the proposed sound attenuation measures, including rubber flooring and insulated walls, comparable to those measures employed at other locations of the same operator in similar commercial buildings; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-161X, dated February 19, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site located in a C4-3 zoning district, the operation of a PCE in portions of the first and second stories of two new commercial buildings, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received September 3, 2015”-four (4) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on October 16, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance under Local Law 58/87 will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 16, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 16, 2015.

69-15-BZ

APPLICANT – Glenn V. Cutrona, AIA, for Murray Page 74 LLC, owner.

SUBJECT – Application March 30, 2015 – Variance (§72-21) a proposed eating and drinking establishment with accessory drive through facility, located within an R3X/C1-1/SRD zoning district.

PREMISES AFFECTED – 245 Page Avenue, between Richmond Valley Road and Amboy Road, Block 08008, Lot 74, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Laid over to October 27, 2015, at 10 A.M., for deferred decision.

98-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 404-414 Richmond Terrace Inc., owner.

SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the reestablishment of a banquet facility (catering hall -UG 9) with accessory parking. Located in an R5 and R3A zoning districts within the St. George Historic District. PREMISES AFFECTED – 404 Richmond Terrace, southeast corner of Richmond Terrace and Westervelt Avenue, Block 3, Lot(s) 40, 31, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to November 24, 2015, at 10 A.M., for continued hearing.

MINUTES

SPECIAL HEARINGS
FRIDAY AFTERNOON, OCTOBER 16, 2015
1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown, Commissioner Montanez and
Commissioner Chanda.

ZONING CALENDAR

330-13-BZ

APPLICANT – Alexander Levkovich, for Dilshoda
Nasriddinova, owner.

SUBJECT – Application December 31, 2013 – Special
Permit (§73-622) for the legalization of an enlargement to an
existing single family home contrary to floor area (ZR 23-
141). R4-1 zoning district.

PREMISES AFFECTED – 2801 Brown Street, east side of
Brown Street, 230’ south of intersection with Shore
Parkway, Block 08800, Lot 0095, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to December
15, 2015, at 10 A.M., for continued hearing.

149-14-BZ

APPLICANT – Lewis E. Garfinkel, for Abraham Schreiber,
owner.

SUBJECT – Application June 25, 2014 – Special Permit
(§73-622) to for the enlargement of an existing single family
residence contrary to floor area and open space (ZR 23-
141(a)); side yards (ZR 23-461) and less than the required
rear yard (ZR 23-47). R-2 zoning district.

PREMISES AFFECTED – 3173 Bedford Avenue, east side
of Bedford Avenue 400’ north from Avenue K, Block
07607, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to December
15, 2015, at 10 A.M., for continued hearing.

323-14-BZ

APPLICANT – Eric Palatnik, P.C., for Avner Levy, owner.

SUBJECT – Application December 12, 2014 – Special
Permit (§73-622) for the enlargement of an existing single
family home contrary to floor area (ZR 23-141(b)). R3-1
zoning district.

PREMISES AFFECTED – 282 Corbin Place, adjacent to the
Coney Island Beach and Boardwalk, Block 08723, Lot 276,
Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to November
24, 2015, at 10 A.M., for continued hearing.

43-15-BZ

APPLICANT – Eric Palatnik, PC., for Joseph Tolv, owner.
SUBJECT – Application March 6, 2015 – Special Permit
(§73-622) to permit an enlargement of one family home,
seeking to waive the floor area, lot coverage, rear yard,
perimeter wall height and open space requirements. R3-2
zoning district.

PREMISES AFFECTED – 2617 Avenue R, between East
26th and 27th Streets, Block 06809, Lot 0049, Borough of
Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to November
24, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

BULLETIN

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Tuesday, October 20, 2015**

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Affecting Calendar Numbers:

88-10-BZ	1327 East 21 st Street, Brooklyn
333-78-BZ	136-138 West 24 th Street, Manhattan
826-86-BZ	269-10 Grand Central Parkway, Queens
827-86-BZ	270-10 Grand Central Parkway, Queens
828-86-BZ	269-10 Grand Central Parkway, Queens
585-91-BZ	222-44 Braddock Avenue, Queens
129-97-BZ	150-65 Cross Island Parkway, Queens
301-03-BZ	1103 East 22 nd Street, Brooklyn
369-03-BZ	99-01 Queens Boulevard, Queens
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35-15-A	2001 Bartow Avenue, Bronx
65-15-BZ & 66-15-A	361 Central Park West, Manhattan
135-15-A	50 Oak Point Avenue, Bronx
202-14-BZ	2268 West 1 st Street, Brooklyn
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2-15-BZ	31 West 19 th Street, Manhattan
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Affecting Calendar Numbers:

129-14-BZ	2137 East 12 th Street, Brooklyn
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322-14-BZ	82 Coleridge Street, Brooklyn
44-15-BZ	145 Central Park North, Manhattan

DOCKETS

New Case Filed Up to October 20, 2015

247-15-BZ

135 Plymouth Street, Northerly side of Plymouth Street between Adams Street and Pearl Street, Block 018, Lot(s) 01, Borough of **Brooklyn, Community Board: 2**. Special Permit (73-36) to allow the operation of a physical culture establishment (PCE) at the subject premises on portion of the round floor, located within an MX-2 within M1-4/R8A zoning district. MX-2w/nM1-4/R8A district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

REGULAR MEETING NOVEMBER 24, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, November 24, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

528-64-BZ

APPLICANT – Gerald Caliendo, RA, AIA, for 240-02 Realty LLC/Tim Brolied, owner.

SUBJECT – Application November 4, 2013 – Amendment of a previously approved Variance (§72-21) which permitted the erection of a two story enlargement of an auto showroom (UG 16B). The amendment seeks to enlarge the existing automobile showroom and include an addition of a parking deck to the existing automobile dealership (*East Hills Chevrolet*). R1-2 zoning district.

PREMISES AFFECTED – 240-02 Northern Boulevard, southwest corner of Alameda Avenue and Northern Boulevard, Block 08167, Lot 1, Borough of Queens.

COMMUNITY BOARD #11Q

57-95-A thru 59-95-A

APPLICANT – Mitchell S. Ross, Esq., for Upwest Company, LLC, owner.

SUBJECT – Application February 9, 2015 – Amendment/Time to complete construction filed under Certificate of Occupancy Modification. R7-2 zoning district.

PREMISES AFFECTED – 473 Central Park West, West side of Central Park West between West 107th and West 108th Streets, Block 01843, Lot 32, Borough of Manhattan.

COMMUNITY BOARD #7M

105-10-BZ

APPLICANT – Eric Palatnik, P.C., for Misha Keylin, owner.

SUBJECT – Application February 24, 2015 – Amendment of a previously approved Special Permit (§73-622) permitting the enlargement of an existing single family home. The amendment seek a second story enlargement. R4A (BRSD) zoning district.

PREMISES AFFECTED – 269 77th Street, between 3rd Avenue and Ridge Boulevard, Block 05949, Lot 0054, Borough of Brooklyn.

COMMUNITY BOARD #10BK

128-10-BZ

APPLICANT – Eric Palatnik, P.C., for Merhay Yagudayev, owner; Jewish Center of Kew Gardens, lessee.

SUBJECT – Application June 15, 2015 – Extension of time to complete Construction and obtain a Certificate of Occupancy for a Use Group 4 three-story synagogue (*Jewish Center of Kew Gardens*) religious school, and Rabbi's apartment, which expired on August 23, 2015. R4 zoning district.

PREMISES AFFECTED – 147-58 77th Road, 150th Street and 77th Road, Block 06688, Lot 031, Borough of Queens.

COMMUNITY BOARD #8Q

REGULAR MEETING NOVEMBER 24, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, November 24, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

45-15-BZ

APPLICANT – Simons & Wright LLC, for Queensboro Development, LLC, owner; Long Island City Rock Climbing Co. LLC, lessee.

SUBJECT – Application March 10, 2015 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Rock Climbing Facility*) C5-3 zoning district. M1-5/R7-3 (LIC) zoning district.

PREMISES AFFECTED – 23-10 41st Avenue, between 23rd and 24th Streets, Block 00413, Lot 0022, Borough of Queens.

COMMUNITY BOARD #1Q

53-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 10 E53rd Street Owner LLC c/o SL Green Realty Co., owner; Equinox East 53rd Street, Inc., lessee.

SUBJECT – Application March 12, 2015 – Special Permit (§73-36) to permit a physical culture establishment (*Equinox*) within an existing building. C5-2.5(MID) + C.3MID)(F) zoning district.

PREMISES AFFECTED – 10 East 53rd Street, south side of east 53rd Street, 125' west of intersection of East 53rd Street and 5th Avenue, Block 01288, Lot 7, Borough of Manhattan.

COMMUNITY BOARD #5M

CALENDAR

63-15-BZ

APPLICANT – Sheldon Lobel, P.C., for Sutton Owners Corporation, Inc., owner; Harriet Harkavy, Esq., lessee.

SUBJECT – Application March 23, 2015 – Variance (§72-21) to legalize the three existing enclosures of portions of the terrace of Unit PHC located on the penthouse floor of the premises. R10 zoning district.

PREMISES AFFECTED – 35 Sutton Place, corner through-lot with frontage on 59th Street between Sutton Place and Riverview Terrace, Block 01372, Lot 73, Borough of Manhattan.

COMMUNITY BOARD #6M

Ryan Singer, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, OCTOBER 20, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.

SPECIAL ORDER CALENDAR

88-10-BZ

APPLICANT – Dennis D. Dell Angelo, for Maurice Duetsch, owner.

SUBJECT – Application February 26, 2015 – Amendment of a previously approved Special Permit (§73-622) permitting the enlargement of an existing single family residence. The amendment seeks to reduce the floor area and coverage while adding a roof deck and the exterior design; Extension of Time to complete construction which expired on August 24, 2014. R-2 zoning district.

PREMISES AFFECTED – 1327 East 21st Street, south east corner of east 21st Street and Avenue L, Block 07639, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4

Abstain: Commissioner Chanda.....1

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time of complete construction pursuant to a previously-granted special permit for the enlargement of a single-family home, which expired on August 24, 2014, as well as an amendment of such approval to facilitate compliance with FEMA flood regulations; and

WHEREAS, a public hearing was held on this application on October 20, 2015, after due notice by publication in *The City Record*, and then to decision on that date; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the southeast corner of East 21st Street and Avenue L, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 5,000 sq. ft., and is occupied by a single-family home with a floor area of 3,875 sq. ft. (0.78 FAR); and

WHEREAS, on August 24, 2010, under the subject calendar number, the Board granted a special permit under ZR §§ 73-622 and 73-03, to permit the enlargement of the existing two-family residence to be converted into a single-family home, contrary to the zoning requirements for floor area, open space ratio, and side yards, contrary to ZR §§ 23-

141 and 23-461; and

WHEREAS, specifically, the previous grant authorized a maximum floor area of 4,855 sq. ft. (0.97 FAR); an open space ratio of approximately 61 percent; a side yard with a minimum width of 4’-3¾” along the eastern lot line; and a side yard with a width of 23’-0” along the southern lot line; and

WHEREAS, pursuant to the conditions of the grant, substantial construction was to be completed by August 24, 2014; however, the applicant represents that as of that date, substantial construction had not been completed; and

WHEREAS, accordingly, the applicant now requests an extension of time to complete construction and obtain a certificate of occupancy pursuant to §§1-07.1(a)(3) and 1-07(c)(2) of the Board’s Rules of Practice and Procedure; and

WHEREAS, the Board notes that the instant application was filed on February 26, 2015, less than two years after the expiration of the time to complete construction; and

WHEREAS, the applicant states that the current owners of the property purchased the property on January 14, 2014, subsequent to the Board’s issuance of the underlying special permit, and that the previous owners failed to provide the current owners with items required by the Department of Buildings, such that the applicant was unable to secure construction permits for the permitted work; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to complete construction is appropriate, with certain conditions as set forth below; and

WHEREAS, the applicant also proposes to modify the underlying approved plans pursuant to §1-07.1(a)(1) of the Board’s Rules of Practice and Procedure by removing the existing one-story projection along East 21st Street, thereby reducing the FAR from .97 to .94, and increasing the Open Space Ratio from 61 percent to 65 percent; and

WHEREAS, the applicant states that the revised design is substantially the same as that which was previously approved by the Board, with the exception of an added stair bulkhead and roof deck, which are permitted as-of-right; and

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated August 24, 2010, so that as amended the resolution reads: “to grant an extension of time to complete construction for a term of four years from the date of this grant, to expire on October 20, 2019” and also reads “to permit the noted modifications, as specified on BSA-approved plans”; *on condition* that all work will substantially conform to drawings, filed with this application marked ‘Received February 26, 2015’–(18) sheets; and *on further condition*:

THAT substantial construction will be completed by October 20, 2019;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted including, without limitation, those

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regulations applicable to flood plain elevation, excavation and cellar occupancy.”

(DOB Application No. 320127554)

Adopted by the Board of Standards and Appeals,
October 20, 2015.

333-78-BZ

APPLICANT – Goldman Harris LLC., for 136 Loft Corporation, owner.

SUBJECT – Application May 5, 2015 – Amendment (72-21) to reopen and amend the captioned variance to permit the transfer of unused development rights for the premises for use in a commercial development, located within an M1-6 zoning district.

PREMISES AFFECTED – 136-138 West 24th Street, south of West 24th Street between Sixth and Seventh Avenue, Block 0799, Lot 060, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to December 8, 2015, at 10 A.M., for continued hearing.

826-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartments, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 269-10 Grand Central Parkway, northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to December 8, 2015, at 10 A.M., for adjourned hearing.

827-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartments, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 270-10 Grand Central Parkway, northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to December 8, 2015, at 10 A.M., for adjourned hearing.

828-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartment, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 269-10 Grand Central Parkway, northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to December 8, 2015, at 10 A.M., for adjourned hearing.

585-91-BZ

APPLICANT – Paul F. Bonfilio Architect, PC, for Luis Mejia, owner; SAJ Auto Service, lessee.

SUBJECT – Application March 11, 2015 – Extension of Term (§11 411) a previously approved variance which permitted the operation of an automotive service station (UG 16B), which expired on March 30, 2013; Waiver of the Rules. C1-3/R4 zoning district.

PREMISES AFFECTED – 222-44 Braddock Avenue, southeast corner of Braddock Avenue and Winchester Boulevard, Block 10740, Lot 0012, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for continued hearing.

129-97-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for Whitestone Plaza Associates Inc., owner.

SUBJECT – Application February 21, 2014 – Amendment to permit the proposed conversion of an existing lubricatorium to a commercial retail establishment (use group 6) and enlargement of the basement level. C1-2/R3-2 zoning district.

PREMISES AFFECTED – 150-65 Cross Island Parkway, west side of Clintonville Street distant 176.60' north of intersection of Cross Island Parkway and Clintonville Street, Block 04697, Lot 11, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for continued hearing.

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301-03-BZ

APPLICANT – Law Office of Lyra J. Altman, for 1103 East 22nd LLC., owner.

SUBJECT – Application April 29, 2014 – Extension of Time to Complete Construction and Waiver of the rules for a single family home enlargement under 73-622 approved on January 13, 2004. R2 Zoning district.

PREMISES AFFECTED – 1103 East 22nd Street, east side of East 22nd Street between Avenue J and Avenue K, Block 07604, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to November 24, 2015, at 10 A.M., for continued hearing.

369-03-BZ

APPLICANT – Law Office of Fredrick A. Becker Esq., for 99-01 Queens Boulevard LLC, owner; TSI Rego Park, LLC dba NY Sports Club, lessee.

SUBJECT – Application April 13, 2015 – Extension of Term of a previously approved Variance (§72-21) allowing the operation of a physical culture establishment/ health club which expires April 19, 2015. C1-2/R7-1 zoning district.

PREMISES AFFECTED –99-01 Queens Boulevard, north side of Queens Boulevard between 66th Road and 67th Avenue, Block 02118, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

ACTION OF THE BOARD –Laid over to December 1, 2015, at 10 A.M., for continued hearing.

186-08-BZ

APPLICANT – Petrus fortune, P.E., for Followers of Jesus Mennonite Church, owners.

SUBJECT – Application November 19, 2014 – Extension of Time to Complete Construction of a previously approved Special Permit (§73-19) permitting the legalization and enlargement of a school (*Followers of Jesus Mennonite Church & School*) in a former manufacturing building, contrary to ZR §42-10, which expired on June 8, 2014; Waiver of the Rules. M1-1 zoning district.

PREMISES AFFECTED – 3065 Atlantic Avenue, north west corner of Atlantic Avenue and Shepherd Avenue, Block 03957, Lot 45, Borough of Brooklyn.

COMMUNITY BOARD #5BK

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

35-15-A

APPLICANT – Herrick Feinstein, LLP, for Baychester Retail III, LLC., owner.

SUBJECT – Application February 25, 2015 – An administrative appeal challenging the Department of Buildings' final determination dated January 26, 2015, to permit the installation of 54 individual signs at the subject property. C7 zoning district.

PREMISES AFFECTED – 2001 Bartow Avenue, Block 05141, Lot 0101, Borough of Bronx.

COMMUNITY BOARD #10BX

ACTION OF THE BOARD –Laid over to December 8, 2015, at 10 A.M., for continued hearing.

65-15-BZ/66-15-A

APPLICANT – Akerman, LLP, for 361 Central Park West, LLC., owner.

SUBJECT – Application March 25, 2015 – Variance (§72-21) to permit the conversion of an existing vacant church building into a 39 unit residential building. Companion case: 66-15-A for an Appeal pursuant to MDL 310 of MDL 30.2. R10A zoning district.

PREMISES AFFECTED – 361 Central Park West, northwest corner of Central Park West and West 96th Street, Block 01832, Lot 0029, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD –Laid over to December 1, 2015, at 10 A.M., for continued hearing.

135-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Oak Point Property, LLC., owner.

SUBJECT – Application June 10, 2015 – Proposed construction of a building not fronting on a legally mapped street contrary to Section 36 Article 3 of the General City Law. M3-1 zoning district.

PREMISES AFFECTED – 50 Oak Point Avenue, north shore of east river, approximately 900 lateral feet east of East 149th Street, Block 02604, Lot 0180, Borough of Bronx.

COMMUNITY BOARD #2BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for decision, hearing closed.

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ZONING CALENDAR

202-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Rochelle Beyda and Jack Yadid, owners.

SUBJECT – Application August 22, 2014 – Special Permit (§73-622) for the enlargement and existing two family home to be converted to a single family home contrary to floor area, lot coverage and open space (ZR 23-141); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R4 (OP) zoning district.

PREMISES AFFECTED – 2268 West 1st Street, west side of West 1st Street between Village Road South and Avenue West, Block 07151, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated August 26, 2014, acting on DOB Application No. 320998113, reads in pertinent part:

The proposed change from two to one family residence and enlargement of the existing house in an R4 zoning district

1. Creates non-compliance with respect to floor area by exceeding the allowable floor area ratio and is contrary to Section 23-141 of the Zoning Resolution;
2. Creates non-compliance with respect to the lot coverage and open space is contrary to Section 23-141 of the Zoning Resolution;
3. Creates non-compliance with respect to the side yards by not meeting the minimum requirements of Section 23-461 of the Zoning Resolution;
4. Creates non-compliance with respect to the side yards by not meeting the minimum requirements of Section 23-48 of the Zoning Resolution;
5. Creates non-compliance with respect to the rear yard by not meeting the minimum requirements of Section 23-47 of the Zoning Resolution; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R4 zoning district, within the Special Ocean Parkway District, the proposed enlargement and conversion of a two-family residence to a single-family residence which does not comply with the zoning requirements for floor area ratio (“FAR”), lot coverage and open space, side yards, and rear yards, contrary to ZR §§ 23-141, 23-461, 23-48, and 23-47; and

WHEREAS, a public hearing was held on this

application on July 28, 2015, after due notice by publication in *The City Record*, and then to decision on October 20, 2015; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of West 1st Street, between Village Road South and Avenue W, within an R4 zoning district; and

WHEREAS, the site has 20 feet of frontage along West 1st Street, and approximately 1,842 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story, two-family residence with approximately 1,442 sq. ft. of floor area (0.79 FAR); and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single-* or *two family detached* or *semi-detached residence* within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage*, *open space*, *floor area*, *side yard*, *rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*;
- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and
- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single-* or *two family detached* or *semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building's non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins. Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply. The Board

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shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge and convert an existing two-family residence, as contemplated in ZR § 73-622; and

WHEREAS, specifically, the applicant now seeks to enlarge the subject building as follows: (1) increase the floor area of the structure from 1,442 sq. ft. (.79 FAR) to 1,996 sq. ft. (1.10 FAR) (the maximum permitted floor area ratio is .75 FAR pursuant to ZR § 23-141(b)); (2) decrease the open space ratio of the site from 60 percent to 44 percent (a minimum open space ratio of 55 percent is required pursuant to ZR § 23-141(b)); (3) maintain the existing side yards of 3'-8 3/4" and 0'-8 1/2" (pursuant to ZR § 23-461(a), two side yards with a minimum width of 5'-0" and a total width of 13'-0" are required in the R4 zoning district, however, because the lot is an existing narrow zoning lot, two side yards with a minimum width of 5'-0" are required, pursuant to ZR § 23-48); (4) reduce the existing rear yard from 38'-7" to 20'-0" (a 30'-0" rear yard is required pursuant to ZR § 23-47); and

WHEREAS, with respect to the proposed rear yard, the applicant notes that the proposed rear yard has a depth of 20'-0" only at its shallowest point and that, because of the angled rear lot line, the depth of the rear yard increases to 22'-4"; and

WHEREAS, the applicant submitted a rear yard study showing that, notwithstanding that neighboring sites provide rear yards of greater depth than the proposed 20'-0" rear yard, the proposed rear yard lines up with the rear yards of neighboring properties because of the irregular angle of the rear property line; and

WHEREAS, the applicant represents that the modified proposal will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R4 zoning district, within the Special Ocean Parkway District, the proposed enlargement and conversion of a two-family residence to a single-family residence which does not comply with the zoning requirements for floor area ratio ("FAR"), lot coverage and open space, side yards, and rear yards, contrary to ZR §§ 23-141, 23-461, 23-48, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received October 1, 2015" – (11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 1,996 sq. ft. (1.10 FAR), a minimum open space ratio of 44 percent, side yards of 3'-8 3/4" and 0'-8 1/2", a front yard with a minimum depth of 4'-9 1/2", and a rear yard with a minimum depth of 20'-0", all as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 20, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 20, 2015.

239-14-BZ

APPLICANT – Eric Palatnik, P.C., for Peter Haskopoulos, owner.

SUBJECT – Application October 1, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area (ZR 23-141) and side yards (ZR 23-461). R-2 Special Bay Ridge zoning district.

PREMISES AFFECTED – 8008 Harbor View Terrace, between 80th Street and 82nd Street, Block 05975, Lot 0076, Borough of Brooklyn.

COMMUNITY BOARD #10BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

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Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated May 4, 2015, acting on DOB Application No. 321119730, reads in pertinent part:

1. Proposed floor area is contrary to ZR 23-141
2. Proposed side yards (existing non-compliance) is contrary to ZR 23-461
3. Proposed rear yard (existing non-compliance) is contrary to ZR 23-47

WHEREAS, this is an application under ZR § 73-622, to legalize, on a site within an R2 zoning district, within the Special Bay Ridge District, the enlargement of a two-story with cellar, single-family residence, and also to permit further enlargement, which does not comply with the zoning requirements for floor area ratio (“FAR”), side yards, and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on August 18, 2015, after due notice by publication in *The City Record*, and then to decision on October 20, 2015; and

WHEREAS, Community Board 10, Brooklyn, recommends that the Board disapprove the application; and

WHEREAS, the subject site is located on the east side of Harbor View Terrace, between 80th Street and Colonial Court, within an R2 zoning district, within the Special Bay Ridge District, in Brooklyn; and

WHEREAS, the site has 35 feet of frontage along Harbor View Terrace, a depth of 100 feet, and 3,5000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with cellar, single-family residence with approximately 2,642 sq. ft. of floor area (0.75 FAR); and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single- or two family detached or semi-detached residence* within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage, open space, floor area, side yard, rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area

between the *building* that is being *enlarged* and the *side lot line*;

- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and

- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single- or two family detached or semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building's non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins. Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply.

The Board shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to legalize the enlargement of an existing single family residence, as contemplated in ZR § 73-622; and

WHEREAS, as stated, the applicant seeks to legalize a previous 398.67 sq. ft. enlargement at the rear portion of the second floor of the building and further enlarge the front of the second floor of the subject building; the work the applicant now seeks to legalize resulted in a building with 2,582.98 sq. ft. (.73 FAR), and the proposed 137.04 sq. ft. enlargement will increase the floor area of the building to 2,720.02 sq. ft. (.77 FAR); the applicant will maintain the degree of non-compliance of the northern side yard (which has a width of 4' - 10 ½") and southern side (which has a width of 5' - 2 ½"), and maintain the existing 26' - 11 ½" rear yard; and

WHEREAS, the applicant represents that the modified proposal will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor

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impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to legalize, on a site within an R2 zoning district, within the Special Bay Ridge District, the enlargement of a two-story with cellar, single-family residence, and also to permit further enlargement of such building, which does not comply with the zoning requirements for floor area ratio (“FAR”), side yards, and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received October 1, 2015” – eleven (11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 2,720.02 sq. ft. (.73 FAR), side yards of 4’- 10 ½” and 5’- 2 ½”, and a rear yard with a minimum depth of 26’-11 ½”, all as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT DOB shall review and approve the addition of the proposed additional parking space at the cellar level of the subject building, as well as the driveway, curb cut and garage shown on the BSA-approved plans;

THAT planting at the site shall comply with ZR § 23-451;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 20, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 20, 2015.

2-15-BZ CEQR #15-BSA-139M

APPLICANT – Jay Goldstein, Esq., for Panasia Estate Inc., owner; Chelsea Fitting Room LLC, lessee.

SUBJECT – Application January 7, 2015 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*The Fitting Room*) in the portions of the cellar and first floor of the premises. C6-4A zoning district. PREMISES AFFECTED – 31 West 19th Street, 5th Avenue and 6th Avenue on the north side of 19th Street, Block 00821, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated December 10, 2014, acting on Department of Buildings Application No. 122158896, reads in pertinent part:

“ZR 32-31: Proposed change uses to a physical culture establishment on 1st & cellar in a C6-4A zoning district are not permitted use of right.

ZR 73-362: Obtain special permit from Broad [sic] of Standard & Appeal (BSA)”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C6-4A zoning district and the Ladies’ Mile Historic District, a physical culture establishment (PCE), which operates in portions of the cellar and first floor of a six (6) story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on June 16, 2015 after due notice by publication in *The City Record*, with a continued hearing on August 18, 2015, and then to decision on October 20, 2015; and

WHEREAS, Community Board 5, Manhattan, recommends approval of this application; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, and Commissioner Montanez performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is a through lot located on the north side of West 19th Street, between Fifth Avenue and Avenue of the Americas; and

WHEREAS, the site has approximately 47 feet of frontage along West 19th Street, 47 feet of frontage along West 20th Street, and 8,556 sq. ft. of lot area, and is occupied by a six (6) story commercial building; and

WHEREAS, the PCE occupies approximately 4,325 sq. ft. on portions of the cellar and first floor of the building and has been in operation since March 2015; and

WHEREAS, the PCE operates as Chelsea Fitting Room LLC d/b/a The Fitting Room; and

WHEREAS, the proposed hours of operation for the PCE are: Monday through Friday, 5:30 a.m. to 10:00 p.m., and

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Saturday through Sunday, 6:30 a.m. to 7:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has deemed to be satisfactory; and

WHEREAS, because the subject application is for a legalization, the Board asked the applicant to confirm that it has installed and received sign-off for the sprinkler system and has filed a permit for the installation of a fire alarm system within the PCE space; and

WHEREAS, the applicant represents that both have been installed pursuant to permits issued by the DOB under Job Nos. 121935264 and 121926032, providing the Board with photographs of the installed system at the subject premises, and that the Fire Department will sign-off on the modifications upon approval of this application; and

WHEREAS, the Fire Department, by letter dated October 16, 2015, states that it has no objections to the proposal; and

WHEREAS, at hearing, the Board inquired as to adjoining tenancies and sound attenuation measures at the PCE; and

WHEREAS, in response, the applicant represents that the premises are fully commercial—a commercial office is located directly above the PCE and a dance studio is located directly behind the PCE; the building to the west of the premises, which has a restaurant on the ground floor and residential units above, is separated from the PCE by the premise's lobby; and the spaces in the building to the east of the premises, which has a commercial office at the basement level and residential units on the first floor, are separated by sound partitions and two exterior cinderblock walls; and

WHEREAS, the applicant provided the Board with plans of the sound attenuation measures in place at the PCE premises, including information related to the ceilings of the studio, which consist of 2-layer gypsum board with green glue supported by vibration isolation ceiling hangers; and

WHEREAS, in response to the Board's inquiries regarding accessibility of the premises, the applicant represents that the first floor is on grade, directly accessible, and includes a bathing facility for handicap use, and that the cellar level of the PCE, which also includes accessible bathing facilities for handicap use, is accessible through the commercial lobby elevator that is open during all operating hours; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, the New York City Landmarks Preservation Commission ("LPC") has approved the proposed alterations of the building by Certificate of No Effect No. 15-2594, dated December 30, 2013, and the proposed signage by Permit for Minor Work No. 16-9056, dated March 17, 2015; and

WHEREAS, accordingly, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is

outweighed by the advantages to be derived by the community; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-139M, dated December 11, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site located in a C6-4 zoning district, the operation of a PCE in the cellar and first floor levels of a six (6) story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received May 28, 2015"- Four (4) sheets and "Received October 1, 2015"- Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on March 1, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance under Local Law 58/87 will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT sound attenuation measures shall be implemented and/or maintained as shown on the Board-approved plans;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 20, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 20, 2015.

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322-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Gloria B. Silver, owner.

SUBJECT – Application December 18, 2013 – Reinstatement (§11-411) of a previously approved variance which permitted accessory parking on the zoning lot for the use Group 6 commercial building, which expired on September 23, 1990; Waiver of the Rules. R6/C1-2 and R6 zoning district.

PREMISES AFFECTED – 42-01 Main Street, southeast corner of the intersection of Main Street and Maple Avenue, Block 5135, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for continued hearing.

30-14-BZ

APPLICANT – Eli Katz of Binyan Expediting, for Cong. Machine Chaim, owner; Yeshiva Bais Sorah, lessee.

SUBJECT – Application February 11, 2014 – Variance (§72-21) proposed enlargement to an existing school (Use Group 3) is contrary to §§42-00 & 43-43. M1-1 zoning district.

PREMISES AFFECTED – 6101 16th Avenue aka 1602 61st Street aka 1601 62nd Street, north east corner of 62nd Street and south east side of 16th Avenue, Block 5524, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #11BK

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for continued hearing.

31-14-BZ

APPLICANT – Moshe M. Friedman, PE, for Bnos Square of Williamsburg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-19) to allow a conversion of an existing Synagogue (*Bnos Square of Williamsburg*) building (Use Group 4 to (Use Group 3). M1-2 zoning district.

PREMISES AFFECTED – 165 Spencer Street, 32'6" Northerly from the corner of the northerly side of Willoughby Avenue and easterly side of Spencer Street, Block 1751, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for deferred decision.

101-14-BZ

APPLICANT – Moshe M. Friedman PE, for Bais Yaakov D. Chassidei Gur, owner.

SUBJECT – Application May 8, 2015 – Variance (§72-21) to permit the vertical extension of an existing not for profit religious school. R5 zoning district.

PREMISES AFFECTED – 1975 51st Street, northwest

corner of 20th Avenue and 51st Street, Block 05462, Lot 45, Borough of Brooklyn.

COMMUNITY BOARD #12BK

ACTION OF THE BOARD – Laid over to January 21, 2016, at 10 A.M., for adjourned hearing.

148-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 11 Avenue A Realty LLC, owner.

SUBJECT – Application June 24, 2014 – Variance (§72-21) to permit multi-family residential use at the premises. R8A/C2-5 zoning districts.

PREMISES AFFECTED – 11 Avenue A, west side of Avenue A between East 1st Street and East 2nd Street, Block 429, Lot 39, Borough of Manhattan.

COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to November 24, 2015, at 10 A.M., for decision, hearing closed.

314-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Maurice Realty Inc., owner.

SUBJECT – Application November 20, 2014 – Special Permit (§73-125) to allow construction of an UG4 health care facility that exceed the maximum permitted floor area of 1,500 sf. R4A zoning district.

PREMISES AFFECTED – 1604 Williamsbridge Road, northwest corner of the intersection formed by Williamsbridge Road and Pierce Avenue, Block 04111, Lot 43, Borough of Bronx.

COMMUNITY BOARD #11BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for decision, hearing closed.

MINUTES

**REGULAR MEETING
TUESDAY AFTERNOON, OCTOBER 20, 2015
1:00 P.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.

ZONING CALENDAR

129-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Mourad Louz, owner.

SUBJECT – Application June 9, 2014 – Special Permit (§73-622) as amended, to permit the enlargement of a single-family detached residence, contrary to floor area, side yard, and rear yard regulations. R5 zoning district.

PREMISES AFFECTED – 2137 East 12th Street, east side of East 12th Street between Avenue U and Avenue V, Block 07344, Lot 62, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to November 24, 2015, at 10 A.M., for continued hearing.

261-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Julie Haas, owner.

SUBJECT – Application October 21, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space ZR 23-141 and less than the required rear yard ZR 23-47. R-2 zoning district.

PREMISES AFFECTED – 944 East 23rd Street aka 948 East 23rd Street, Block 07586, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to November 24, 2015, at 10 A.M., for decision, hearing closed.

322-14-BZ

APPLICANT – Eric Palatnik, P.C., for Maks Kutsak, owner.

SUBJECT – Application December 12, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, lot coverage and open space (ZR 23-141); R3-1 zoning district.

PREMISES AFFECTED – 82 Coleridge Street, between Shore Boulevard and Hampton Avenue, Block 08728, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for decision, hearing closed.

44-15-BZ

APPLICANT – Akerman, LLP, for 145 CPN, LLC., owner.

SUBJECT – Application March 6, 2015 – Variance (§72-21) to permit the construction of a conforming fourteen-story, (UG 2) residential building containing 24 dwelling units contrary to the maximum building height and front setback requirements (§23-633) and rear setback requirements (§23-633(b)). R8 zoning district.

PREMISES AFFECTED – 145 Central Park North, between Adam Clayton Powell and Lenox Avenue, Block 01820, Lot 0006, Borough of Manhattan.

COMMUNITY BOARD #10M

ACTION OF THE BOARD – Laid over to December 8, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

BULLETIN

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November 4, 2015

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Tuesday, October 27, 2015**

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24-15-BZ	71-17 Roosevelt Avenue, Queens
62-15-BZ	139 Bay Street, Staten Island

DOCKETS

New Case Filed Up to October 27, 2015

248-15-BZ

150-15 Barclay Avenue, Bounded by West 49th Street, Ninth Avenue, West 50th Street and 8th Avenue, Block 0058, Lot(s) 5, Borough of **Queens, Community Board: 4**. Special Permit (73-44) to reduce the 49 required parking spaces to twenty-five(25) for a proposed new five story and cellar new UG4 ambulatory diagnostic treatment health facility building, located within an R5/C1-2 zoning district. C6-4 district.

249-15-BZ

321 Starr Street, between St. Nicholas Avenue and Cypress Avenue, Block 03190, Lot(s) 37, Borough of **Brooklyn, Community Board: 4**. Special Permit (§73-36) to allow a physical culture establishment (MetroRock) to be located on the first floor of an existing building. M1-1 zoning district. M1-1 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

REGULAR MEETING DECEMBER 1, 2015, 10:00 A.M.

COMMUNITY BOARD #2BX

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, December 1, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

Ryan Singer, Executive Director

SPECIAL ORDER CALENDAR

98-06-BZ

APPLICANT – Eric Palatnik, P.C., for Yeshiva Siach Yitzchok, owner.

SUBJECT – Application March 3, 2015 – Amendment of a previously approved Variance (§72-21) which permitted a school (Yeshiva Siach Yitzchok) contrary to bulk regulation and contrary to General City Law section 35. The Amendment seeks minor interior changes and an increase in height from fifty feet to a proposed fifty four feet. R4A zoning district.

PREMISES AFFECTED – 1045 Beach 9th Street, southwest corner of Bech 9th Street and Dinsmire Avenue, Block 15554, Lot 0049, Borough of Queens.

COMMUNITY BOARD #14Q

APPEALS CALENDAR

114-15-A thru 125-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Rossville AME Zion Church, owner; Jade's Path, LLC, lessee.

SUBJECT – Application May 27, 2015 – Proposed construction of a single family home that does not front on a legally mapped street, contrary to General City Law Section 36. R3-1 (SRD) zoning district.

PREMISES AFFECTED – 9, 11, 15, 17, 21, 23, 27, 29, 33, 35, 41 thru 43 Jade Court, Block 07267, Lot 0299, 0298, 0297, 0296, 0295, 0094, 0293, 0292, 0092, 0289, west side of Bloomingdale Road, approx. 346' south of intersection with Clay Pit Road, Borough of Staten Island.

COMMUNITY BOARD #3SI

198-15-A & 199-15-A

APPLICANT – Gary R. Tarnoff, Kramer Levin Naftalis & Frankel, LLP, for Harlem Commonwealth Council, owner; Peter Latta, Aduie Pyle, lessee.

SUBJECT – Application August 26, 2015 – Proposed construction of a transportation and distribution services facility on a lot that does not front on a legally mapped street, contrary to Article 3 Section 36, of the General City Law. M3-1 zoning district.

PREMISES AFFECTED – 500-550 Oak Point Avenue, Block 02606, Lot(s) 02 & 20, Borough of Bronx.

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REGULAR MEETING TUESDAY MORNING, OCTOBER 27, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.

SPECIAL ORDER CALENDAR

705-81-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Fraydun Enterprises, LLC, owner; Fraydun Enterprises, LLC, lessee.

SUBJECT – Application November 10, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the operation of a physical culture establishment which expired on May 10, 2013; Extension of Time to obtain a Certificate of Occupancy; Waiver of the Rules. R10 zoning district.

PREMISES AFFECTED – 1433 York Avenue, northeast corner of intersection of York Avenue and East 76th Street, Block 01471, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.....4
Negative:.....0
Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, an extension of time to obtain a Certificate of Occupancy, which expired on May 10, 1988, and an extension of the term of a variance previously granted by the Board under the subject calendar number, which expired on May 10, 2013; and

WHEREAS, a public hearing was held on this application on June 16, 2015 after due notice by publication in *The City Record*, with continued hearings on July 28, 2015, and September 22, 2015, and then to decision on October 27, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Ottley-Brown performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the northwest corner of the intersection of York Avenue and East 76th Street, within an R10 zoning district, in Manhattan; and

WHEREAS, the site has approximately 75 feet of frontage along York Avenue, 75 feet of frontage on East 76th Street, and 5,625 sq. ft. of lot area; and

WHEREAS, the site is occupied by a seven-story mixed use building; and

WHEREAS, on May 10, 1983, under the subject calendar number, the Board granted a variance pursuant to ZR § 72-21

to permit the use of the existing accessory physical culture establishment (PCE) on the cellar and first floor level as a non-accessory physical culture use and the addition of the second floor to the physical culture use; and

WHEREAS, on April 23, 1991, under the subject calendar number, the Board granted an application for the reopening of the variance for an extension of term and for an amendment to the variance legalizing changes in the interior design and layout on the cellar, first floor and second floor levels; and

WHEREAS, on February 11, 1997, under the subject calendar number, the Board granted an application for the reopening of the variance for an extension of term and for an amendment to the variance legalizing the increase in floor area at the first floor level; and

WHEREAS, on May 2, 2006, under the subject calendar number, the Board granted an application for extension of term of the variance and amended the variance to extend by one hour, daily, the hours of operation; and

WHEREAS, on May 10, 2013, the term of the variance grant expired and was not timely renewed; and

WHEREAS, accordingly, the applicant now seeks a waiver of BSA Rules of Practice and Procedure §1-07.3(b)(2); and

WHEREAS, as required under that Rule, applicant has demonstrated that the use has been continuous since the expiration of the term of the grant and that substantial prejudice would result without such a waiver; and

WHEREAS, in addition, the applicant seeks to: (1) extend the time to obtain a Certificate of Occupancy and (2) extend the term of the variance for an additional ten (10) years; and

WHEREAS, on February 11, 1997, under the subject calendar number, the Board requested that a new certificate of occupancy be obtained by February 11, 1998; and

WHEREAS, the time to obtain a new certificate of occupancy has expired; and

WHEREAS, accordingly, the applicant now also seeks a waiver of BSA Rules of Practice and Procedure § 1-07.3(d)(2); and

WHEREAS, in response to questions raised in hearing, the applicant represents that there have been no noise or sound complaints subsequent to the 2006 decision, that there are sprinklers throughout the building, and that the lack of fire alarms in the PCE is a grandfathered condition; and

WHEREAS, the Fire Department, City of New York accepts the secondary means of egress being fire escapes and has no objection to the lack of interior fire alarms in the subject PCE; and

WHEREAS, the Board finds that a ten-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, dated May 10, 1983, so that as amended this portion of the resolution shall read: “to permit an extension of the term of the variance for a term of ten (10) years; *on condition* that the expansion shall substantially conform to drawings as filed with this application, marked

MINUTES

'Received October 5, 2015'-(8) sheets; and *on further condition:*

THAT this grant shall be limited to a term of ten (10) years from May 10, 2013, expiring May 10, 2023;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT the above condition shall appear on the Certificate of Occupancy;

THAT a new Certificate of Occupancy for the premises shall be obtained by October 27, 2016;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, October 27, 2015.

156-03-BZ

APPLICANT – Goldman Harris LLC., for Flushing Square, LLC., lessee.

SUBJECT – Application March 10, 2015 – Extension of Time to Complete Construction of a previously granted Variance (72-21) for the construction of a seventeen story mixed-use commercial/community facility/residential condominium building which expires on January 31, 2016; Amendment. R6/C2-2 zoning district.

PREMISES AFFECTED – 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard, Block 04958, Lot(s) 48, 38, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....3

Negative:.....0

Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, this is an application for a reopening, amendment, and extension of time to complete construction pursuant to a previously granted variance to permit, within an R6 (C2-2) zoning district, the construction of a 16-story mixed-use commercial/community facility/residential building, which expires on January 31, 2016; and

WHEREAS, a public hearing was held on this application on July 14, 2015, after due notice by publication in *The City Record*, with continued hearings on August 25, 2015, and September 18, 2015, and then to decision on October 27, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 7, Queens,

recommends approval of this application; and

WHEREAS, Councilmember Peter Koo, councilmember for the 20th District, Queens, recommends approval of this application; and

WHEREAS, the subject site is located on the north side of Northern Boulevard, between Prince Street and Farrington Street, within an R6 (C2-2) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the site since December 13, 2005 when, under BSA Cal. No. 156-03-BZ, the Board granted a variance to permit the development of a 200-unit, 17-story mixed-use commercial/community facility/residential building, with ground level retail, second floor community facility space, and 229 accessory parking spaces in a three-level below-grade parking garage; and

WHEREAS, on May 29, 2007, the Board issued a letter of substantial compliance permitting the following changes to the proposal: (1) the elimination of one floor, reducing the building to 16 stories with an average floor to ceiling height of 10'-2" instead of 9'-4"; (2) the expansion of the footprint of floors seven through 16 to redistribute the floor area from the floor that has been eliminated; (3) the modification of the size of certain units; and (4) the redesign of the inner courts; and

WHEREAS, on January 12, 2010, the Board granted an extension of time to complete construction for a term of two years, to expire on January 12, 2012; and

WHEREAS, on July 12, 2011, the Board granted an amendment to permit the following modifications to the previously-approved plans: (1) an increase in the number of dwelling units from 200 to 357; (2) a reduction in the average unit size from 1,437 sq. ft. to 787 sq. ft.; (3) an increase in the number of accessory parking spaces from 229 to 385; (4) a 6,503 sq. ft. reduction in the residential floor area (from 287,313 sq. ft. to 280,810 sq. ft.) and a corresponding 6,503 sq. ft. increase in the commercial floor area (from 10,957 sq. ft. to 17,460 sq. ft.) through the addition of a retail mezzanine between the first and second floors; (5) the relocation of the community facility space from the second floor to the third floor; (6) a reduction in the depth of the rear yard from 31'-5" to 30'-0"; and (7) a reduction in the initial setback distance from 20'-0" to 15'-0"; and

WHEREAS, on January 31, 2012, the Board granted a second extension of time to complete construction for a term of four years, to expire on January 31, 2016; and

WHEREAS, on May 29, 2015, the applicant filed, as a companion to the subject application, an application under BSA Cal. No. 127-15-BZ to permit, within an R6 (C2-2) zoning district, the proposed construction of a 16-story mixed-use commercial/community facility/residential building which exceeds the maximum height limits around airports, contrary to ZR §§ 61-21 and 61-22 the time to complete construction thereunder; and

WHEREAS, the applicant's May 29, 2015 application under BSA Cal. No. 127-15-BZ is granted by separate decision, dated October 27, 2015; and

WHEREAS, the applicant states that due to funding

MINUTES

delays, additional time is necessary to complete the project; thus, the applicant now requests a four year extension of time to enable the owner to secure financing and complete construction; and

WHEREAS, the applicant submitted a letter from the Landmarks Preservation Commission (“LPC”) dated September 25, 2014, stating that the Certificate of Appropriateness issued for the building has been extended to December 31, 2017, and that the amended Certificate of Appropriateness reflects the changes to the project sought herein; and

WHEREAS, the applicant notes that, in coordination with the LPC, it has undertaken temporary measures to preserve the interior landmark theatre at the site, but that full preservation and restoration of the premises requires completion of the new building, hence, the applicant has expeditiously filed for construction permits from DOB; and

WHEREAS, the applicant now proposes the following modifications to the previously approved plans: (1) an increase in the height of the proposed building by 11’-7” measured to the roof and 14’-3” measured to the top of the bulkhead, from 194.75 feet to 209 feet (AMSL, NAVD); (2) a reduction in the number of dwelling units in the proposed building from 357 to 269 (88 fewer units); (3) a change from rental to condominium ownership of such dwelling units; and (4) redesign of the entry façade on Northern Boulevard; and

WHEREAS, the applicant represents that the proposed increase in the height of the building results from the following modifications to the building: (1) elevation of the building above the landmark lobby to accommodate an increase in the floor-to-floor height of the parking level and the raising of the parking floor slab in order to remain above the water table and avoid undermining the foundations of the landmark lobby and adjacent buildings; (2) an increase in the floor-to-floor height of the community facility space to accommodate mechanical equipment; (3) an increase in the residential floor-to-floor height to accommodate mechanical equipment; (4) an increase in the uppermost residential floor-to-floor height to accommodate a thickened slab for the proposed building’s mechanical penthouse; (5) an allowance of space to accommodate roofing, insulation and a ballast at the main roof; and (6) an elevation of the penthouse floor to accommodate mechanical equipment; and

WHEREAS, the applicant notes that the entry façade of the northern Boulevard has been redesigned to increase transparency and light; and

WHEREAS, the applicant states that rate of return for the proposed amended project is consistent with that which was contemplated in the previous grant; and

WHEREAS, at hearing, the Board directed the applicant to clarify, *inter alia*, representations made regarding the estimated sellout period for the proposed units and various adjustments made to comparables, as well as clarification as to how value from the proposed height increase impacted the applicant’s financial analysis; and

WHEREAS, the applicant submitted a clarifying response, which the Board reviewed and accepted; and

WHEREAS, the applicant provided an updated environmental analysis to show that the proposed changes do not alter the conclusions of the negative declaration issued by the Board in its previous approvals; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may permit an amendment to an existing variance; and

WHEREAS, based upon its review of the evidence, the Board finds that the requested amendment does not alter the Board’s findings made for the original variance; and

WHEREAS, accordingly, the Board finds that the proposed variance, as amended, continues to reflect the minimum variance and the Board has determined that it is appropriate, with certain conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated December 13, 2005, so that as amended this portion of the resolution shall read “to grant an extension of time to complete construction for a term of four years, to expire on October 27, 2019,” and shall also read “to permit the noted modifications to the approved plans; *on condition* that all work shall substantially conform to drawings filed with this application and marked “Received September 2, 2015”- (17) sheets; and *on further condition*:

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 401622669)

Adopted by the Board of Standards and Appeals, October 27, 2015.

127-15-BZ
CEQR #15-BSA-210Q

APPLICANT – Goldman Harris LLC., for Flushing Square, LLC., owner.

SUBJECT – Application May 29, 2015 – Special Permit (§73-66) to permit the construction of building in excess of the height limits established pursuant Z.R. §§61-211 & 61-22. The proposed building was approved by the Board pursuant to BSA Calendar Number 156-03-BZ. C2-2/R6 zoning district

PREMISES AFFECTED – 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard, Block 04958, Lot(s) 48, 38, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Otley-Brown and Commissioner Montanez....3

Negative:.....0

MINUTES

Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated October 21, 2015, acting on Department of Buildings Application No. 401622669, reads in pertinent part:

ZR 61-21, 61-22 – Building contrary to height restrictions of Article 6, Chapter 1 of the Zoning Resolution; and

WHEREAS, this is an application under ZR §§ 73-66 and 73-03, to permit, within an R6 (C2-2) zoning district, on a site under the jurisdiction of the Landmarks Preservation Commission, the construction of a 16-story mixed-use commercial/community facility/residential building which exceeds the maximum height limits around airports, contrary to ZR §§ 61-21 and 61-22; and

WHEREAS, a public hearing was held on this application on July 14, 2015, after due notice by publication in *The City Record*, with continued hearings on August 25, 2015, and September 18, 2015, and then to decision on October 27, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, the subject site is located on the north side of Northern Boulevard, between Prince Street and Farrington Street, within an R6 (C2-2) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the site since December 13, 2005 when, under BSA Cal. No. 156-03-BZ, the Board granted a variance to permit the development of a 200-unit, 17-story mixed-use commercial/community facility/residential building, with ground level retail, second floor community facility space, and 229 accessory parking spaces in a three-level below-grade parking garage; and

WHEREAS, on May 29, 2007, the Board issued a letter of substantial compliance permitting the following changes to the proposal: (1) the elimination of one floor, reducing the building to 16 stories with an average floor to ceiling height of 10'-2" instead of 9'-4"; (2) the expansion of the footprint of floors seven through 16 to redistribute the floor area from the floor that has been eliminated; (3) the modification of the size of certain units; and (4) the redesign of the inner courts; and

WHEREAS, on January 12, 2010, the Board granted an extension of time to complete construction for a term of two years, to expire on January 12, 2012; and

WHEREAS, on July 12, 2011, the Board granted an amendment to permit the following modifications to the previously-approved plans: (1) an increase in the number of dwelling units from 200 to 357; (2) a reduction in the average unit size from 1,437 sq. ft. to 787 sq. ft.; (3) an increase in the number of accessory parking spaces from 229 to 385; (4) a 6,503 sq. ft. reduction in the residential floor area (from 287,313 sq. ft. to 280,810 sq. ft.) and a corresponding 6,503 sq. ft. increase in the commercial floor area (from 10,957 sq. ft. to 17,460 sq. ft.) through the addition of a retail mezzanine between the first and second

floors; (5) the relocation of the community facility space from the second floor to the third floor; (6) a reduction in the depth of the rear yard from 31'-5" to 30'-0"; and (7) a reduction in the initial setback distance from 20'-0" to 15'-0"; and

WHEREAS, on January 31, 2012, the Board granted a second extension of time to complete construction for a term of four years, to expire on January 31, 2016; and

WHEREAS, on May 29, 2015, the applicant filed the subject application as a companion to its March 11, 2015, application under BSA Cal. No. 156-03-BZ, which was filed to further amend the December 13, 2005 variance and extend the time to complete construction thereunder; and

WHEREAS, the applicant's March 11, 2015 application under BSA Cal. No. 156-03-BZ is granted by separate decision, dated October 27, 2015; and

WHEREAS, the applicant proposes to construct a 16-story mixed-use commercial/community facility/residential building which exceeds the height limits established under ZR §§ 61-21 and 61-22; and

WHEREAS, Community Board 7, Queens, recommends approval of this application; and

WHEREAS, Councilmember Peter Koo, councilmember for the 20th District, Queens, recommends approval of this application; and

WHEREAS, the Board notes that ZR § 61-21 (Restriction on Highest Projection of Building or Structure) restricts the height of buildings or structures within designated flight obstruction areas; and

WHEREAS, specifically, the provision sets forth that the highest projection of any building or structure may not penetrate the most restrictive of either approach surfaces, transitional surfaces, horizontal surfaces, or conical surfaces, within an Airport Approach District of a flight obstruction area; and it may not penetrate the horizontal surface or conical surface within the Airport Circling District of the flight obstruction area; and

WHEREAS, however, pursuant to ZR § 73-66 (Height Regulations around Airports) the Board may grant a special permit to permit construction in excess of the height limits established under ZR §§ 61-21 (Restriction on Highest Projection of Building or Structure) or 61-22 (Permitted Projection within any Flight Obstruction Area), only (1) subsequent to the applicant submitting a site plan, with elevations, reflecting the proposed construction in relation to such maximum height limits, and (2) if the Board finds that the proposed would not create danger and would not disrupt established airways; and

WHEREAS, the provision also provide that, in its review, the Board shall refer the application to the Federal Aeronautics Administration (FAA) for a report as to whether such construction will constitute a danger or disrupt established airways; and

WHEREAS, as to the information submitted by the applicant, the Board notes that the applicant submitted a site plan with elevations reflecting the proposed construction, which includes information about the maximum as-of-right height and the maximum height approved by the FAA for

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each building; and

WHEREAS, as to the Board's determination about the safety of the proposed construction with regard to the proximity to the airport, the Board notes that the FAA regulates the heights of buildings within proximity to airports and that since the subject site is located within the flight obstruction area for LaGuardia Airport, it falls within the area regulated by the FAA; and

WHEREAS, the applicant represents that it filed applications with the FAA for review and approval of proposed building;

WHEREAS, on February 11, 2015, the FAA issued a Determination of No Hazard to Air Navigation for the project (the "FAA Determination"), which expires on August 11, 2016; and

WHEREAS, specifically, the FAA Determination states that the proposed "structure will have no adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities..."

WHEREAS, the FAA determination is based on an examination of eight points on the roof of the building, referred to as FAA Building Points 1 – 8; FAA Building Points 2, 3, 6 and 7 are located on the top of the Penthouse Parapet, FAA Building Points 1, 4, 5, and 8 are located on the top of the Mechanical Parapet; and

WHEREAS, the proposed height of the building at the eight points evaluated by the FAA is as follows: 209'-0" (AMSL (equivalent to NAVD-88)) at FAA Building Points 2, 3, 6 and 7; and 200'-1" (AMSL (equivalent to NAVD-88)) at FAA Building Points 1, 4, 5, and 8; and

WHEREAS, the maximum buildings heights approved by the FAA are as follows: 20 feet site elevation (SE) / 184 feet above ground level (AGL) / 204 feet above mean sea level (AMSL) (FAA Building Point 1); 20 feet site elevation (SE) / 190 feet above ground level (AGL) / 210 feet above mean sea level (AMSL) (FAA Building Point 2); 20 feet site elevation (SE) / 190 feet above ground level (AGL) / 210 feet above mean sea level (AMSL) (FAA Building Point 3); 20 feet site elevation (SE) / 184 feet above ground level (AGL) / 204 feet above mean sea level (AMSL) (FAA Building Point 4); 20 feet site elevation (SE) / 184 feet above ground level (AGL) / 204 feet above mean sea level (AMSL) (FAA Building Point 5); 20 feet site elevation (SE) / 190 feet above ground level (AGL) / 210 feet above mean sea level (AMSL) (FAA Building Point 6); 20 feet site elevation (SE) / 190 feet above ground level (AGL) / 210 feet above mean sea level (AMSL) (FAA Building Point 7); 20 feet site elevation (SE) / 184 feet above ground level (AGL) / 204 feet above mean sea level (AMSL) (FAA Building Point 8);

WHEREAS, the Board notes that the FAA Determination is conditioned upon the following items, all of which the Board adopts as conditions to the issuance of the subject special permit: (1) the proposed building must be marked/lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, red lights – Chapters 4, 5 (Red), and 12; (2) the

applicant must file FAA Form 7460-2, Notice of Actual Construction or Alteration in the event that the project is abandoned as well as at least ten (10) days prior to the start of construction and within five (5) days after construction reaches its greatest height; and

WHEREAS, the Board notes that the FAA-approved height includes all appurtenances to the building; and

WHEREAS, accordingly, the Board notes that the proposed building heights are equal to those approved by the FAA; and

WHEREAS, the Board notes that the FAA regulations are similar to those found in the ZR but differ slightly based on updated reference points and runway elevations; and

WHEREAS, the applicant has also submitted requests for approval to the Port Authority of New York/New Jersey (PA), which operates LaGuardia Airport; and

WHEREAS, as reflected in a no objection letter dated March 3, 2015, the PA approves of the project and references the FAA Determination; and

WHEREAS, the Board notes that its review was limited to the request for an increase in height above that permitted as-of-right, pursuant to the special permit; and

WHEREAS, based upon the above, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-66 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist, CEQR No. 15-BSA-210Q, dated May 29, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issued a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-66 and 73-03, to permit, within an R6 (C2-2) zoning district the construction of a 16-story mixed-use commercial/community facility/residential building which exceeds the maximum height limits around airports, contrary to ZR §§ 61-21 and 61-22; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received September 2, 2015"- (17) sheets and *on further condition*:

THAT the maximum height of the buildings, including all appurtenances, shall be as follows: 209'-0" (AMSL (equivalent to NAVD-88)) at FAA Building Points 2, 3, 6 and 7; and 200'-1" (AMSL (equivalent to NAVD-88)) at FAA Building Points 1, 4, 5, and 8;

THAT the proposed building must be marked/lighted in accordance with FAA Advisory circular 70/7460-1 K

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Change 2, Obstruction Marking and Lighting, red lights – Chapters 4, 5 (Red), and 12;

THAT the relief granted herein is only that associated with ZR § 73-66 and all construction at the site shall be as approved by DOB and must comply with all relevant Building Code and zoning district regulations;

THAT the applicant must comply with all FAA notification requirements associated with the construction at the site including, without limitation, that the applicant must file FAA Form 7460-2, Notice of Actual Construction or Alteration in the event that the project is abandoned as well as at least ten (10) days prior to the start of construction and within five (5) days after construction reaches its greatest height;

THAT substantial construction be completed in accordance with ZR § 73-70;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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

THAT the Department of Buildings must ensure compliance with all of applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 27, 2015.

89-10-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for Mercer Sunshine LLC, owner.

SUBJECT – Application June 30, 2015 – Extension of Time to Complete Construction of a previously approved variance allowing the conversion of the first floor and cellar level of an existing three-story building to a commercial retail use (UG6); Waiver of the Rules. M1-5B zoning district.

PREMISES AFFECTED – 53 Mercer Street, West side of Mercer Street, between Grand and Broome Street, Block 0474, Lot 014, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez...4
Negative:.....0

Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, this is an application to waive the Rules of Practice and Procedure and for an extension of time to complete construction pursuant to a variance, which permitted the conversion of the first floor and cellar levels of an existing three-story building to a commercial retail use, pursuant to ZR § 72-21; and

WHEREAS, a public hearing was held on this application on October 27, 2015, after due notice by publication in *The City Record*, and then to decision on October 27, 2015; and

WHEREAS, Vice-Chair Hinkson performed an inspection of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the west side of Mercer Street between Broome Street and Grand Street, in an M1-5B zoning district, in the SoHo-Cast Iron Historic District, in Manhattan; and

WHEREAS, the site has approximately 25 feet of frontage along Mercer Street, 2,500 sq. ft. of lot area, and is occupied by a three (3) story building; and

WHEREAS, the Board has exercised jurisdiction over the subject site since November 23, 2010, when, under the subject calendar number, the Board granted a variance permitting the conversion of the first floor and cellar floor levels of an existing building to a commercial retail use, contrary to the use regulations under ZR §§ 42-10 and 42-14(d)(2)(b); and

WHEREAS, construction was to be substantially completed by November 23, 2014, pursuant to ZR § 72-23; and

WHEREAS, the applicant represents that while building permits were obtained and some work was completed pursuant to the variance, further construction has been delayed due to a change in ownership; and

WHEREAS, the applicant states that the current owners acquired the subject premises in 2013, more than two years after the November 23, 2010 resolution; and

WHEREAS, the applicant states that the current owners have, as a consequence, faced practical difficulties in completing construction within four years of the grant of the variance; and

WHEREAS, accordingly, the applicant seeks: (1) an extension of an additional four (4) years to substantially complete construction; and

WHEREAS, in addition, the application for extension of time to complete construction was not timely file; and

WHEREAS, by submission dated June 30, 2015, the applicant requests a waiver of BSA Rules of Practice and Procedure § 1-07.3(c)(2); and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to complete construction is appropriate with certain conditions, as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated November 23, 2010, so that as amended this portion of the resolution reads: “to grant an extension of time to complete construction to November 23, 2018; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT substantial construction shall be completed by November 23, 2018;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect;

THAT DOB must ensure compliance with all other

MINUTES

applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Application No. 110296028)

Adopted by the Board of Standards and Appeals, October 27, 2015.

183-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Dynasty 23 Street Realty, Incorporated, owner; Horizon 881 LLC, lessee.

SUBJECT – Application February 25, 2015 – Extension of Term of a previously approved Special Permit (§73-36) permitting the operation of physical culture establishment on the second floor of a five story commercial building, which expired on October 26, 2014; Amendment to permit the change in operation as well as minor deviations from the previously approved plans; Waiver of the Rules. C6-3X zoning district.

PREMISES AFFECTED – 206 West 23rd Street, southside of West 23rd Street between 7th Avenue and 8th Avenue, Block 00772, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for decision, hearing closed.

266-04-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Gwynne Five LLC, owner; TSI Cobble Hill, LLC dba NY Sports Club, lessee.

SUBJECT – Application February 17, 2015 – Extension of the Term and Amendment (73-11) to request an extension of the term of a previously granted special permit to allow the operation of a physical culture establishment at the premises and also request an Amendment to change the hours of operation. C2-3 zoning district.

PREMISES AFFECTED – 96 Boreum Place, southwesterly corner of Boerum Place and Pacific Street, Block 00279, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #2M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for decision, hearing closed.

340-05-BZ

APPLICANT – The Law Office Fredrick A. Becker, for Chelsea Eighth Realty LLC, owner; TSI West 16, LLC dba NY Sports Club, lessee.

SUBJECT – Application November 19, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the legalization of a physical culture establishment (PCE), located in the portions of the cellar and first floor of an existing 22-story mixed-use building, which expired on October 25, 2014. C1-6A, C6-2A, R8B zoning districts.

PREMISES AFFECTED – 270 West 17th Street aka 124-128 Eight Avenue, east side of 8th Avenue, with additional frontage, between West 16th Street and West 17th Street, Block 00766, Lot(s) 1101, 1102, Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for decision, hearing closed.

47-10-BZ

APPLICANT – Eric Palatnik, P.C., for 2352 Story Avenue Realty, owner; Air Gas Use, LLC, lessee.

SUBJECT – Application April 13, 2015 – Extension of Time to Complete Construction of a previously approved Variance (§72-21) permitting manufacturing use on a residential portion of a split zoning lot, which expired on April 12, 2011; Waiver of the Rules. M1-1/R3-2 zoning district.

PREMISES AFFECTED – 895 Zerega Avenue aka 2351 Story Avenue, Block 03698, Lot 36, Borough of Bronx.

COMMUNITY BOARD #9BX

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for continued hearing.

16-12-BZ

APPLICANT – Eric Palatnik, P.C., for Congregation Adas Yereim, owner.

SUBJECT – Application April 2, 2015 – Amendment of a previously approved Special Permit (§73-19) permitting a school (*Congregation Adas Yereim*) contrary to use regulations (§42-00). The amendment seeks changes to the interior, an increase in the height of the building. M1-2 zoning district.

PREMISES AFFECTED – 184 Nostrand Avenue, northwest corner of Nostrand Avenue and Willoughby Avenue, Block 01753, Lot 0042, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for continued hearing.

MINUTES

APPEALS CALENDAR

97-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP., for Douglas Road Development, LLC., owner.

SUBJECT – Application May 5, 2015 – Proposed construction of residential building that does not front on a legally mapped street, pursuant to Article 3, Section 36 of the General city Law. R1-1 NA LDGMA zoning district.

PREMISES AFFECTED – 221 Douglas Road, southeast corner of intersection of Douglas Road and Briggins Lane, Block 0830, Lot 035, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda..... 5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner dated April 10, 2015 acting on DOB Application No. 520232837, reads in pertinent part:

The street giving access to the proposed building is not duly placed on the official map of the City of New York therefore:

- A) No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 of General City Law;
- B) Proposed construction does not have at least 8% of the total perimeter of building fronting directly upon a legally mapped street or frontage space contrary to Section 502.1 of the 2008 NYC Building Code; and

WHEREAS, this is an application to allow the construction of a residence which does not front on a mapped street, contrary to General City Law (“GCL”) § 36; and

WHEREAS, a public hearing was held on this application on October 27, 2015 after due notice by publication in *The City Record*, and then to decision on October 27, 2015; and

WHEREAS, Commissioner Montanez performed an inspection of the site and surrounding neighborhood; and

WHEREAS, Community Board 2, Staten Island, recommended approval of this application; and

WHEREAS, the applicant represents that the subject site will be one of three tax lots to be apportioned from existing tax Lots 35, 39, and 45 and that the three new tax lots (New Lot 35, New Lot 39, and New Lot 36) will comprise a single zoning lot with a total lot area of 39,161 sq. ft.; and

WHEREAS, the applicant represents further that an Application for Mergers or Apportionments was submitted to the New York City Department of Finance, Property Division – Tax Map Office on or around February 9, 2015; and

WHEREAS, the current application is only with regards to New Lot 35;

WHEREAS, the subject site is located on the southeast

corner of Douglas Road and Briggins Lane, within an R1-1 zoning district, within the Special Natural Area District, on Staten Island; and

WHEREAS, the applicant proposes to construct a one (1) family, three (3)-story building with 6,002 sq. ft. of floor area and a floor area ratio (FAR) of 0.15 and provide two (2) accessory parking spaces; and

WHEREAS, by letter dated July 23, 2015, the Fire Department stated that it had no objections nor recommendations to the proposal; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant approval of the application subject to certain conditions set forth herein.

Therefore it is Resolved, that the decision of the DOB, dated April 10, 2015, acting on DOB Application No. 520232837, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received August 24, 2015”-(1) sheet; that the proposal will comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT all necessary approvals from the Department of City Planning (DCP) shall be obtained;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 27, 2015.

132-15-A & 133-15-A

APPLICANT – Joseph Loccisano (Sanna Loccisano Architects, PC), for Selim Rusi, owner.

SUBJECT – Application June 4, 2015 – Proposed construction of a single family home not fronting on a legally mapped street contrary to Section 36 Article 3 of the General City Law. R1-1 zoning district.

PREMISES AFFECTED – 163 Benedict Road, east side of Benedict Road, 167.93’ north of the corner of St. James Avenue and Benedict Road, Block 0868, Lot 030, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda..... 5

MINUTES

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner dated May 5, 2015 acting on DOB Application Nos. 520240007 and 520241373 reads in pertinent part:

The street giving access to the proposed building is not duly placed on the official map of the City of New York therefore:

- A) No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 of General City Law;
- B) Proposed construction does not have at least 8% of the total perimeter of building(s) fronting directly upon a legally mapped street or frontage space contrary to section 501.3.1 of the 2014 NYC Building Code; and

WHEREAS, this is an application to allow the construction of two (2) residences which do not front on a mapped street, contrary to General City Law (“GCL”) § 36; and

WHEREAS, a public hearing was held on this application on October 27, 2015 after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, Commissioner Montanez performed an inspection of the site and surrounding neighborhood; and

WHEREAS, Community Board 2, Staten Island, recommended approval of this application; and

WHEREAS, the subject application applies to two proposed tax lots to be apportioned from existing Lot 9, a single zoning lot located on the east side of Benedict Road between St. James Place and Circle Road, with frontage on both the east side of Benedict Road and the west side of St. James Place, within an R1-1 zoning district, in the Special Natural Area District, on Staten Island; and

WHEREAS, the applicant proposes to divide existing Lot 9 into two (2) new through lots with frontages on both the east side of Benedict Road and the west side of St. James Place—New Lot 9 (or “147 Benedict Road”) with approximately 120 feet of frontage along Benedict Road, and New Lot 30 (or “163 Benedict Road”), with approximately 100 feet of frontage along Benedict Road; and

WHEREAS, an Application for Mergers or Apportionments to apportion existing Lot 9 into New Lot 9 and New Lot 30 was submitted to the New York City Department of Finance, Property Division – Tax Map Office in or around November 2013; and

WHEREAS, the applicant further proposes to develop each lot with a single family detached residence fronting Benedict Road, which is not Final Mapped, but received an Opinion of Dedication for 25’ to 38’ as-in-use on November 14, 1991; and

WHEREAS, the residence proposed at 147 Benedict Road will have a total of 7,330 sq. ft. of floor area and a floor area ratio (FAR) of 0.17, and the residence proposed at 163 Benedict Road will have a total of 5,806 sq. ft. of floor area and a FAR of 0.16; and

WHEREAS, by letter dated October 23, 2015 the Fire

Department states that it has no objections or recommendations to the proposal; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant approval of the application subject to certain conditions set forth herein.

Therefore it is Resolved, that the decision of the DOB, dated May 5, 2015, acting on DOB Application Nos. 520240007 and 520241373, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawings filed with the application marked “Received August 24, 2015”- (1) sheet; that the proposal will comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 27, 2015.

67-13-A

APPLICANT – Board of Standards and Appeals
OWNER OF PREMISES – OTR MEDIA GROUP, INC & OTR 945 Zerega.

SUBJECT – Application August 13, 2014 – Reopening by court remand for supplemental review of whether a sign at the subject site was a permitted non-conforming advertising sign in light of the Board’s decision in BSA Cal. No. 96-12-A. M1-1 zoning district.

PREMISES AFFECTED – 945 Zerega Avenue, between Quimby Avenue and Bruckner Boulevard, Block 3700, Lot 31, Borough of Bronx.

COMMUNITY BOARD #9BX

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for continued hearing.

163-14-A thru 165-14-A

APPLICANT – Ponte Equities, for Ponte Equities, Ink, owner.

SUBJECT – Application July 10, 2014 – Appeal seeking waiver of Section G304.1.2 of the NYC Building Code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A zoning district.

PREMISES AFFECTED – 502, 504, 506 Canal Street, Greenwich Street and Canal Street, Block 595, Lot 40, 39, 38, Borough of Manhattan.

COMMUNITY BOARD #1M

MINUTES

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for continued hearing.

12-15-A & 13-15-A

APPLICANT – Prospect Place Development, LLC, for Prospect Place Development LLC, by Leonid Loyfman, owner.

SUBJECT – Application January 21, 2015 – Proposed construction of one family detached dwelling does not front on a legally mapped street contrary to Section 36, of the General City Law. R3X zoning district.

PREMISES AFFECTED – 53 Prospect Place, north side of Prospect Place, 476.88’ from the corner formed by the intersection of the west side of Amboy Road, Block 04306, Lot 27, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for continued hearing.

73-15-A & 74-15-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Ashland Building LLC., owner.

SUBJECT – Application March 31, 2015 – Proposed construction of buildings that do not front on a legally mapped street, pursuant to Section 36 Article 3 of the General City Law. R3X (SRD) zoning district.

PREMISES AFFECTED – 170 Arbutus Avenue, east side of Arbutus Avenue, 513.26’ north of intersection of Arbutus Avenue and Louise Street, Block 06552, Lot 0058, Borough of Staten Island.

COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to November 24, 2015, at 10 A.M., for decision, hearing closed.

ZONING CALENDAR

264-13-BZ

CEQR #14-BSA-035M

APPLICANT – Francis R. Angelino, Esq., for David Lowenfeld, owner; BB Fitness dba Brick Crossfit NYC, lessee.

SUBJECT – Application September 6, 2013 – Special Permit (§73-36) to legalize a physical culture establishment (*Brick CrossFit*) on the ground floor and cellar of an existing 10-story building. C6-2A zoning district.

PREMISES AFFECTED – 257 West 17th Street, north side, West 17th Street, between 7th & 8th Avenues, Block 767, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.....4
Negative:.....0
Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated August 6, 2013, acting on DOB Application No. 121548995, reads, in pertinent part:

Proposed use as a physical culture establishment ... is contrary to ZR 32-10 and must be referred to the Board of Standards and Appeals for approval pursuant to ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C6-2A zoning district, a physical culture establishment (the “PCE”) which operates on the ground floor and cellar of a 10-story and cellar mixed-use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on July 15, 2014, after due notice by publication in the *City Record*, with continued hearings on September 9, 2014, October 21, 2014, November 18, 2014, December 9, 2014, January 13, 2015, February 10, 2015, March 31, 2015, May 12, 2015, and September 22, 2015, and then to decision on October 27, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed site and neighborhood inspections of the premises and surrounding area; and

WHEREAS, Community Board 4, Manhattan, reserved its recommendation regarding the grant of the subject special permit pending the resolution of litigation arising from the PCE’s use of the subject premises, *The Board of Managers of the 257 West 17th Street Condominiums v 257 Associates Borrower LLC and BBP Fitness LLC d/b/a Brick New York*, Sup Ct, New York County, Index No. 160585/13 (the “Litigation”), which was commenced by certain members of the Opposition, defined below; and

WHEREAS, unit owners in the subject Building object to this application on the grounds that the PCE constitutes a nuisance in that excessive noise and vibrations emanating from the PCE space, and resulting from PCE activity therein, have been a regular and significant disturbance since the PCE began operating unlawfully in July of 2013; and

WHEREAS, the following owners and/or occupants of units within the subject building have appeared before, or submitted objections or testimony to, the Board, in opposition to the subject application: Susan and Zachary Gomes (Apt. 2A); Anthony Yu (Apt. 2B); Jessica Forbes (Apt. 2C); Martin Kelsohn (Apt. 2D); Catherine Havemeyer (Apt. 3A); Josh and Tracey McCarter (Apt. 4A); Natalie Silva (Apt. 4B); Charles S. Rich (Apt. 5A); Gina H. Son (Apt. 5D); Charles Thanhauser (Apt. 6B); Christine Zivkovic (Apt. 7C); Kevin Singer (Apt. 8D) (collectively, the foregoing owners and occupants, together with others who opposed the subject application, are

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referred to herein as the “Opposition”); and

WHEREAS, the subject site has approximately 127 feet of frontage along the north side of West 17th Street, between 7th Avenue and 8th Avenue, in Manhattan; and

WHEREAS, the site contains approximately 11,688 sq. ft. of lot area and is located within a C6-2A zoning district; it is occupied by a 10-story mixed-use (residential and commercial) building; and

WHEREAS, the PCE occupies approximately 8,387 sq. ft. of floor space in the building, consisting of 6,457 sq. ft. of floor area on the ground floor and 1,930 sq. ft. of floor space in the cellar; and

WHEREAS, the PCE has divided its space into three classrooms; Classroom 1, referred to as “Central Park” by the PCE is the larger of the two ground-floor studios; Classroom 2, referred to as “East Village” by the PCE is the smaller of the two ground-floor studios, and does not contain any PCE equipment; Classroom 3, referred to as “Downtown” by the PCE, is located in the cellar of the building; and

WHEREAS, the PCE operates as Brick Fitness; and

WHEREAS, the Board notes that the Litigation is pending and that pursuant to the Court’s Interim Temporary Order dated November 15, 2013, the PCE is required to use best efforts to ensure that users of the PCE refrain from dropping weights and/or weighted objects on the floors and/or walls of the subject premises between the hours of 7:30 a.m. and 8:30 p.m.; and

WHEREAS, the Board notes that, notwithstanding the Court’s Interim Temporary Order, members of the Opposition maintain that the PCE continues to be a nuisance; and

WHEREAS, the Board notes that it has held an unprecedented number of public hearings on this application, and worked with acoustical engineers representing both the applicant PCE as well as the Opposition, to determine whether and to what extent the PCE can operate at the subject site without constituting an unreasonable nuisance to the residential occupants of the subject building; and

WHEREAS, ultimately, the Board directed the PCE and the Opposition to hire a third-party acoustical engineer to administer a Board-approved test of various activities within the PCE in order to determine the impact of such activities and the viability of the PCE at the site; and

WHEREAS, based on the foregoing test and extensive review of the sound and vibration attenuation measures implemented at the subject premises, the Board has directed the PCE to adhere to a strict operational plan (the “Operational Plan”), which the Board makes a condition of its approval of the subject application; and

WHEREAS, the Board has taken the unusual step of limiting the term of the subject approval to one year, commencing on November 20, 2015, so that the Board can evaluate, upon the expiration of the term, whether and to what extent the PCE adhered to the Operational Plan and whether and to what extent the Operational Plan adequately mitigated the noise and vibration complained of by the Opposition; and

WHEREAS, the hours of operation of the PCE shall be Monday through Friday, from 5:15 a.m. to 9:00 p.m., and

Saturday and Sunday, from 7:30 a.m. to 4:00 p.m., subject to programmatic limitations imposed as conditions herein, and below; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Fire Department states that it has no objection to the proposal; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that, upon adherence to the conditions imposed herewith, this action will neither (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; nor (3) be detrimental to the public welfare; and

WHEREAS, the Board also finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as a Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement (“EAS”) CEQR No. No. 14-BSA-035M, dated August 22, 2013; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site within a C6-2A zoning district, a physical culture establishment (the “PCE”) which operates on the ground floor and cellar of 10-story and cellar mixed-use building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this

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application marked “Received October 9, 2015,” – Ten (10) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on November 20, 2016;

THAT the PCE shall strictly adhere to the following operational plan:

General Restrictions:

- The hours of operation of the PCE shall be Monday through Friday, from 5:15 a.m. to 9:00 p.m., and Saturday and Sunday, from 7:30 a.m. to 4:00 p.m., subject to programmatic limitations imposed as conditions herein;
- Under no circumstances are weight drops, from any height, permitted anywhere at the PCE premises outside of Classroom 1 and Classroom 3;
- The sound level from the music limiter throughout the entire PCE premises shall remain fixed to prevent the sound from the PCE from exceeding 73 dBA/83 dBC with the wall mounted volume control at the maximum level regardless of the source of the program;
- All weight lifting stations within the PCE must utilize Rogue pads placed on top of sound absorbing weight platforms, as indicated on BSA-approved plans

Ground Floor Restrictions:

- Under no circumstances are PCE staff or customers permitted to use barbells with a weight in excess of 115 lb. on the ground floor of the PCE premises;
- Under no circumstances are PCE staff or customers permitted to use medicine balls with a weight in excess of 20 lb. on the ground floor of the PCE premises;
- Under no circumstances are PCE staff or customers permitted to use kettlebells with a weight in excess of 45 lb. on the ground floor of the PCE premises;
- Under no circumstances are PCE staff or customers permitted to use dumbbells with a weight in excess of 45 lb. on the ground floor of the PCE premises;
- Under no circumstances may the activity of hitting a wall with a medicine ball (“Wall Ball”) be practiced on the ground floor of the PCE premises;
- All PCE activities on the ground floor of the subject building must be supervised by PCE faculty, and the PCE may not permit any open gym activities on the ground floor of the subject building;

Classroom 1 (“Central Park”)

- The PCE may offer the following class in Classroom 1: “Functional Fitness,” a strength and skill class that incorporates weight training as well as skill exercises (gymnastics, including

pull-ups, handstands, etc.) and metabolic conditioning;

- Classroom 1 contains (and may not exceed) 16 weight-lifting stations, all of which must utilize Rogue pads placed on top of sound absorbing weight platforms, as indicated on BSA-approved plans;
- Barbell movements incorporated into classes held within Classroom 1 are permitted but participants may not perform, nor may the PCE permit, drops of weights or weighted objects from any point higher than “waist height”;
- Under no circumstances are weight drops, from any height, permitted in Classroom 1 (or elsewhere on the ground floor of the PCE premises) before 7:00 a.m. or after 9:00 p.m.;
- Weight drops of any kind, of any weight, are prohibited at all times at that portion of Classroom 1 designated “G-2” on the BSA-approved plans;
- No more than 18 attendees are permitted to attend any class offered within Classroom 1 at one time;
- Outside of scheduled classes, Classroom 1 (“Central Park”) is to remain empty and unused;

Classroom 2 (“East Village”)

- The PCE may offer the following classes in Classroom 2 (“East Village”): “BX Class,” which utilizes bodyweight exercises and calisthenics, and which incorporates medicine balls, kettlebells, and dumbbells; “Mobility Class,” which utilizes foam rollers, resistance bands, and yoga mats (and no weights or weighted objects); and “Yoga Class,” which utilizes yoga mats (and no weights or weighted objects);
- No more than 40 attendees are permitted to attend Yoga Class at one time;
- No more than 32 attendees are permitted to attend Mobility Class at one time;
- No more than 24 attendees are permitted to attend BX Class at one time;
- Outside of scheduled classes, Classroom 2 (“East Village”) is to remain empty and unused;
- Weight drops of any kind, of any weight, are prohibited within Classroom 2;

Cellar-Level Restrictions:

- Under no circumstances are PCE staff or customers permitted to use barbells with a weight in excess of 135 lb. in the cellar-level of the PCE premises;
- Under no circumstances are PCE staff or customers permitted to use medicine balls with a weight in excess of 20 lb. in the cellar-level of the PCE premises;
- Under no circumstances are PCE staff or customers permitted to use kettlebells with a

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weight in excess of 70 lb. in the cellar-level of the PCE premises;

- Under no circumstances are PCE staff or customers permitted to use dumbbells with a weight in excess of 45 lb. in the cellar-level of the PCE premises;

Classroom 3 (“Downtown”)

- The PCE may offer the following class in Classroom 3: “B Fit Class,” which includes warm-ups, skill/strength, and workout / High Intensity Interval Training; B Fit Class incorporates barbells, medicine balls, dumbbells and kettlebells, training with no weights in excess of 135 lb. permitted;
- “Overhead Drops” of weights or weighted objects is not permitted in Classroom 3 (“Downtown”) or elsewhere within the PCE premises;
- No more than 18 attendees are permitted to attend B Fit Class at one time;
- The PCE may permit “Open Gym” in Classroom 3, which is managed by PCE staff;

THAT there shall be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT fire safety measures shall be installed and/or maintained as shown on the BSA-approved plans;

THAT sound and vibration attenuation measures shall be installed and/or maintained as shown on the BSA-approved plans;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by December 1, 2016;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 27, 2015.

213-14-BZ

APPLICANT – Law Office of Steven Simicich, for Wayne Bilotti, owner.

SUBJECT – Application August 29, 2014 – Variance (§72-21) for the construction of a single family detached home contrary to ZR 23-32 for minimum lot area. R2 zoning district.

PREMISES AFFECTED – 165 Wooley Avenue, Woolley Avenue between Lathrop and Garrison Avenues, Block 00419, Lot 13, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated July 31, 2014, acting on Department of Buildings Application No. 520191729, reads, in pertinent part:

The zoning lot has less than the prescribed min[imum] lot area and is contrary to Sec. 23-32 (ZR); and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R2 zoning district mapped within a Lower Density Growth Management Area (LDGMA), the construction of a single-family home on a zoning lot that does not comply with minimum lot area requirements, contrary to ZR § 23-32; and

WHEREAS, a public hearing was held on this application on July 21, 2015, after due notice by publication in *The City Record*, with a continued hearing on September 1, 2015 and then to decision on October 27, 2015; and

WHEREAS, the site and surrounding area had site and neighborhood examinations by Commissioner Montanez; and

WHEREAS, Community Board 1, Staten Island, recommends disapproval of this application; and

WHEREAS, City Councilmember Steven Matteo and Staten Island Borough President James S. Oddo provided written testimony in opposition to the application, citing concerns about neighborhood character and additional building density; and

WHEREAS, the subject site is an interior lot located on the east side of Woolley Avenue, between Garrison Avenue and Lathrop Avenue, within an R2 zoning district (LDGMA); and

WHEREAS, the site, which is vacant, has 40 feet of frontage along Woolley Avenue, a depth of 90 feet, and a lot area of 3,600 sq. ft.; and

WHEREAS, the applicant seeks to construct a single-family home on the site with the following bulk parameters: two stories, 1,725 sq. ft. of floor area (0.48 FAR), a front yard depth of 15’-0”, side yards with widths of 8’-0” and 5’-0”, a rear yard depth of 30’-0”, and two accessory off-street parking spaces; and

WHEREAS, the applicant notes that the proposal

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complies in all respects with the bulk regulations applicable in the subject zoning district (including lot width), except that the existing lot area of 3,600 sq. ft. is less than the minimum required lot area pursuant to ZR § 23-32 (*Special Provisions for Existing Small Lots*) (3,800 sq. ft. is the minimum required); accordingly, the applicant seeks a variance of that requirement; and

WHEREAS, further, ZR § 23-33 requires that undersized lots in LDGMA areas be owned separately and individually from all other adjoining tracts of land on December 8, 2005 and on the date of application for a building permit to allow for development; and

WHEREAS, the applicant notes that subject Lot 13 was owned in conjunction with adjacent Lot 15 from 1952 until 2008, so it does not meet the requirements of ZR § 23-33; and

WHEREAS, the applicant notes that both Lot 13 and Lot 15 have widths of 40 feet and lot area of 3,600 sq. ft. but that Lot 15 has been occupied by a single-family home since approximately the 1940s while Lot 13 has remained vacant; and

WHEREAS, the applicant notes that in April 2008, the site was rezoned to be within an R2 zoning district, rather than an R3X zoning district and that the site complied with R3X zoning district regulations including minimum lot size; and

WHEREAS, the applicant states that the following are unique physical conditions inherent to the zoning lot, which create practical difficulties and unnecessary hardship in developing the site in strict conformance with underlying zoning regulations, per ZR § 72-21(a): (1) its vacancy; and (2) its historic configuration and zoning; and

WHEREAS, as to vacancy, the applicant notes that the lot is the only vacant lot within a 200-ft. radius of the site and one of 12 within two blocks north and south and three blocks east and west of the site within the R2 zoning district that is not developed; and

WHEREAS, the applicant's study reflects that of the 12 vacant lots, five meet the R2 zoning district requirements and can be built upon as of right; six are undersized but are owned with an adjacent lot and used as a yard; and the final one is significantly undersized with a lot width of 20 feet, depth of 75 feet, and lot area of only 1,500 sq. ft.; and

WHEREAS, accordingly, the applicant concludes that the subject lot is the only one in the study area that is only slightly undersized (by 200 sq. ft.) and not owned in conjunction with an adjacent lot; and

WHEREAS, the applicant asserts that if the vacant lot were merged with an adjacent lot, the new lot would have a width twice that of the typical 40 feet in the area; and

WHEREAS, further, the applicant asserts that all three of the adjacent lots are already developed with homes that were built between 1940 and 1950, thus, merging with one of them would likely result in an existing home being demolished on the other lot or significantly altered and would result in a large new home out of context with the neighborhood; and

WHEREAS, as to the history of the lot, at the Board's direction, the applicant reviewed the configuration and ownership history of the adjoining lots; the study reflects that the subject lot has existed in its current dimensions since at

least 1907; and

WHEREAS, the study also reflects that the 40-ft. by 90-ft. lot is identical in size to all lots on the subject block and the majority on adjacent blocks, which are already developed with single-family homes; under current zoning, none of the lots on the block have a sufficient size; and

WHEREAS, accordingly, the applicant asserts that the historic size is characteristic of the area and the expectation to construct an otherwise complying single-family home; and

WHEREAS, the applicant submitted a letter from a title company, which states that since 1953-54 to the present day, the subject lot has not been sub-divided or merged with any adjacent lot; and

WHEREAS, the applicant asserts that in August 2007 when a new owner purchased the vacant Lot 13 and Lot 15 (occupied by a single-family home), Lot 13 could have been developed under the R3X zoning district in effect until April 2008; and

WHEREAS, thus, the applicant asserts that until 2008, when the lot had been in existence for at least 100 years, one could have constructed a single-family home on the lot in full accordance with zoning; and

WHEREAS, the applicant states that without the waivers, no residence could be constructed on the property; and

WHEREAS, the Board notes that the lot dimensions are historic and consistent with the surrounding area but the exception set forth at ZR § 23-33 is not available due to the ownership status on December 8, 2005; and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical conditions create a practical difficulty in developing the site in compliance with the applicable zoning provisions; and

WHEREAS, the applicant represents that, pursuant to ZR § 72-21(c), the proposed home will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant notes that the proposed home complies with all R2 (LDGMA) zoning district parameters aside from lot area; and

WHEREAS, specifically, the applicant's submissions reflect that all of the lots on the subject block have identical dimensions of 40 feet by 90 feet and all are occupied by single-family homes except the subject vacant lot; and

WHEREAS, the applicant also notes that the 3,600-sq.-ft. lot area is only 200 sq. ft. smaller than the minimum required 3,800 sq. ft. and that the width of 40 feet satisfies the minimum requirement; thus, the perception from the street is that the lot is zoning compliant; and

WHEREAS, the applicant notes that the other homes on the block and in the surrounding area were primarily built prior to 1961; and

WHEREAS, the Board has reviewed the zoning maps and area study and notes that the subject lot is identical in size to all lots on the block (and the majority on adjacent blocks), which are occupied by single-family homes comparable to the proposed; and

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WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, pursuant to ZR § 72-21(d), the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is the result of the lot's historic dimensions which are identical to all other lots on the block and which could have allowed a single-family home until the zoning change to R2 in 2008; and

WHEREAS, as to the minimum variance requirement set forth at ZR § 72-21(e), the applicant notes that it complies with all R2 zoning district parameters except for the minimum lot area, of which it is only deficient by approximately 200 feet (or five percent of the required width of 3,800 sq. ft.); and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, based upon the above, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21, to permit, within an R2 zoning district mapped within a Lower Density Growth Management Area (LDGMA), the construction of a single-family home on a zoning lot that does not comply with minimum lot area requirements, contrary to ZR § 23-32; *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 24, 2015"-- (10) sheets; and *on further condition*:

THAT the bulk will be limited to two stories, 1,725 sq. ft. of floor area (0.48 FAR), a front yard depth of 15'-0", side yards with widths of 8'-0" and 5'-0", a rear yard depth of 30'-0", and two accessory off-street parking spaces, as reflected on the BSA-approved plans;

THAT substantial construction will be completed pursuant to ZR § 72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 27, 2015.

78-15-BZ

CEQR #15-BSA-191M

APPLICANT – Eric Palatnik, P.C., for 201 East 66th Street LLC., owner; 66th Street Fitness Corp., lessee.

SUBJECT – Application April 9, 2015 – Special Permit (§73-36) to permit the operation of a Physical Culture Establishment (*Crunch Fitness*) on the first floor and sub-cellar of a twenty one (21) story mixed-use building. C1-9 zoning district.

PREMISES AFFECTED – 201 East 66th Street aka 1131 Third Avenue, between 66th and 67th Street, Block 01421, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.....4
Negative:.....0
Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated March 12, 2015, acting on Department of Buildings Application No. 122274957, reads in pertinent part:

“Proposed ‘Physical Culture Establishment’ is not permitted As-Of-Right as per section ZR 32-21 and a special permit by the Board of Standards and Appeals (BSA) is required to comply with ZR 73-36”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within a C1-9 zoning district, the operation of a physical culture establishment (PCE) in a twenty-one (21) story mixed-used building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on September 18, 2015 after due notice by publication in *The City Record*, and then to decision on October 27, 2015; and

WHEREAS, Community Board 8, Manhattan, recommends approval of this application; and

WHEREAS, Vice-Chair Hinkson and Commissioner Ottley-Brown performed inspections of the site and

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surrounding neighborhood; and

WHEREAS, the subject site is a corner through-lot located on the east side of Third Avenue, between East 66th and East 67th Streets; and

WHEREAS, the site has approximately 100 feet of frontage along East 66th Street, 201 feet of frontage along Third Avenue, 100 feet of frontage along East 67th Street, and 20,083 sq. ft. of lot area, and is occupied by a twenty-one (21) story and cellar mixed-use building; and

WHEREAS, the proposed PCE will occupy approximately 1,600 sq. ft. on the first floor and 8,400 sq. ft. in the cellar level of the building, for a total of 10,000 sq. ft.; and

WHEREAS, the PCE will be operated as Crunch Fitness; and

WHEREAS, the applicant represents that the PCE will include aerobic and weight-lifting equipment and offer group and individual classes and personal training; and

WHEREAS, the proposed hours of operation for the PCE are: Monday through Friday, 5:00 a.m. to 12:00 a.m., and Saturday through Sunday, 8:00 a.m. to 8:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has deemed to be satisfactory; and

WHEREAS, the Fire Department, by letter dated September 3, 2015, states that it has no objections to the proposal, but requests that the applicant confirm that the cellar is sprinkler protected; and

WHEREAS, the applicant provided photographic proof of sprinkler protection in the cellar in satisfaction of the Fire Department's concerns; and

WHEREAS, the applicant provided the Board with plans of the proposed sound attenuation measures, including wood floating floors in the fitness rooms, rolled rubber matter in the spin studio, and vibration isolating blocks, plywood and rubber matting tiles in the free weight area; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-191M, dated April 9, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in

accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site located in a C1-9 zoning district, the operation of a PCE in the cellar and first floor levels of a twenty-one (21) story plus cellar mixed-use building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received October 1, 2015"- Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on October 27, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance under Local Law 58/87 will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT sound attenuation measures shall be implemented and/or maintained as shown on the Board-approved plans;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 27, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 27, 2015.

5-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Israel Ashkenazi & Racquel Ashkenazi, owner.

SUBJECT – Application January 9, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141); side yards (§23-461) and rear yard (§23-47) regulations. R3-2 zoning district.

PREMISES AFFECTED – 1807 East 22nd Street, east side of East 22nd Street between Quentin Road and Avenue R, Block 6805, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson,

MINUTES

Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to November 24, 2015, at 10 A.M., for decision, hearing closed.

60-14-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for Sephardic Congregation of Kew Gardens Hills, owners.

SUBJECT – Application April 11, 2014 – Variance (§72-21) to enlarge a community facility (*Sephardic Congregation*), contrary to floor lot coverage rear yard, height and setback (24-00). R4-1 zoning district.

PREMISES AFFECTED – 141-41 72nd Avenue, 72nd Avenue between Main Street and 141st Street, Block 6620, Lot 41, Borough of Queens.

COMMUNITY BOARD #8Q

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for continued hearing.

179-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Lillian Romano and Elliot Romano, owners.

SUBJECT – Application July 29, 2014 – Special Permit (§73-622) for the enlargement and conversion of an existing two family residence to single family residence contrary to the rear yard requirement (ZR 23-47). R5 zoning district.

PREMISES AFFECTED – 1937 East 14th Street, east side of East 14th Street between Avenue S and Avenue T, Block 07293, Lot 74, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to November 24, 2015, at 10 A.M., for continued hearing.

204-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Wythe Berry LLC, owner.

SUBJECT – Application August 25, 2014 – Special Permit (§73-44) for reduction of required off-street parking spaces for proposed ambulatory diagnostic or treatment health care facilities (UG 4A) and commercial office use (UG 6B listed in Use Group 4 and PRC-B1). M1-2 Zoning District.

PREMISES AFFECTED – 55 Wythe Avenue, between North 12th Street and North 13th Street, Block 2283, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Off-Calendar.

316-14-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for United Talmudical Academy, owner.

SUBJECT – Application November 25, 2014 – Variance (§72-21) to permit the enlargement of an existing Yeshiva building (Talmudical Academy) for lot coverage (§24-11)

and rear yard (§24-36. R6 zoning district.

PREMISES AFFECTED – 115 Heyward Street, northern side of Heyward Street between Lee Avenue and Bedford Avenue, Block 02225, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Laid over to December 8, 2015, at 10 A.M., for continued hearing.

71-15-BZ

APPLICANT – 548 W 22 Holding LLC., for 548 W 22nd Holding LLC., owner.

SUBJECT – Application March 31, 2015 – Variance (§72-21) the conversion and enlargement of the existing 4-story building, build around 1920 on a fragile foundation system for manufacturing use and later converted to an art Museum to a 20-story mixed-use building with commercial uses on the ground floor and residential use. M1-5/SWCD zoning district.

PREMISES AFFECTED – 548 West 22nd Street, south side of West 22nd Street between Tenth Avenue and Eleventh Avenue, Block 0693, Lo 59, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for adjourned hearing.

REGULAR MEETING

TUESDAYAFTERNOON, OCTOBER 27, 2015

1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.

ZONING CALENDAR

69-15-BZ

CEQR #15-BSA-184R

APPLICANT – Glenn V. Cutrona, AIA, for Murray Page 74 LLC, owner.

SUBJECT – Application March 30, 2015 – Variance (§72-21) a proposed eating and drinking establishment with accessory drive through facility, located within an R3X/C1-1/SRD zoning district.

PREMISES AFFECTED – 245 Page Avenue, between Richmond Valley Road and Amboy Road, Block 08008, Lot 74, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.....4
Negative:.....0

MINUTES

Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated March 26, 2015, acting on Department of Buildings Application No. 520233024, reads in pertinent part:

Proposed eating and drinking establishment with accessory drive through facility located in a C1-1 district is not allowable as per Section 32-15 of the New York City Zoning Resolution and would require a special permit pursuant to Section 73-243. As the proposed development is located within the Special South Richmond Development District, Section 73-243 is not applicable. Therefore, refer to the Board of Standards and Appeals pursuant to Section 72-21 for a variance; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within an R3X zoning district and partially within an R3X (C1-1) zoning district and in the Special South Richmond Development District, the construction of an eating and drinking establishment with a drive thru window, contrary to ZR §§ 32-15 and 73-243; and

WHEREAS, a public hearing was held on this application on September 22, 2015, after due notice by publication in *The City Record*, and then to decision on October 27, 2015; and

WHEREAS, Commissioner Ottley-Brown and Commissioner Montanez performed inspections of the subject site and surrounding neighborhood; and

WHEREAS, Community Board 3, Staten Island, recommends approval of this application; and

WHEREAS, the subject site is an irregularly shaped lot with approximately 290 feet of frontage along the east side of Page Avenue between Amboy Road, to the south, and Richmond Valley Road, to the north, partially within an R3X zoning district and partially within an R3X (C1-1) zoning district and in the Special South Richmond Development District, in Staten Island; the site has a total lot area of 53,067 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to subdivide Lot 74 into two lots—Tentative Lot 73, the southeasterly portion of the lot completely located within an R3X zoning district with a total lot area of 18,578 sq. ft., and New Lot 74, the remainder of the lot located partially within an R3X zoning district and partially within an R3X (C1-1) zoning district with 6,950 sq. ft. of lot area in an R3X zoning district, 27,539 sq. ft. of lot area in an R3X (C1-1) zoning district and a total lot area of 34,489 sq. ft.; and

WHEREAS, this application is only with regards to New Lot 74; and

WHEREAS, the applicant further proposes to construct a one-story commercial fast food restaurant with a drive-thru component (Use Group 6) within the R3X (C1-1) portion of New Lot 74 fronting Page Avenue, with 2,608 sq. ft. of floor area, and 19 accessory off-street parking spaces; and

WHEREAS, the proposed restaurant would be accessed from a cross access easement and a curb cut on lot 71, located immediately south of the subject site, because the topography of the site makes direct access to the site from Page Avenue unfeasible; and

WHEREAS, an application related to the proposal is currently filed with the New York City Department of City Planning (“DCP”) for Special South Richmond District authorization for the Modification of Existing Topography under ZR § 107-65 and certification for the subdivision of the lot under ZR § 107-08; and

WHEREAS, the applicant’s proposed use is allowed in a C1-1 zoning district by Special Permit pursuant to ZR §§ 32-15 and 73-243 except in Special Purpose Districts; and

WHEREAS, because the subject site is located within the Special South Richmond Development District, the applicant must seek permission pursuant to a variance under ZR § 72-21; and

WHEREAS, the applicant states that, per ZR § 72-21(a), the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in conformance with underlying district regulations: presence of New York State Department of Environmental Conservation (“DEC”) tidal and tidal adjacent wetlands areas; significant topographical variations within the lot; the location of the site in a flood zone AE and minimally within a Flood Zone X; and poor soil conditions and a high water table; and

WHEREAS, the 26,290 sq. ft. of lot area (out of 34,489 sq. ft. of total lot area, or approximately 76 percent of the site) located within tidal and tidal adjacent wetlands areas reduce the developable area of the site; and

WHEREAS, the DEC permit, issued January 22, 2015, represents that the maximum development allowed on the subject lot is a building with 2,608 sq. ft. of floor area and a floor area ratio (“FAR”) of 0.08, a small fraction of the 27,539 sq. ft. (1.00 FAR) of maximum floor area permitted on New Lot 74 for commercial use pursuant to ZR § 33-121; and

WHEREAS, the DEC has also required that the applicant set aside an area of no disturbance, install wetland mitigation plantings and use pervious pavement for drainage; and

WHEREAS, the east side of the lot rises significantly towards Page Avenue as the road approaches the Page Avenue Bridge that spans over Staten Island Rapid Transit railroad tracks and Mill Creek, both located directly north of New Lot 74; and

WHEREAS, in order to develop New Lot 74, the topography must be modified so as to grade the portion that rises to Page Avenue and the Page Avenue Bridge; accommodate the installation and ensure the functioning of dry wells and septic system required due to the lot’s naturally high water table; and support the proper and safe circulation of vehicles and pedestrians on the site; and

WHEREAS, the Board agrees that the aforementioned unique physical condition creates unnecessary hardship and practical difficulty in developing the site in conformance

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with the applicable zoning regulations; and

WHEREAS, the applicant asserts that, per ZR § 72-21(b), there is no reasonable possibility that the development of the site in conformance with the Zoning Resolution will bring a reasonable return; and

WHEREAS, the applicant provided a financial analysis for (1) construction of a one-story 2,607 sq. ft. commercial building with on-site parking for 19 cars, but without a drive-thru facility (“As-of-Right Commercial”) and (2) the proposal; and

WHEREAS, the applicant represents that only the proposal would provide a reasonable return; and

WHEREAS, specifically, the applicant argues that the inclusion of a drive-thru operation in the proposed use would generate greater sales for a tenant than in the As-of-Right Commercial scenario and allow the applicant to demand greater rents per square foot of building area; and

WHEREAS, the applicant further argues that the significant additional revenue generated as a result of the drive-thru operation will attract tenants willing to assume some of the costs associated with the construction of the building, which would reduce the applicant’s costs and increase the applicant’s investment return; and

WHEREAS, based upon its review of the applicant’s submissions, the Board has determined that because of the subject lot’s unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that Page Avenue is an arterial street with two lanes in each direction developed as a major commercial strip for nearby residents; commercial buildings with drive-thru operations are located directly across the street from the subject site; a significant portion of the Tentative Lot 73, located in an R3X zoning district, will not be developed because it has been established by the DEC as an area of no disturbance; there are plantings between New Lot 74 and Tentative Lot 73 to buffer the site from any future residential use on Tentative Lot 73; there are also plantings along Page Avenue that screen the parking on the site from pedestrians; traffic to and from the subject site will not interfere with traffic flow on Page Avenue because cars will use the cross access easement and existing curb cut on Lot 71 and queue for the drive-in operation onsite; and

WHEREAS, in response to questions from the Board, the applicant further asserts that the annunciator used in the drive-thru operation will not negatively affect the public; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or

development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the applicant represents that the proposal represents the minimum variance needed to allow for a reasonable and productive use of the site; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 15-BSA-184R, dated July 23, 2015; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the Fire Department, by letter dated June 19, 2014, offers no objection to the proposal but set forth the following requirements as conditions of approval: (1) the commercial occupancy must be fully sprinklered in conformity with the sprinkler provisions of the New York City Building Code & New York City Fire Code and (2) fire hydrant location must be within 100’ of the Siamese connection for 254 Page Avenue; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site partially within an R3X zoning district and partially within an R3X (C1-1) zoning district and in the Special South Richmond Development District, the construction of an eating and drinking establishment with a drive thru window, contrary to ZR §§ 32-15 and 73-243, *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received

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September 29, 2015” – six (6) sheets; and *on further condition:*

THAT the commercial occupancy must be fully sprinklered in conformity with the sprinkler provisions of the New York City Building Code & New York City Fire Code;

THAT fire hydrant location must be within 100’-0” of the Siamese connection for 254 Page Avenue;

THAT substantial construction will be completed in accordance with ZR § 72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 27, 2015.

226-15-BZ

APPLICANT – Department of Housing Preservation & Development, for Build it Back Program.

SUBJECT – Application September 25, 2015 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program. R3X zoning district.

PREMISES AFFECTED – 61 Neutral Avenue, Block 4092, Lot 8, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X (C1-1) zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, and rear yards contrary to ZR §§ 64-A351 and 64-A353; and

WHEREAS, a public hearing was held on this application on October 27, 2015, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, Commissioner Montanez performed an inspection of the subject site and neighborhood; and

WHEREAS, by letter dated October 16, 2015,

Community Board 2, Staten Island, states that it waives its review of the subject application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, in order to expedite the subject application, the Board adopts a waiver of 2 RCNY § 1-05.1 (Subject Matter) and accepts the subject application without the required objection from the Department of Buildings (“DOB”); and

WHEREAS, the subject site is located on the north side of Neutral Avenue between Roma Avenue and Cedar Grove Avenue, within an R3X (C1-1) zoning district; and

WHEREAS, the site, which is vacant, has 20 feet of frontage along Neutral Avenue and 1,200 sq. ft. of lot area; and

WHEREAS, the site is vacant and was previously occupied by a one-story, single-family residence which was destroyed by or demolished as a result of Superstorm Sandy; and

WHEREAS, the site is also the subject of a companion application filed under BSA Cal. No. 227-15-A to permit the construction of a single-family home that does not front a mapped street, contrary to General City Law § 36; and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; and

WHEREAS, the applicant proposes to construct a one-story, single-family home with 670 sq. ft. of floor area (0.56 FAR); the new building will provide a front yard with a depth of 5’-0”, a rear yard with a depth of 5’-9 ½”, and side yards of 3’-0” (to the east) and 3’-5” (to the west); and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 5’-0” and a rear yard depth of 5’-9 ½”; and

WHEREAS, ZR § 64-92 provides:

In order to allow for the alteration of existing *building* in compliance with *flood-resistant construction standards* and for *developments and enlargements* in compliance with *flood-resistant construction standards*, the Board of Standards and Appeals may permit the modification of Section 64-60 (DESIGN REQUIREMENTS), the *bulk* regulations of Sections 64-30, 64-40 (SPECIAL BULK REGULATIONS FOR

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BUILDINGS EXISTING ON OCTOBER 28, 2012) and 64-70 (SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS), as well as all other applicable *bulk* regulations of the Zoning Resolution, except *floor area ratio* regulations, provided the following findings are made:

- (a) that there would be a practical difficulty in complying with *flood-resistant construction standards* without such modifications, and that such modifications are the minimum necessary to allow for an appropriate *building* in compliance with *flood-resistant construction standards*;
- (b) that any modification of *bulk* regulations related to height is limited to no more than 10 feet in height or 10 percent of permitted height as measured from *flood-resistant construction elevation*, whichever is less;
- (c) the proposed modifications will not alter the essential character of the neighborhood in which the *building* is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with *flood-resistant construction standards*.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed yard waivers allow for the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3X (C1-1) zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 64-A351 and 64-A353; *on condition* that all work will substantially conform to the drawings filed with this application and marked "Received October 27, 2015"- Four (4) sheets; and *on further condition*:

THAT the bulk parameters of the building shall be as illustrated on the BSA-approved plans;

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 27, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 27, 2015.

227-15-A

APPLICANT – Department of Housing Preservation & Development, for Build it Back Program.

SUBJECT – Application September 25, 2015 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program. R3X zoning district.

PREMISES AFFECTED – 61 Neutral Avenue, Block 4092, Lot 8, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

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Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application to permit the construction of a single-family home that does not front a mapped street, contrary to General City Law § 36; and

WHEREAS, a public hearing was held on this application on October 27, 2015, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, Commissioner Montanez performed an inspection of the subject site and neighborhood; and

WHEREAS, by letter dated October 16, 2015, Community Board 2, Staten Island, states that it waives its review of the subject application; and

WHEREAS, this application is applicant is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, in order to expedite the subject application, the Board adopts a waiver of 2 RCNY § 1-05.1 (Subject Matter) and accepts the subject application without the required objection from the Department of Buildings (“DOB”); and

WHEREAS, the subject site is located on the north side of Neutral Avenue between Roma Avenue and Cedar Grove Avenue, within an R3X (C1-1) zoning district; and

WHEREAS, the site, which is vacant and was previously occupied by a one-story, single-family residence which was destroyed by or demolished as a result of Superstorm Sandy, has 20 feet of frontage along Neutral Avenue and 1,200 sq. ft. of lot area; and

WHEREAS, Neutral Avenue is an unmapped street; and

WHEREAS, the site is also the subject of a companion application filed under BSA Cal. No. 226-15-BZ, for a special permit pursuant to ZR § 64-92, to permit, on a site within an R3X (C1-1) zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, and rear yards contrary to ZR §§ 64-A351 and 64-A353; and

WHEREAS, to construct a one-story, single-family home with 670 sq. ft. of floor area (0.56 FAR); and

WHEREAS, because the site is located along an unmapped street, the applicant request a waiver of General City Law § 36; and

WHEREAS, by letter dated October 8, 2015, the Fire Department states that it has reviewed the proposal and has no objections; and

WHEREAS, based on the record, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, the appeal is granted by the power vested in the Board by Section 36 of the General City Law and on condition that construction shall substantially

conform to the drawing filed with the application marked “October 27, 2015”- one (1) sheet, and on further condition:

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

THAT the entire building shall have a fire sprinkler system in conformity with the sprinkler provisions of chapter 8 of the New York City Building Code;

THAT exterior walls and floors shall be constructed of materials that provide a 2-hour fire resistance rating, and that the underside of the structure shall also be 2-hour fire resistant if the space below is designated for automobile parking;

THAT the entire building will be provided with interconnected smoke alarms, which shall be designed and installed in accordance with the New York City Building Code Section 907.2.11;

THAT the highest windowsill to livable space shall be no higher than 32 feet above grade plane directly below, “grade plane” defined as set forth in the New York City Building Code Section 502.1;

THAT this approval shall be limited to the Build to Back program; and

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

THAT changes to the use or occupancy of the building will be subject to Board review and approval; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 27, 2015.

228-15-BZ

APPLICANT – Department of Housing Preservation & Development, for Build it Back Program.

SUBJECT – Application September 25, 2015 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program. R3X zoning district.

PREMISES AFFECTED – 48 Hamden Avenue, Block 3728, Lot 30, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home,

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which does not comply with the zoning requirements for front yards contrary to ZR § 64-A351; and

WHEREAS, a public hearing was held on this application on October 27, 2015, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, Commissioner Montanez performed an inspection of the subject site and neighborhood; and

WHEREAS, by letter dated October 16, 2015, Community Board 2, Staten Island, states that it waives its review of the subject application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, in order to expedite the subject application, the Board adopts a waiver of 2 RCNY § 1-05.1 (Subject Matter) and accepts the subject application without the required objection from the Department of Buildings (“DOB”); and

WHEREAS, the subject site is located on the south side of Hamden Avenue between Laconia Avenue and Mason Avenue, within an R3-1 zoning district; and

WHEREAS, the site, which is vacant, has approximately 20 feet of frontage along Hamden Avenue and approximately 1,033 sq. ft. of lot area; and

WHEREAS, the site is vacant and was previously occupied by a one-story, single-family residence which was destroyed by or demolished as a result of Superstorm Sandy; and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; and

WHEREAS, the applicant proposes to construct a two-story, single-family home with 622 sq. ft. of floor area (0.60 FAR); the new building will provide a front yard with a depth of 9’-3”, a rear yard with a depth of 10’-1”, and two side yards of 3’ - 7/8th each; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 9’-3”; and

WHEREAS, ZR § 64-92 provides:

In order to allow for the alteration of existing *building* in compliance with *flood-resistant construction standards* and for *developments* and *enlargements* in compliance with *flood-resistant*

construction standards, the Board of Standards and Appeals may permit the modification of Section 64-60 (DESIGN REQUIREMENTS), the *bulk* regulations of Sections 64-30, 64-40 (SPECIAL BULK REGULATIONS FOR BUILDINGS EXISTING ON OCTOBER 28, 2012) and 64-70 (SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS), as well as all other applicable *bulk* regulations of the Zoning Resolution, except *floor area ratio* regulations, provided the following findings are made:

- (a) that there would be a practical difficulty in complying with *flood-resistant construction standards* without such modifications, and that such modifications are the minimum necessary to allow for an appropriate *building* in compliance with *flood-resistant construction standards*;
- (b) that any modification of *bulk* regulations related to height is limited to no more than 10 feet in height or 10 percent of permitted height as measured from *flood-resistant construction elevation*, whichever is less;
- (c) the proposed modifications will not alter the essential character of the neighborhood in which the *building* is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood’s potential development in accordance with *flood-resistant construction standards*.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed yard waiver allows for the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the

MINUTES

building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a two-story single-family home, which does not comply with the zoning requirements for front yards, contrary to ZR §§ 64-A351; *on condition* that all work will substantially conform to the drawings filed with this application and marked "Received October 23, 2015"- four (four) sheets; and *on further condition*:

THAT the bulk parameters of the building shall be as illustrated on the BSA-approved plans;

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 27, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 27, 2015.

229-15-BZ

APPLICANT – Department of Housing Preservation & Development, for Build it Back Program.

SUBJECT – Application September 25, 2015 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program. R3X zoning district.

PREMISES AFFECTED – 214 Harding Park, Underhill Avenue and T Street, Block 3430, Lot 67, Borough of Bronx.

COMMUNITY BOARD #9BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3A zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front and rear yards, contrary to ZR §§ 23-45(a) and 23-52; and

WHEREAS, a public hearing was held on this application on October 27, 2015, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, Community Board 9, Bronx, recommends that the Board approve this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development ("HPD") on behalf of the owner and in connection with the Mayor's Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner's Authorization); and

WHEREAS, the subject site is an interior lot located on the east side of Underhill Avenue, within the Harding Park neighborhood in the Southeastern Bronx, within an R3A zoning district; and

WHEREAS, the site has 41.5 feet of frontage along the south side of the private road known as T Street, which bisects Underhill Avenue south of Bronx River Avenue, and 2,347 sq. ft. of lot area; and

WHEREAS, the site is vacant; before it was demolished, the site was occupied one-story, single-family home with a 944 sq. ft. of floor area (0.40 FAR), a non-complying front yard with a depth of 8'-10", side yards of 1'-2 1/2" and 8'-5", and a rear yard of 9'-9 3/4"; and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story with attic, single-family home with 1,154 sq. ft. of floor area (0.49 FAR); the

MINUTES

new building will provide a non-complying front yard depth of 10'-0" (a front yard with a depth of 18'-0" is required as per ZR §23-45(a)), side yards of 18'-8 1/2" and 9'-11" (a single side yard with a total width of 8'-0" is required, and an open area with a minimum total width of eight feet is required between buildings containing residences on adjacent lots is required pursuant to ZR §23-461), and a rear yard depth of 4'-8 1/2" (a rear yard with a depth of 10'-0" is required pursuant to ZR §23-52); and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 10'-0" and a rear yard depth of 4'-8 1/2"; and

WHEREAS, ZR § 64-92 provides:

In order to allow for the alteration of existing *building* in compliance with *flood-resistant construction standards* and for *developments* and *enlargements* in compliance with *flood-resistant construction standards*, the Board of Standards and Appeals may permit the modification of Section 64-60 (DESIGN REQUIREMENTS), the *bulk* regulations of Sections 64-30, 64-40 (SPECIAL BULK REGULATIONS FOR BUILDINGS EXISTING ON OCTOBER 28, 2012) and 64-70 (SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS), as well as all other applicable *bulk* regulations of the Zoning Resolution, except *floor area ratio* regulations, provided the following findings are made:

- (a) that there would be a practical difficulty in complying with *flood-resistant construction standards* without such modifications, and that such modifications are the minimum necessary to allow for an appropriate *building* in compliance with *flood-resistant construction standards*;
- (b) that any modification of *bulk* regulations related to height is limited to no more than 10 feet in height or 10 percent of permitted height as measured from *flood-resistant construction elevation*, whichever is less;
- (c) the proposed modifications will not alter the essential character of the neighborhood in which the *building* is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with *flood-resistant construction standards*.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the

proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal will result in an increased depth of the front and side yards, as well as an increase in the open space on the lot; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3A zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front and rear yards, contrary to ZR §§ 23-45(a) and 23-52; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received September 25, 2015"- six (6) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,154 sq. ft. (0.49 FAR), a minimum front yard depth of 10'-0", a minimum rear yard depth of 4'-8 1/2" , as illustrated on the BSA-approved plans;

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THAT this approval shall be limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 27, 2019;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 27, 2015.

228-14-BZ

APPLICANT – Eric Palatnik, P.C., for Henry Trost, owner.
SUBJECT – Application September 22, 2014 – Special Permit (§73-622) for the enlargement of an existing two story single family home contrary to floor area, lot coverage and open space (ZR 23-141(b). R3-1 zoning district.

PREMISES AFFECTED – 149 Hasting Street, Hastings Street, between Hampton Avenue and Oriental Boulevard, Block 08751, Lot 466, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for decision, hearing closed.

245-14-BZ

APPLICANT – Stroock & Stroock & Lavan, LLP., for Two Fulton Square, LLC., owner.

SUBJECT – Application October 9, 2014 – Special Permit (§73-66) to permit the penetration of the flight obstruction area of LaGuardia Airport contrary to §61-20. C4-2 zoning district.

PREMISES AFFECTED – 133-31 39th Avenue, 37th Avenue, Prince Street, 39th Avenue and College Point Boulevard, Block 04972, Lot 65, Borough of Queens.

COMMUNITY BOARD #7Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for decision, hearing closed.

24-15-BZ

APPLICANT – Cozen O'Connor, for Roosevelt 5 LLC, owner.

SUBJECT – Application February 11, 2015 – Special Permit (§73-66) to permit the construction of a new building in excess of the height limits established under ZR 61-21. C2-3/R6 zoning district.

PREMISES AFFECTED – 71-17 Roosevelt Avenue, frontage on Roosevelt Avenue and 72nd Street, Block 01282, Lot (s) 137,138,141,151,160, Borough of Queens.

COMMUNITY BOARD #3Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for decision, hearing closed.

62-15-BZ

APPLICANT – Glen V. Cutrona, AIA, for 139 Bay Street Point, LLC, owner.

SUBJECT – Application March 20, 2015 – Variance (§72-21) enlargement of a mixed use building contrary floor area regulations, lot coverage, balconies below third story, distance from legally required windows, lot line and side yard regulation, located within an C4-2/SG zoning district.

PREMISES AFFECTED – 139 Bay Street, Bay Street between Slosson terrace and Central Avenue, Block 00001, Lot(s) 10,17,18,19, Borough of Staten Island.

COMMUNITY BOARD #1SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to December 8, 2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director

BULLETIN

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Tuesday, November 17, 2015**

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240-14-BZ	1620 Shore Boulevard, Brooklyn

DOCKETS

New Case Filed Up to November 17, 2015

250-15-A

7 Wavecrest Street, Beginning at the point on the North side of Wavecrest St., from the corner form by the intersection of Wavecrest St. and Dustan St., Block 4081, Lot(s) 035, Borough of **Staten Island, Community Board: 2**. GCL36 propose to build a single family residence not fronting on a un-mapped street, contrary to Article 36 of the New York General City Law. R3X district.

251-15-BZ

127 West 26th Street, Northerly side of West 26th Street between Avenue of the Americas and Seventh Avenue, Block 0802, Lot(s) 22, Borough of **Manhattan, Community Board: 4**. Special Permit (73-36) to allow the operation of a Physical Culutre Establishment (PCE) spa in a portion of the first floor at the subject premises, located within an M1-6 zoning district. M1-6 district.

252-15-BZ

1120 East 24th Street, West side of East 24th Street between Avenue K and Avenue L, Block 7623, Lot(s) 053, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to permit an enlargement of an existing two-family home to be converted to a single family home contrary to floor area and open space (ZR 23-141(b)); side yard (ZR 23-461) and less than the required rear yard (ZR 23-47). R2 zonin R2 district.

253-15-BZ

99 East 122nd Street, Block 07586, Lot(s) 36, Borough of **Brooklyn, Community Board: 14**. Special Permit (73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-141); and less than the minimum rear yard (ZR 23-47). R2 zoning district. R2 district.

254-15-BZ

98 Avenue A, East side of Avenue A, 36.87 feet south of intersection with East 7th Street, Block 0402, Lot(s) 0003, Borough of **Manhattan, Community Board: 3**. Special Permit (§73-36) to allow for a physical culture establishment (PCE) to be operated as Blink Fitness within a new cellar and eight-story mixed-use building. C2-5/R7A zoning district. C2-5(R7A) district.

255-15-A

106 Ebbitts Street, South side Ebbitts Street 0 feet East of Manila Place, Block 4056, Lot(s) 086, Borough of **Staten Island, Community Board: 2**. GCL35, proposed enlargement located partly within the bed of a mapped street, an original one story house, located within an R3-1 zoning district, contrary to Section 35, Article 3 of the General City Law. R3-1 district.

256-15-BZ

56-02 Roosevelt Avenue, Southeast corner of intersection of Roosevelt Avenue and 56th Street, Block 1327, Lot(s) 035, Borough of **Queens, Community Board: 2**. Special Permit (§73-36) to allow for a physical culture establishment (PCE) to operate as a Blink Fitness within an existing commercial building. C2-3/R6 zoning district. C2-3(R6) district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

**REGULAR MEETING
DECEMBER 8, 2015, 10:00 A.M.**

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, December 8, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

70-15-BZ/14-10-BZII

APPLICANT – Friedman & Gotbaum LLP by Shelly S. Friedman, Esq., for Cooper Square Assoc. Limited Partnership, owner; Grace Church School, lessee.

SUBJECT – Application March 30, 2015 – Variance (§72-21) with an SOC companion(14-10-BZII) to construct a multifunctional Gymnasium with appropriate floor-to-ceiling heights on the fourth floor of an existing school building presently housing Grace Church School high school division. Extension of Time to Complete Construction (§73-01) for a previously granted Special Permit (§73-19). M1-5B zoning district.

PREMISES AFFECTED – 38-50 Cooper Square, Block 0544, Lot 7503/aka 38, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEALS CALENDAR

83-15-A thru 86-15-A

APPLICANT – Jesse Masyr, Esq. Fox Rothschild, LLP, for 1-10 Bush Terminal, LP, owner.

SUBJECT – Application April 16, 2015 – Proposed construction to build in the bed of a privately owned mapped street and to build an elevated pedestrian walkway and loading docks to improve pedestrian and vehicle safety and the flow of traffic. M3-1 zoning district.

PREMISES AFFECTED –

220 and 219 36th Street, Block 0695, Lot 20; Block 0691, Lot 1, 33, 67, 87, 35 35th Street, Block 0687, Lot 1, 67, 87, 34th Street, Block 0683, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

181-15-A thru 186-15-A

APPLICANT – Eric Palatnik, P.C., for Joseph McGinn, owner.

SUBJECT – Application August 13, 2015 – Proposed construction of single family residences not fronting on a legally mapped street, contrary to General City Law Section 36. R1-1 zoning district.

PREMISES AFFECTED – 7, 11, 15, 23, 27 Carriage Court, Block 866, Lot(s) 389, 388, 387, 386, 385, Borough of Staten Island.

COMMUNITY BOARD #2SI

**REGULAR MEETING
DECEMBER 8, 2015, 1:00 P.M.**

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, December 8, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

57-15-BZ

APPLICANT – Eric Palatnik, P.C., for Yossi Toleando, owner.

SUBJECT – Application March 13, 2015 – Variance (§72-21) to permit the development of a three-story, three family residential and to waive the side yard open space of the existing premises. R5/C1-3 zoning district.

PREMISES AFFECTED – 482 Logan Street, between Pitkin Avenue and Belmont Avenue Block 04227, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #5BK

Ryan Singer, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, NOVEMBER 17, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.

SPECIAL ORDER CALENDAR

241-47-BZ

APPLICANT – Sheldon Lobel, P.C., for Naohisa Matsumoto/Yasuko Matsumoto, owners.

SUBJECT – Application April 3, 2015 – Amendment (§11-413) of a previously approved variance which permitted the operation of Contractor’s Establishment (Use Group 16A). The Amendment seeks to change the use to permit Custom Woodworking and furniture shop (Use Group 16A) and Art Studio (Use Group 9A); Extension of Term of the variance which expired on January 29, 2014 for an additional 10 years; Waiver of the Rules of Practice and Procedure. R5B zoning district.

PREMISES AFFECTED – 16-23/25 Hancock Street, approximately 24-5' northeast of the intersection formed by Wyckoff Street and Hancock Street, Block 03548, Lot 0097, Borough of Queens.

COMMUNITY BOARD #5Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application to waive the Rules of Practice and Procedure, legalization of a change in use of the ground floor to an art studio (Use Group 9) and custom woodworking shop (Use Group 16), and an extension of the term of a variance previously granted by the Board under the subject calendar number, which expired on January 29, 2014; and

WHEREAS, a public hearing was held on this application on November 17, 2015, after due notice by publication in *The City Record*, and then to decision on the same date; and

WHEREAS, Commissioner Ottley-Brown, Commissioner Montanez, and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 5, Queens, recommends approval of this application provided that the extension be for a ten (10) year term; and

WHEREAS, the subject site is located on the northwest side of Hancock Street, between Wyckoff Avenue and Cypress Avenue, in an R5B zoning district, in Queens; and

WHEREAS, the site has approximately 50 feet of

frontage along Hancock Street, 5,004 sq. ft. lot area, and is occupied by a two (2) story plus cellar mixed-used building with an art studio and custom woodworking shop located on the ground floor and one 1,250 sq. ft. residential unit located on the second floor; and

WHEREAS, the applicant represents that the art studio and custom woodworking shop are operated by the applicants and property owners who also reside in the second floor residential unit on the subject premises; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 4, 1948 when, under the subject calendar number, the Board granted a variance permitting the extension of an existing structure housing a knitting mill for a term of fifteen (15) years, expiring May 4, 1963; and

WHEREAS, subsequently, the grant has been amended and the term extended, under the subject calendar number, by the Board at various times; and

WHEREAS, the grant was most recently extended on March 24, 2009, under the subject calendar number, when the Board, upon waiving its Rules of Practice and Procedure, reopened and issued a Type II determination to permit the change of use at the subject premises from a knitting mill (Use Group 17) to a contractor’s establishment (Use Group 16) and granted an extension of the term of the variance for an additional ten (10) years, expiring January 29, 2014; and

WHEREAS, the applicant now seeks, upon a waiver of the Board’s Rule of Practice and Procedure § 1-07.3(b)(2), (1) a legalization of a change in use of the ground floor from a contractor’s establishment (Use Group 16) to an art studio (Use Group 9) and custom woodworking shop (Use Group 16) and (2) an extension of the term of a variance for an additional ten (10) years; and

WHEREAS, as required under Rule § 1-07(b)(2), the applicant has demonstrated that the use of the ground floor as a non-conforming use has been continuous since the expiration of the term of the grant and that substantial prejudice would result without such a waiver; and

WHEREAS, pursuant to ZR § 11-413, the Board may permit a use to be changed to another non-conforming use permitted under the provisions applicable to non-conforming uses, provided that the Board finds that such change will not impair the essential character or the future use or development of the surrounding area; pursuant to ZR § 52-322(a), a non-conforming use listed in Use Group 16 not subject to the provisions of ZR §§ 52-32 (Land with Minor Improvements) or 52-331 (Buildings Designed for Residential Use) may be changed to any use listed in Use Group 9; and pursuant to ZR § 52-322(b), a non-conforming use listed in Use Group 16 may be changed to any other use listed in Group 16 provided that such changed use conforms to all regulations on performance standards applicable in M1 Districts and, whenever located within a completely enclosed building, no activity related to such changed use, including the storage of materials or products, is located outside of such building; and

WHEREAS, the subject lot does not qualify as “land with minor improvements” and the two (2) story plus cellar building located thereon was not “designed for residential use” as those terms are defined in ZR § 12-10, therefore, the prior

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contractor's establishment (Use Group 16) use was not subject to the provisions of ZR §§ 52-32 and 52-331 and may be changed to any use listed in Use Group 9; and

WHEREAS, an architect confirms, by letter dated September 15, 2014, that the custom woodworking shop complies with the performance standards applicable in M1 Districts and the applicant represents that no activity related to the custom woodworking shop, including the storage of materials or products, will be located outside of the building on the subject premises, therefore, the non-conforming contractor's establishment (Use Group 16) use may be changed to non-conforming custom woodworking shop (Use Group 16) use; and

WHEREAS, the applicant further represents that the art studio (Use Group 9) is a significantly less intensive use than the previously approved contractor's establishment (Use Group 16); that the art work produced onsite consists of fine art abstract paintings using only water-based mediums and paints and the custom furniture is completed on a commissioned basis with no walk-in retail or storefront elements to the site; that the hours of operation for the ground floor uses are Monday through Friday 7:00 a.m. to 5:00 p.m., consistent with limitation set forth in the Board's March 24, 2009 decision permitting the change of use at the premises from knitting mill (Use Group 17) to contractor's establishment (Use Group 16); that refuse is stored in a dumpster located within the subject premises; and that no hazardous or flammable liquids are stored on site; and

WHEREAS, in response to the Board's questions at hearing regarding fire safety measures, the applicant states that the subject building has smoke detectors, a sprinkler system that is maintained regularly and inspected on a monthly basis, mounted fire extinguishers throughout the building that are serviced and checked on an annual basis, and illuminated exit signs installed at the front and rear of the building; and

WHEREAS, in response to the Board's questions at hearing regarding an exhaust system, the applicant represents that there is a central exhaust system connected to all woodworking machinery that collects dusts and debris; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term; and

WHEREAS, based on the foregoing, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 11-413 and 11-411, and the request legalization of change in use and extension of term are appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated May 4, 1948, to permit the change in use from contractor's establishment (Use Group 16) so that as amended this portion of the resolution reads: "to permit the change in use at the premises from contractor's establishment (Use Group 16) to art studio (Use Group 9) and custom woodworking shop (Use Group 16), and to grant an extension of term for a period of ten (10) years to expire on January 29, 2024"; *on condition* that all work will substantially conform to drawings, filed with this application marked "Received September 25, 2015"-Six (6) sheets; and *on further*

condition:

THAT this grant shall be limited to a term of ten (10) years, to expire January 29, 2024;

THAT the above conditions will be noted in the Certificate of Occupancy;

THAT a Certificate of Occupancy will be obtained by November 17, 2017;

THAT all conditions from prior resolutions not specifically waived by the Board shall remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB shall ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

(DOB Application No. 420604082)

Adopted by the Board of Standards and Appeals, November 17, 2015.

248-03-BZ

APPLICANT – Troutman Sanders LLP, for Ross & Ross, owner; Bally Total Fitness of Greater NY, Inc., lessee.

SUBJECT – Application February 5, 2015 – Extension of time to obtain a Certificate of Occupancy of a previously approved Variance (72-21) which permitted the operation of a Physical Cultural Establishment (*Bally's Total Fitness*) which expired on January 22, 2015; Amendment to reflect a change in ownership. C1-5/R8A & R7A zoning district.

PREMISES AFFECTED – 1915 Third Avenue, southeast corner of East 106th Street and Third Avenue, Block 01655, Lot 45, Borough of Manhattan.

COMMUNITY BOARD #11M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and amendment to reflect a change in ownership, as well as an extension of time to obtain a Certificate of Occupancy for a physical culture establishment ("PCE"), which expired on January 22, 2015; and

WHEREAS, a public hearing was held on this application on November 17, 2015, after due notice by publication in *The City Record*, and then to decision on the same day; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

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WHEREAS, Community Board 11, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the southeast corner of Third Avenue and East 106th Street, partially within an R8A (C1-5) zoning district and partially within an R7A zoning district, in Manhattan; and

WHEREAS, the site has approximately 101 feet of frontage along Third Avenue, 160 feet of frontage along East 106th Street, 16,139 sq. ft. of lot area, and is occupied by a two (2) story commercial building; and

WHEREAS, the PCE occupies 10,137 sq. ft. on the cellar level, 5,261 sq. ft. on the ground floor, and 11,189 sq. ft. on the second floor (for a total of 26,587 sq. ft.) in the existing building; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 27, 2004, when, under the subject calendar number, the Board granted an application pursuant ZR § 72-21 permitting the operation of a PCE in the existing commercial building on the subject premises, subject to a term of ten (10) years and requesting that any change in ownership or operating control of the PCE required prior application to and approval from the Board; and

WHEREAS, the applicant represents that the premises were previously owned by Bally Total Fitness of Greater New York and is now owned by B3ACQ, LLC; and

WHEREAS, on December 10, 2013, under the subject calendar number, the Board extended the term of the variance, subject to expiration on December 10, 2023, and requiring that a Certificate of Occupancy be obtained by May 10, 2014; and

WHEREAS, on July 12, 2014, under the subject calendar number, the Board extended the time to obtain a Certificate of Occupancy to January 22, 2015; and

WHEREAS, the applicant now seeks: (1) an extension of an additional one (1) year from the date of the approval to obtain the Certificate of Occupancy; and

WHEREAS, the applicant represents that the issuance of the Certificate of Occupancy has been delayed because of existing building violations, that the Department of Buildings (“DOB”) inspected the site on or around January 13, 2015 and issued five objections, and that all building violations have now been cured; and

WHEREAS, based upon its review of the record, the Board finds that recognition of the change in ownership and the requested extension of time to obtain a Certificate of Occupancy is appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated January 27, 2004, so that as amended this portion of the resolution reads: “to reflect the change of ownership to B3ACQ, LLC and grant an extension of time to obtain a Certificate of Occupancy to November 17, 2016; and *on further condition*:

THAT a Certificate of Occupancy for the premises shall be obtained by November 17, 2016;

THAT the premises are owned by B3ACQ, LLC;

THAT there shall be no further change in ownership or

operating control of the physical culture establishment without prior application to and approval from the Board;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect;

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, November 17, 2015.

183-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Dynasty 23 Street Realty, Incorporated, owner; Horizon 881 LLC, lessee.

SUBJECT – Application February 25, 2015 – Extension of Term of a previously approved Special Permit (§73-36) permitting the operation of physical culture establishment on the second floor of a five story commercial building, which expired on October 26, 2014; Amendment to permit the change in operation as well as minor deviations from the previously approved plans; Waiver of the Rules. C6-3X zoning district.

PREMISES AFFECTED – 206 West 23rd Street, southside of West 23rd Street between 7th Avenue and 8th Avenue, Block 00772, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, an extension of the term of a special permit previously granted by the Board under the subject calendar number, which expired on October 26, 2014, an amendment of the special permit to legalize a change in operation of the physical culture establishment (PCE) and modify the days of operation of the PCE from five days a week to seven days a week, and an approval of modifications to the previously approved BSA plans; and

WHEREAS, a public hearing was held on this application on October 27, 2015 after due notice by publication in *The City Record*, and then to decision on November 17, 2015 and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the south side of West 23rd Street between Seventh and Eighth Avenues, within a C6-3X zoning district, in Manhattan; and

WHEREAS, the site has approximately 25 feet of

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frontage along West 23rd Street and 2,469 sq. ft. of lot area; and

WHEREAS, the site is occupied by a five-story commercial building with a total floor area of 9,881 square feet; and

WHEREAS, the subject PCE occupies approximately 1,880 square feet on the second floor of the building; and

WHEREAS, on October 26, 2004, under the subject calendar number, the Board granted a special permit pursuant to ZR § 73-36 to permit the subject PCE, subject to a ten (10) year term; and

WHEREAS, the term of the grant expired on October 26, 2014 and was not timely renewed; and

WHEREAS, accordingly, the applicant now seeks a waiver of BSA Rules of Practice and Procedure §1-07.3(b)(2); and

WHEREAS, as required under that Rule, applicant has demonstrated that the use has been continuous since the expiration of the term of the grant and that substantial prejudice would result without such a waiver; and

WHEREAS, in addition, the applicant seeks: and amendment of the special permit to legalize a change in operation of the PCE and extend the days of operation from five days a week to seven days a week, and also the approval of certain modifications to the previously-approved BSA plans; and

WHEREAS, the applicant represents that an alteration application and architectural plans were filed at the New York City Department of Building (DOB), which, on January 23, 2015, issued an objection which reads:

“A physical culture establishment is not a permitted use, as of right, in a C6-3A zoning district. An extension of term for a physical culture establishment and a change in operator, requires BSA review and approval.”; and

WHEREAS, the instant application for an amendment was timely filed as per BSA Rules of Practice and Procedure § 1-07.3(a); and

WHEREAS, the applicant represents that the PCE was previously operating as “KAI 23” and is currently operating as “H₂O Spa”; and

WHEREAS, the applicant has made minor interior layout changes to the previously-approved BSA plans; and

WHEREAS, the Board finds that a ten-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, dated October 26, 2004, so that as amended this portion of the resolution shall read: “to permit an extension of the term of the variance for a term of ten (10) years and to authorize the change in operation of the PCE from KAI 23 to H₂O Spa, as well as the change in days and hours of the PCE to be 10:00 A.M. to 10:00 P.M., seven days per week; *on condition* that the expansion shall substantially conform to drawings as filed with this application, marked ‘Received August 14, 2015’-(3) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten (10) years from October 26, 2014, expiring October 26, 2024;

THAT the hours of operation shall be 10:00 A.M. to 10:00 P.M., seven days per week;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT a new Certificate of Occupancy for the premises shall be obtained by November 17, 2016;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, November 17, 2015.

266-04-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Gwynne Five LLC, owner; TSI Cobble Hill, LLC dba NY Sports Club, lessee.

SUBJECT – Application February 17, 2015 – Extension of the Term and Amendment (73-11) to request an extension of the term of a previously granted special permit to allow the operation of a physical culture establishment at the premises and also request an Amendment to change the hours of operation. C2-3 zoning district.

PREMISES AFFECTED – 96 Boreum Place, southwesterly corner of Boerum Place and Pacific Street, Block 00279, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application to extend the term of the special permit for a physical cultural establishment (PCE) previously granted by the Board under the subject calendar number, which expired on March 1, 2015, and amend the hours of operation; and

WHEREAS, a public hearing was held on this application on October 27, 2015, after due notice by publication in *The City Record*, and then to decision on November 17, 2015 and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, and Commissioner Montanez performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the southwestern corner of Boerum Place and Pacific Street, within a C2-4/R6B zoning district, in Brooklyn; and

WHEREAS, the site has approximately 64 feet of

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frontage along Boerum Place, 50 feet of frontage along Pacific Street, 3,200 sq. ft. of lot area, and is occupied by a two-story commercial building; and

WHEREAS, the subject PCE occupies the entire building; and

WHEREAS, the use of the subject premises as a PCE is in conjunction with the use of a portion of the adjacent building located at 110 Boerum Place as a PCE; and

WHEREAS, there is one share entrance for the entire facility located between the subject premises and 110 Boerum Place;

WHEREAS, on March 1, 2015, under the subject calendar number, the Board granted a special permit pursuant to ZR §§ 73-36 and 73-03 to permit the PCE, subject to a ten (10) year term; and

WHEREAS, the instant application was timely filed per BSA Rules of Practice and Procedure §§ 1-07.3(a) and (b)(1); and

WHEREAS, the applicant seeks to: (1) extend the term of the special permit for an additional ten (10) years and (2) amend the special permit to change the PCE's hours of operation; and

WHEREAS, the applicant represents that the modifications to the hours of operation are minor and currently typical for health clubs; and

WHEREAS, in response to questions raised in hearing, the applicant represents that a fire alarm is installed at the subject premises; and

WHEREAS, the Board finds that a ten-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, dated March 1, 2015, so that as amended this portion of the resolution shall read: "to permit an extension of the term of the special permit for a term of ten (10) years; *on condition* that the expansion shall substantially conform to drawings as filed with this application, marked 'Received September 9, 2015'-(7) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten (10) years from March 1, 2015, expiring March 1, 2025;

THAT the hours of operation shall be Monday – Thursday 5:30 A.M. to 11:00 P.M., Friday 5:30 A.M. to 10:00 P.M. and Saturday – Sunday 8:00 A.M. to 8:00 P.M.;

THAT an application to amend the hours of operation of the PCE located at 110 Boerum Place (BSA Cal. No. 813-87-BZ) to match these new hours will be filed;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT a new Certificate of Occupancy for the premises shall be obtained by November 17, 2016;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant

laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, November 17, 2015.

340-05-BZ

APPLICANT – The Law Office Fredrick A. Becker, for Chelsea Eighth Realty LLC, owner; TSI West 16, LLC dba NY Sports Club, lessee.

SUBJECT – Application November 19, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the legalization of a physical culture establishment (PCE), located in the portions of the cellar and first floor of an existing 22-story mixed-use building, which expired on October 25, 2014. C1-6A, C6-2A, R8B zoning districts.

PREMISES AFFECTED – 270 West 17th Street aka 124-128 Eight Avenue, east side of 8th Avenue, with additional frontage, between West 16th Street and West 17th Street, Block 00766, Lot(s) 1101, 1102, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application to extend the term of the variance for a physical cultural establishment (PCE) previously granted by the Board under the subject calendar number, which expired on October 25, 2014; and

WHEREAS, a public hearing was held on this application on October 27, 2015, after due notice by publication in *The City Record*, and then to decision on November 17, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez, and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the east side of Eighth Avenue between West 16th Street and West 17th Street, partially within a C1-6A, partially within C6-2A and partially R8B zoning district, in Manhattan; and

WHEREAS, the site has approximately 184 feet of frontage along Eighth Avenue, 123 feet of frontage along West 16th Street, 118 feet of frontage along West 17th Street, 22,172 sq. ft. of lot area, and is occupied by a twenty-two (22) story mixed use building with cellar; and

WHEREAS, the subject PCE occupies 16,430 sq. ft. on the first floor and cellar of the building; and

WHEREAS, the subject PCE is located within that portion of the building that is within the C1-6A and C6-2A zoning districts; and

WHEREAS, on October 25, 1994, under BSA Cal. No. 162-93-BZ, the Board granted a special permit pursuant to ZR § 73-36 to permit the PCE, subject to a ten (10) year term; and

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WHEREAS, the zoning of the site changed as a result of the Chelsea Rezoning in 1999 and no extension of the previously approved special permit's term was available when it lapsed on October 25, 2004; and

WHEREAS, the building applicant represents that the Board approved a change in the operators of the subject PCE to the New York Sports Club in 2001; and

WHEREAS, on May 2, 2006, under the subject calendar number, the Board granted a variance pursuant to ZR § 72-21 to permit the legalization of the subject PCE, subject to a ten (10) year term; and

WHEREAS, the instant application was timely filed per BSA Rules of Practice and Procedure § 1-07.3(b)(1); and

WHEREAS, the applicant seeks to: (1) extend the term of the variance for an additional ten (10) years; and

WHEREAS, the Board finds that a ten-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, dated May 2, 2006, so that as amended this portion of the resolution shall read: "to permit an extension of the term of the variance for a term of ten (10) years; *on condition* that the site shall substantially conform to drawings as filed with this application, marked 'Received October 3, 2015'-(2) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten (10) years from October 25, 2014, expiring October 25, 2024;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT a new Certificate of Occupancy for the premises shall be obtained by November 17, 2016;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, November 17, 2015.

472-37-BZ

APPLICANT – Eric Palatnik, P.C., for 246 Sears Road Realty Corp., owner.

SUBJECT – Application October 14, 2014 – Extension of Term (§11-411) for the continued operation of an automotive service station which expired on January 27, 2014; Amendment (§11-412) to permit the conversion of repair bays into convenient store, the addition of a new canopy and relocation of fuel storage tanks. R5 zoning district.

PREMISES AFFECTED – 2765 Cropsey Avenue, southeast corner of 28th Avenue and Cropsey Avenue, Block 06915, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #13BK

ACTION OF THE BOARD – Laid over to February 23, 2016, at 10 A.M., for continued hearing.

526-76-BZ

APPLICANT – Vito J Fossella, P.E., for 1492 Victory Blvd. LLC., owner.

SUBJECT – Application May 19, 2014 – Amendment of a previously approved variance which permitted the conversion of a three story building consisting of two family residence and a store into a three story office building which expired on December 21, 1981. The Amendment seeks to eliminate the term. R2 zoning district.

PREMISES AFFECTED – 1492 Victory Boulevard, south side of Victory Boulevard, Block 00681, Lot 33, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Laid over to February 2, 2016, at 10 A.M., for continued hearing.

1059-84-BZ

APPLICANT – Troutman Sanders, LLP., for BMS Realty Company LLC, owner;

Bally Total Fitness Corporation, owner.

SUBJECT – Application February 27, 2015 – Extension of term of a Special Permit for the operation of a physical culture establishment (24 Hour Fitness) which expired on May 7, 2015; Amendment to reflect a change in ownership. C4-2 & C8-2 (OP) zoning district.

PREMISES AFFECTED – 943/61 Kings Highway, aka 2032 Coney Island Avenue, northwest corner of intersection Kings Highway and Coney Island Avenue, Block 06666, Lot 0018, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for decision, hearing closed.

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364-87-BZ

APPLICANT –Sheldon Lobel P.C., for 1710 Flatbush Realty Corp., owner.

SUBJECT – Application January 23, 2015 – Extension of Term (§11-411) of a previously granted variance permitting an automotive repair facility which expired on March 22, 2013; Waiver of the Rules. C2-2/R5 zoning district.

PREMISES AFFECTED – 1710-1720 Flatbush Avenue, corner of the intersection formed by East 34th Street and Flatbush Avenue, Block 07598, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD –Laid over to December 15, 2015, at 10 A.M., for continued hearing.

186-08-BZ

APPLICANT – Petrus fortune, P.E., for Followers of Jesus Mennonite Church, owners.

SUBJECT – Application November 19, 2014 – Extension of Time to Complete Construction of a previously approved Special Permit (§73-19) permitting the legalization and enlargement of a school (*Followers of Jesus Mennonite Church & School*) in a former manufacturing building, contrary to ZR §42-10, which expired on June 8, 2014; Waiver of the Rules. M1-1 zoning district.

PREMISES AFFECTED – 3065 Atlantic Avenue, north west corner of Atlantic Avenue and Shepherd Avenue, Block 03957, Lot 45, Borough of Brooklyn.

COMMUNITY BOARD #5BK

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for continued hearing.

APPEALS CALENDAR

317-12-A

APPLICANT – Eric Palatnik, P.C., for 4040 Plaza Management LLC, owner.

SUBJECT – Application June 16, 2015 – Extension of Time to complete construction in connection with a previously approved common law vested rights application. M1-3D zoning district.

PREMISES AFFECTED – 40-36 27th Street aka 4040 27th Street, west side of 27th Street, between 40th Avenue and 41st Avenue, Queens

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for an extension of time to complete construction and obtain a Certificate of

Occupancy pursuant to a determination that the owner of the subject premises had a common law vested right to complete construction; and

WHEREAS, a public hearing was held on this application on October 16, 2015 after due notice by publication in *The City Record*, and then to decision on November 17, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez, and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the west side of 27th Street, between 40th Avenue and 41st Avenue, in an M1-2/R5B zoning district, in Queens; and

WHEREAS, the site has approximately 50 feet of frontage along 27th Street, and 5,000 sq. ft. of lot area; and

WHEREAS, the subject premises were formerly located within an M1-3D zoning district; and

WHEREAS, on June 27, 2008, the Department of Buildings (DOB) issued New Building Permit No. 410116422-01-NB (“Permit”) for the construction of a ten-story commercial building with 24,938.84 sq. ft. of floor area (4.98 FAR) on the subject premises; and

WHEREAS, the subject premises were rezoned to M1-2/R5B pursuant to the Dutch Kills Rezoning (“Rezoning”) in October 2008; and

WHEREAS, the building did not comply with the bulk requirements of the new zoning; and

WHEREAS, the applicant represents that prior to the Rezoning, all of the work on the building’s foundation had been completed; and

WHEREAS, the applicant represents that, in recognition of the completed building foundational work, the DOB recognized the owners’ right to continue construction under the Permit until October 7, 2010; and

WHEREAS, the applicant represents that the owners were unable to obtain construction financing after the Rezoning and construction subsequently stalled; and

WHEREAS, the Board has exercised jurisdiction over the subject site since August 20, 2013, when, under the subject calendar number, the Board granted an application pursuant to the common law of vest rights and reinstated the Permit, and all related permits either already issued or necessary to complete construction and obtain a Certificate of Occupancy, subject to a term of two (2) years; and

WHEREAS, the applicant represents that the Permit was reissued on May 22, 2014 and that approximately 30% of the building is now complete; and

WHEREAS, the applicant represents that the total cost of the project has increased by approximately 30% due to foundation reinforcements, the addition of a second elevator, financing costs, new Building Code requirements, and an increase in labor and materials costs; and

WHEREAS, the applicant represents that the owners anticipate completing the building by October 2017 and obtaining a Certificate of Occupancy by December 2017; and

WHEREAS, accordingly, the applicant seeks: (1) an extension of an additional three (3) years to complete

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construction and obtain a Certificate of Occupancy; and

WHEREAS, based upon its review of the record, the Board finds that substantial construction has been completed and substantial expenditures made, subsequent to the granting of the Permit, for work required by any applicable law for the use or development of the subject premises pursuant to the Permit and that the requested extension of time to complete construction and obtain a Certificate of Occupancy is appropriate with certain conditions, as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated August 20, 2013, so that as amended this portion of the resolution reads: “to grant an extension of time to complete construction and obtain a Certificate of Occupancy to August 20, 2018; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT construction shall be completed by August 20, 2018;

THAT a Certificate of Occupancy for the premises shall be obtained by August 20, 2018;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect;

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, November 17, 2015.

199-14-A

APPLICANT – Alfonso Duarte, for Hector Florimon, owner.

SUBJECT – Application August 20, 2014 – Proposed legalization of accessory parking in open portion of site that lies within a bed of mapped street pursuant to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 102-11 Roosevelt Avenue, North side 175.59’ west of 103rd Street, Block 01770, Lot 47, Borough of Queens.

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner dated July 24, 2014 acting on DOB Application No. 420602119, reads in pertinent part:

Required Accessory off-street parking spaces for community facility are not permitted on bed of a mapped street as per GCL 35; and

WHEREAS, this is an application to legalize accessory

parking in open portion of site that lies within the bed of a mapped street, contrary to General City Law (“GCL”) § 35; and

WHEREAS, a public hearing was held on this application on July 14, 2015 after due notice by publication in *The City Record*, with a continued hearing on September 22, 2015, and then to decision on November 17, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda performed an inspection of the site and surrounding neighborhood; and

WHEREAS, this is an application to allow the enlargement by the addition of floor area of medical offices within an existing four (4) story building on lot 47 of block 1770, in Queens, no part of which lies within the bed of the mapped street and which, the applicant represents, consists of former lots 25 and 47, which were merged into lot 47 to facilitate the proposed development because lot 47 alone cannot support the additional floor area; and

WHEREAS, the subject site is located in an R6B (partially within a C1-4 overlay) zoning district; and

WHEREAS, the site is a through lot located on the north side of Roosevelt Avenue between 99th Street and 103rd Street, with approximately 61 feet of frontage along Roosevelt Avenue, 25 feet of frontage along 39th Avenue, and 4,835 sq. ft. of lot area; and

WHEREAS, the open area of the subject lot used for accessory parking is the only portion of the zoning lot that lies partly within the bed of 102nd Street, a mapped street; and

WHEREAS, the accessory parking lot is accessed by a curb cut on Roosevelt Avenue, can accommodate two motor vehicles and is for use by the medical staff; and

WHEREAS, by letter dated October 30, 2014, the Department of Environmental Protection (“DEP”) states that (1) there are no existing sewers or water mains in the bed of 102nd Street at the subject location; and (2) the Amended Drainage Plan No. 24 (23), sheet 2, dated December 30, 1919, for the subject location does not show any future sewers in the bed of 102nd Street at the intersection of Roosevelt Avenue; and

WHEREAS, DEP further states in its October 30, 2014 letter that it has no objections to the proposed application; and

WHEREAS, by letter dated February 27, 2015, the Fire Department states that it has no objections to the proposal; and

WHEREAS, by letters dated May 8, 2015 and September 22, 2015, the Department of Transportation (“DOT”) states that (1) according to the Queens Borough President’s Topographical Bureau, 102nd Street from 39th Avenue and Roosevelt Avenue is mapped at a 60-foot width on the City Map; (2) the City does not have title or a Corporation Counsel Opinion of Dedication (CCO) for 102nd Street from 39th Avenue and Roosevelt Avenue; (3) the improvement of 102nd Street at this location is not presently included in DOT’s Capital Improvement Program; and

WHEREAS, DOT further notes that the applicant should provide the proper curb cut alignment with the proposed driveway for safe ingress and egress to avoid safety risks to pedestrians and vehicles; and

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WHEREAS, the applicant represents that it is not possible to align the curb cut with the driveway due to the existence at the curb of a steel column encased in concrete, measuring 24" by 24" and supporting the No. 7 Flushing subway line and that relocating the curb cut to the westerly side of this column would be an encroachment on the adjoining property; and

WHEREAS, the applicant further represents that the driveway and curb cut have been in use for eight years and received no complaints or violations; and

WHEREAS, the Board notes that pursuant to GCL Section 35, it may authorize construction within the bed of the mapped street subject to reasonable requirements; and

WHEREAS, the Board notes that pursuant to ZR § 72-01(g), the Board may waive bulk regulations where construction is proposed in part within the bed of a mapped street; such bulk waivers will be only as necessary to address non compliances resulting from the location of construction within and outside of the mapped street, and the zoning lot will comply to the maximum extent feasible with all applicable zoning regulations as if the street were not mapped; and

WHEREAS, therefore, consistent with GCL § 35 and ZR § 72-01(g), the Board finds that applying the bulk regulations across the portion of the subject lot within the mapped street and the portion of the subject lot outside the mapped street as if the lot were unencumbered by a mapped street is both reasonable and necessary to allow the proposed construction; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the Board modifies the decision of the DOB, dated July 24, 2014 acting on DOB Application No. 420602119, by the power vested in it by Section 35 of the General City Law, and also waives the bulk regulations associated with the presence of the mapped but unbuilt street pursuant to Section 72-01(g) of the Zoning Resolution to grant this appeal, limited to the decision noted above *on condition* that construction will substantially conform to the drawing filed with the application marked "Received October 7, 2015"-(2) sheets; and *on further condition*:

THAT DOB will review and approve plans associated with the Board's approval for compliance with the underlying zoning regulations as if the unbuilt portion of the street were not mapped;

THAT to the extent required by DOB and/or DOT, a Builder's Pavement Plan shall be filed and approved prior to the issuance of the C of O;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 17, 2015.

58-15-A

APPLICANT – Goldman Harris LLC, for D.A.B. Group LLC, owner; Arcade Orchard Street LLC., lessee.

SUBJECT – Application March 16, 2015 – Appeal seeking a determination that the owner has obtained a vested right to complete construction commenced under the prior zoning district. C4-4 zoning district.

PREMISES AFFECTED – 139-141 Orchard aka 77,79,81 Rivington Street, through-block lot with frontage on Orchard Street, Rivington Street and Allen Street, Block 0415, Lot(s) 61,62,63,66,67, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for continued hearing.

ZONING CALENDAR

29-14-BZ

APPLICANT – Lewis Garfinkel for Leon Goldenberg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-14a); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1255 East 27th Street, East side of East 27th Street, 325 feet from the North corner of Avenue M. Block 7645, Lot 25. Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings ("DOB"), dated February 5, 2014, acting on DOB Application No. 320862045, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141(a) in that the proposed floor area ratio (FAR) exceeds the permitted 50%;
2. Proposed plans are contrary to ZR 23-141(a) in that the proposed open space ratio (OSR) is less than the required 150%;
3. Proposed plans are contrary to ZR 23-461(a) in that the existing minimum side yards is less than the required minimum 5'-0";
4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than [*sic*] 30'-0";

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and

WHEREAS, this is an application under ZR § 73-622, to legalize a prior enlargement and permit, in an R2 zoning district, further enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio ("FAR"), open space ratio, side yards and rear yards contrary to ZR §§ 23-141(a), 23-461(a) and 23-47; and

WHEREAS, a public hearing was held on this application on April 14, 2015, after due notice by publication in *The City Record*, and then to decision on November 17, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of East 27th Street, between Avenue L and Avenue M, in an R2 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 38 feet of frontage along East 27th Street, a depth of 100 feet, and 3,750 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with attic, one-family residence with approximately 2,606 sq. ft. of floor area (0.69 FAR); and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single- or two family detached or semi-detached residence* within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage, open space, floor area, side yard, rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*;
- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and
- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single- or two family detached or semi-detached residence* with an

existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building's non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins.

Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply.

The Board shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge an existing single family residence, as contemplated in ZR § 73-622; and

WHEREAS, in addition, the applicant seeks to legalize a prior enlargement of 801 sq. ft., which was completed without a DOB permit; and

WHEREAS, the filed DOB-approved plans for the premises provide for a residence with approximately 1,439 sq. ft. of floor area on the first floor, 951 sq. ft. of floor area on the second floor, 216 sq. ft. of floor area in the attic, for a total floor area of 2,606 sq. ft. (0.69 FAR); the applicant represents that the residence actually contains 1,615 sq. ft. of floor area on the first floor, 1,494 of floor area on the second floor, 297 sq. ft. of floor area in the attic, and a total floor area of 3,407 sq. ft. (0.91 FAR); and

WHEREAS, the applicant initially proposed to increase the floor area of the structure from 3,407 sq. ft. (0.91 FAR) to 3,749 sq. ft. (1.00 FAR); decrease the open space from 2,132 sq. ft. (.57 OSR) to 1,961 sq. ft. (.52 OSR); maintain the front yard of 8'-1"; maintain side yards of 8'-5" and 3'-3"; and decrease the rear yard from 21'-11" to 20'-0"; and

WHEREAS, in response to inquiries from the Board, the applicant submitted a survey, dated October 16, 2013, and updated February 5, 2014, which shows that the side yards are 8'-6 1/2" and 3'-3" wide; and

WHEREAS, thus, the applicant now proposes to increase the floor area of the structure from 3,407 sq. ft. (0.91 FAR) to 3,749 sq. ft. (1.00 FAR); decrease the open space from 2,132 sq. ft. (.57 OSR) to 1,961 sq. ft. (.52 OSR); maintain the front yard of 8'-1"; maintain side yards of 8'-6 1/2" and 3'-3"; and decrease the rear yard from 21'-11" to 20'-0"; and

WHEREAS, the applicant represents that the proposal will not alter the essential character of the neighborhood and will not impair the future use or development of the

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surrounding area; and

WHEREAS, based upon its review and the record, the Board finds that legalization of the prior enlargement and currently proposed enlargement in the rear yard on the first floor of the premises will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R2 zoning district, the legalization of a prior enlargement and the further proposed enlargement in the rear yard on the first floor of a single-family residence which does not comply with the zoning requirements for floor area ratio, open space ratio, side yards and rear yards, contrary to ZR §§ 23-141(a), 23-461(a) and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received October 30, 2015"- twelve (12) sheets; and *on further condition*:

THAT this approval is limited to approval of the 11'-5" by 25'-10" enlargement in the rear yard, including the legalization of a prior 9'-6" by 13'-0" addition to the first floor, and the legalization of the 14'-10" by 10'-2" portion on the rear of the second floor, all as illustrated on the BSA-approved plans;

THAT DOB must otherwise determine the legal conditions of the premises;

THAT the survey submitted with this application, dated October 16, 2013, shows an existing side yard of 8'-6.5" and 3'-3" and this grant does not serve to reduce the side yards to lesser dimensions than these;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 17, 2015.

59-14-BZ

CEQR #14-BSA-140K

APPLICANT – Caroline G. Harris, for School Settlement Association Ink., owner.

SUBJECT – Application April 10, 2014 – Variance (§72-21) to permit the construction of a four-story plus penthouse community facility (UG 4), contrary to (24-11). R6B zoning district.

PREMISES AFFECTED – 114-122 Jackson Street, located on the SW corner of the Intersection of Jackson Street and Manhattan Avenue. Block 2748, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez....4

Negative:.....0

Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings ("DOB"), dated March 11, 2014, acting on DOB Application No. 320920321 reads, in pertinent part:

The attached PW1: Plan/ Work Application does not comply with the zoning resolution as it related to the following:

1. ZR 23-633 Street Wall Location
2. ZR 23-633 Setback
3. ZR 23-633 Maximum Building Height
4. ZR 23-633 Maximum Base Height
5. ZR 24-11 Zoning Floor Area
6. ZR 24-11 Percentage of Lot Coverage

WHEREAS, this is an application for a variance pursuant to ZR § 72-21 to permit, on a site within an R6B zoning district, the construction of a four-story with penthouse community facility (Use Group 3) building to be occupied by the School Settlement Association, Inc. (the "Applicant"), which does not comply with the underlying zoning district regulations for street wall location, setback, maximum building height, maximum base height, zoning floor area and lot coverage, contrary to ZR §§ 23-633 and 24-11; and

WHEREAS, a public hearing was held on this application on October 7, 2015, after due notice by publication in *The City Record*, with continued hearings held on February 10, 2015, March 31, 2015, April 28, 2015, and September 22, 2015 and then to decision on November 17, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 1, Brooklyn, recommends approval of the application, with certain modifications; and

WHEREAS, New York State Assemblyman Joseph R. Lentol wrote a letter in support of the application; and

WHEREAS, New York City Council Member Antonio

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Reynoso wrote a letter in support of the application; and

WHEREAS, certain members of the community appeared before the Board and made written submissions in opposition to the subject application (those members of the community are referred to collectively herein as the "Opposition"); and

WHEREAS, the concerns articulated by the Opposition, all of which were considered by the Board, include, *inter alia*, that the Applicant is not a school and, therefore, that the Applicant is not entitled to educational deference with respect to the waivers sought herein; that the use of the Proposed Building (defined below) by a public school does not entitle the Applicant to deference under *Cornell Univ. v Bagnardi*, 68 NY2d 583 (1986); that New York City School Construction Authority ("SCA") standards are not applicable to the Applicant; that the Applicant does not meet SCA gymnasium standards with respect to width and, as such, need not provide the proposed gymnasium height; that the plenums proposed throughout the Proposed Building are more than is required; that fitness classes are not needed and are not part of the Applicant's mission; that the plans submitted with the subject application do not show required water source for science labs, cooking or culinary classes consistent with the Applicant's statements; that the proposed rooftop space is not justified by the programmatic needs stated by the Applicant; and

WHEREAS, the subject site is a corner lot located on the southwest corner of the intersection of Manhattan Avenue and Jackson Street, within an R6B zoning district, in Brooklyn; the site has approximately 100 feet of frontage along the south side of Jackson Street and approximately 50 feet of frontage along the west side of Manhattan Avenue, and contains 5,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 111 year old building containing 11,156 sq. ft. of floor area (2.25 FAR) (the "Existing Building"); the Applicant represents that the site is uniquely burdened by subsurface conditions and is inadequate to meet its programmatic needs related to the education of children, teenagers and adults; the Existing Building also houses the Applicant's not-for-profit affiliate, the School Settlement Home Attendant Service Corp. (the "Senior Home Care Program"), which provides home health care to seniors and disabled people in the community; and

WHEREAS, the Applicant notes that the Existing Building is not handicapped-accessible, that it does not meet a number of fire safety and occupancy standards of the applicable New York City Construction Codes, and that it does not meet the standards promulgated by the SCA for small group instruction classrooms or small gymnasiums; and

WHEREAS, thus, the applicant proposes to construct a four-story with penthouse community facility (Use Group 3) building with 20,201 sq. ft. of floor area, a height of 80'-0" (including an 11'-0" penthouse but exclusive of fencing around a rooftop outdoor recreation area located on the main roof) containing classrooms, an SCA-compliant gymnasium with accessory facilities, and office space and work stations for the full- and part-time staff and teachers who will work in the facility (the "Proposed Building"); and

WHEREAS, the Proposed Building does not comply

with applicable regulations for FAR (as per ZR § 23-41, a maximum FAR of 2.0 for community facility is permitted, an FAR of 4.08 is proposed); lot coverage (as per ZR § 23-41, a maximum lot coverage of 80 percent on corner lots above a height of 23'-0" is permitted, the proposed lot coverage is 100 percent); height and setback (as per ZR § 23-633, a setback of 15'-0" on narrow streets above a height of 40'-0" is required, with a maximum height of 50'-0", the Proposed Building will rise without setback to a height of 69'-0", and then set back 15'-0" from the street wall to a height of 80'-0"); or street wall location (as per ZR § 23-633, the street wall must be located no closer to or further from the street line than the street wall of an adjacent building, that portion of the Proposed Building which fronts along Manhattan Avenue is set back by 1'-0"); and

WHEREAS, hence the Applicant seeks the subject variance; and

WHEREAS, as discussed in greater detail below, the Applicant states that the Existing Building is functionally obsolete and that the Proposed Building is the minimum-sized facility adequate to meet its programmatic needs; and

WHEREAS, the Applicant considered a lesser variance and states that it is unable to reduce the floor area of the Proposed Building; specifically, the Applicant considered a reduction in the floor area of the Proposed Building from 4.08 FAR to 3.08 FAR, for a total of 17,221 sq. ft. of floor area in a three-story building with a height of 71'-0" (the "Lesser Variance"), and states that such building would be inadequate to meet its programmatic needs; the Applicant notes that the Lesser Variance would result in a building substantially similar to the Existing Building, which, it states, is inadequate to meet its programmatic needs; indeed, the Applicant states that the Lesser Variance results in a building which would contain one floor with a gymnasium, one floor with two SCA-compliant classrooms that could be divided into four classrooms, and one floor with office space for the Senior Home Care Program, such that the Lesser Variance would provide less useable program area than currently exists in the Existing Building; and

WHEREAS, at the request of the Board, the Applicant also considered below grade construction to reduce the zoning floor area of the Proposed Building; and

WHEREAS, the Applicant represents that below grade construction to reduce the zoning floor area is impracticable and would not adequately meet the Applicant's needs; and

WHEREAS, specifically, the Applicant states that, as explained in the Report prepared by Mueser Rutledge Consulting Engineers, dated September 10, 2013 (the "Mueser Report"), as well as a letter from Mueser Rutledge Consulting Engineers, dated July 20, 2015 (the "Mueser Letter"), it is not safe to construct a cellar or basement on the site and that, assuming, *arguendo*, that it was safe to do so, the cost of constructing a one-story programmable space below grade would be an additional \$2.5 million dollars; and

WHEREAS, the Applicant states that the variance sought herein is required because the 2009 Greenpoint-Williamsburg contextual downzoning changed the zoning regulations applicable to the subject site from R6 to R6B, noting that under the previous R6 regulations, community facility buildings with an FAR of 4.08, without height

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limitations, were permitted; the Applicant states that it was planning to construct a new facility, larger than the Proposed Building, before the rezoning, which reduced the maximum permitted community facility FAR to 2.0 and imposed the height limitation now-applicable to the subject site; and

WHEREAS, the Applicant states that the Existing Building has been used by P.S. 132, and other local schools, to meet the New York City Department of Education's (the "DOE") curricular requirements for physical education; the Applicant notes that P.S. 132 does not have a gymnasium on its premises and that, in addition to using the Existing Building for physical education and theatre/auditorium purposes, it also uses the Existing Building's classrooms and computer labs; and

WHEREAS, the Applicant notes that, due to the Existing Building's deteriorating condition, the Applicant's partnership with P.S. 132 was suspended, and that there is no other gymnasium available for use by P.S. 132 students during school hours; the Applicant states that P.S. 132 plans to resume its partnership with the Applicant, and use of the Proposed Building, upon its completion; and

WHEREAS, the Applicant submitted a letter from Beth Lubeck, the principal of P.S. 132, dated August 14, 2015, which notes that the school has used the Existing Building "for over a generation" (the "Lubeck Letter"); the Lubeck Letter also states that while a formal Memorandum of Understanding between the Applicant and the DOE regarding the school's use of the Proposed Building cannot be entered into until the Proposed Building is further developed, that the school anticipates bringing multiple classes of children to the Proposed Building daily, so that students can use the proposed gymnasium and classrooms; and

WHEREAS, specifically, the Lubeck Letter states that the school anticipates approximately 1,575 child visits to the Proposed Building each week in order to (1) satisfy applicable physical education requirements; (2) facilitate students' performing arts education; and (3) use the Applicant's Science, Technology, Engineering, and Mathematics ("STEM") classrooms; and

WHEREAS, the Lubeck Letter also states that many of P.S. 132's students will use the low or no cost afterschool programs at the Proposed Building, which are offered by the Applicant; and

WHEREAS, the Applicant states that the Proposed Building will also be used by participants in the Out-of-School Time Program, in which students are engaged in reading, arts, performances, and physical education; the Applicant notes that the program is funded by the New York City Department of Youth and Community Development, and that the program currently serves 500 school-aged children per week; and

WHEREAS, thus Applicant articulated the following programmatic needs which must be met in order for it to partner with P.S. 132 and continue to serve the community: (1) the Applicant must maintain its facility at the subject site; and (2) it must provide adequate facilities for P.S. 132's physical

education requirements, performing arts needs, and STEM program; and

WHEREAS, the Applicant provided a Program Utilization Chart which established that the Proposed Building will be fully utilized by the Applicant and by the public school system; and

WHEREAS, the Applicant states that subsurface conditions at the site constitute a unique physical condition which creates practical difficulties and unnecessary hardship in complying with the bulk regulations applicable to the site while meeting its programmatic needs; and

WHEREAS, specifically, the Applicant states that the site is burdened by a shallow groundwater table, unstable soils and sand overlying clay; the Applicant states further that the groundwater at the site is up to 10'-0" higher than the groundwater table in the area surrounding the site; and

WHEREAS, in support of its argument that the groundwater table and geological features are a unique physical condition, the Applicant referred to the Mueser Report and Mueser Letter; and

WHEREAS, the Applicant states that, because of the subsurface conditions identified in the Mueser Report, it cannot construct a cellar on the site because the cellar slab would need to be designed to resist buoyancy, uplift and hydrostatic pressure from the water table, and because of likely groundwater intrusion through the cellar slab and foundation walls; and

WHEREAS, the Applicant states further that excavation of the site for a below-grade space would also pose a significant risk to adjacent structures; and

WHEREAS, the Applicant argues that because of the foregoing subsurface conditions, it is not possible to construct an SCA compliant 24'-0" floor-to-ceiling height gymnasium below grade, nor, the Applicant states, is it feasible to construct offices in the cellar and maintain the required 12'-0" floor-to-floor heights; and

WHEREAS, the applicant states that the waivers sought herein all relate to its programmatic needs and the unique subsurface conditions which render development of the site in conformance with the applicable zoning regulations impracticable in light of those needs; specifically, the Applicant states that the need to provide an SCA compliant, or near compliant, gymnasium on the subject site, the subsurface conditions of which preclude locating such gymnasium below grade in a cellar, effectively determined the size and massing of the Proposed Building and the waivers sought herein; and

WHEREAS, with respect to FAR of the Proposed Building, the Applicant states that its programmatic need to provide adequate classroom space and an SCA-compliant, or near compliant, gymnasium, cannot be met without the FAR waiver sought herein; specifically, the Applicant states that in order to meet its programmatic need to serve up to 1,800 children per week through the city-funded after school and summer programs at the Proposed Building, as well as 1,575 students per week through its partnership with P.S. 132, the Proposed Building must include, in addition to a gymnasium, seven SCA-compliant classrooms (the Applicant notes that two of the seven classrooms can be subdivided, such that nine

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classrooms are shown on the plans for the Proposed Building, four on each of the first and second floors, and one on the roof); and

WHEREAS, the Applicant also states that, in addition to the gymnasium and classroom space, the following must be provided: pantry and teachers' offices, ancillary space for a lobby on the first floor of the Proposed Building, circulation space, restrooms, and storage space; and

WHEREAS, the Applicant states that the SCA compliant gymnasium must be 68'-8" x 46'-7" and must have 3,200 sq. ft. on a single, column-free floor; the Applicant states further that the gymnasium must also have ancillary space for circulation, vertical circulation, and storage, and must also have an athletic director's office, locker rooms, and bathrooms in close proximity to the gymnasium; the Proposed Building will contain a 3,200 sq. ft. gymnasium plus a mezzanine housing the athletic director's office, locker rooms and bathrooms; and

WHEREAS, the Applicant states that its Senior Home Care Program will contain 4,983 sq. ft. of floor area on the third floor of the Proposed Building, and that the Applicant will occupy offices on the second floor of the Proposed Building; and

WHEREAS, with respect to the height of the Proposed Building, the Applicant states the following programmatic requirements necessitate the waiver requested herein: the 16'-0" floor-to-floor height of the first floor is necessary to meet SCA standards for small group instruction classrooms which require a minimum finish ceiling height of 10'-0", as well as to provide an additional 2'-0" of height for select exercise space pursuant to industry standards, and a 4'-0" mechanical and structural plenum and structural slab; the 14'-0" height of the second floor is similarly calculated to comply with SCA classroom height standards together with a 4'-0" plenum and structural slab; the 12'-0" floor-to-floor height of the third floor meets NYC Building Code and industry standards for office space (8'-0") with a 4'-0" plenum and structural slab; the 27'-0" floor-to-floor height of the fourth floor meets the SCA requirements for the gymnasium (24'-0") with a 3'-0" plenum and structural slab (the Applicant notes that the shallower plenum on the fourth floor is possible because of the roof's long span structural support and exposed ceiling, which allows for greater integration of MEP and HVAC systems); the rooftop classroom meets the SCA's 10'-0" floor-to-ceiling height with a 1'-0" plenum and structural slab (the Applicant notes that shallower plenum is sufficient because the rooftop classroom is significantly smaller than the other areas of the Proposed Building); and

WHEREAS, with respect to the Proposed Building's lot coverage, the Applicant states that the waiver sought herein is necessary to accommodate the gymnasium, which requires a floor plate that extends to the lot line; the Applicant states that the gymnasium must be located on the fourth floor of the Proposed Building, because of the subsurface conditions at the site, and argues that it is impracticable and illogical for the second and third floors of the Proposed Building to have a smaller floor plate than the fourth floor; the Applicant notes that the first floor of a community facility building is permitted to have 100% lot coverage as-of-right; and

WHEREAS, with respect to setback, the Applicant states that the waiver sought herein is necessary to accommodate the gymnasium which, as noted, is located on the Proposed Building's fourth floor; the fourth floor location is required because of the subsurface conditions at the site and also because there are structural advantages to support the long span required to cover a gymnasium by placing such gymnasium at the top of the a building; the Applicant notes that the gymnasium floor plate extends to the lot line, thus, the Proposed Building cannot be set back below the fourth floor; and

WHEREAS, the Board acknowledges that, as a general rule, an educational institution is entitled to significant deference under the law of the State of New York as to its ability to rely upon established programmatic needs in support of an application for a variance of zoning regulations; and

WHEREAS, specifically, as held in *Cornell Univ. v Bagnardi*, 68 NY2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, the Applicant argues that, by virtue of its longstanding relationship with New York City public schools and its history of providing educational programs required by DOE in the Existing Building, that it is an educational institution to which deference should be accorded; and

WHEREAS, the Applicant argues further that even if it is not to be accorded deference as an educational institution sufficient to warrant all of the waivers sought herein, its mission to provide educational programming to New York City school children, in conjunction with the unique physical condition which burdens the subject site, (i.e., the subsurface conditions established in the Mueser Report and further discussed in the Mueser Letter), satisfy the requirements set forth in ZR § 72-21(a); and

WHEREAS, the Board finds that the Applicant is entitled to limited deference under *Cornell Univ. v Bagnardi* which, coupled with unique physical conditions at the site, entitle it to the waivers sought herein as they relate to the Applicant's inability to meet its programmatic needs; and

WHEREAS, specifically, the Board finds that the Applicant, a not-for-profit institution with a longstanding and well-established relationship with the New York City public school system, which seeks to continue to provide and/or facilitate DOE-recognized educational programming within its own facility, is entitled to deference with respect to those waivers that relate to such programming; and

WHEREAS, the Board also finds that the unique physical conditions at the subject site impact the Applicant's ability to facilitate the educational programming for which deference is appropriate, as such, the requirements set forth in ZR § 72-21(a) are met; and

1 In support of the foregoing, the Applicant cites to BSA Cal. Nos. 206-04-BZ and BSA Cal. No. 127-06-BZ.

MINUTES

WHEREAS, since the Applicant is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant represents that the variance, if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the Applicant states that the proposed building would be in keeping with the character of the surrounding neighborhood; and

WHEREAS, the Applicant notes that it is maintaining a longstanding as-of-right use of the site; and

WHEREAS, the Board notes that, in response to concerns raised by the Board, the Applicant reduced the height of the Proposed Building, which was originally proposed at a base height of 77'-0" and a total height of 89'-0" to the top of the penthouse; The Proposed Building now will rise without setback to a height of 69'-0", and then set back 15'-0" from the street wall to a height of 80'-0"; and

WHEREAS, the Applicant states the height of the Proposed Building is consistent with neighborhood character, and notes that there are 17 buildings with a height in excess of 50'-0" within the area surrounding the site, and that three of those buildings, all within one block of the site, rise to heights of 110'-0", 82'-0", and 74'-0"; and

WHEREAS, in support of the foregoing representation about the height of the Proposed Building, the Applicant submitted a study of building heights in the surrounding neighborhood; and

WHEREAS, the Applicant notes that the penthouse classroom is set back from both of the street lines on which it fronts and argues that, therefore, the penthouse is not visible from either Jackson Street or Manhattan Avenue, thereby alleviating any negative impact the height of the Proposed Building might have on neighborhood character; and

WHEREAS, the Applicant states that the Proposed Building will not impair the use or development of adjacent properties, specifically the properties known as and located at 112 Jackson Street and 353 Manhattan Avenue; the property at 112 Jackson Street has one window at the first floor set back from the lot line, the view from that window would be obstructed by an as-of-right development at the subject site, the property at 353 Manhattan Avenue does not have lot line windows; and

WHEREAS, the Applicant states that the Proposed Building, which will contain sound attenuation measures within its interior spaces and will not be a source of noise that will negatively impact adjacent properties; the Applicant states further that sound attenuation is not required at the rooftop of the Proposed Building because the play area is set back from the edge of the roof on all sides and is located 69'-0" above grade; the Applicant also states that the sound pressure level from the roof top playground to

the adjacent buildings is estimated to be less than that of the background sound pressure levels facing Jackson Street during the hours when the playground space is in use; the foregoing was supported by letters dated December 19, 2014 and October 28, 2015 from Acoustic Distinctions, a sound and acoustical consultant retained by the Applicant for the purposes of this application; and

WHEREAS, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Applicant states that, in accordance with ZR § 72-21(d), the hardship was not self-created; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Applicant represents that the requested waivers are the minimum relief necessary to accommodate the projected programmatic needs, pursuant to ZR § 72-21(e); and

WHEREAS, the Board has reviewed the Applicant's programmatic needs and assertions as to the insufficiency of a complying scenario and has determined that the requested relief is the minimum necessary to allow the Applicant to meet its programmatic needs; and

WHEREAS, with respect to concerns raised by the Opposition which relate to the Applicant's entitlement to deference to its programmatic needs, the Board notes that the Lubeck Letter identifies specific programs that currently operate and previously operated within the Existing Building, and also identified inadequacies in the Existing Building that preclude the Applicant's ability to continue to provide them in the future, absent the Proposed Building; the Board also notes that the Lubeck Letter explains that while a Memorandum of Understanding cannot be entered into with DOE until plans for the Proposed Building are finalized, it does purport to commit the school to future use of the Proposed Building, which is consistent with its previous use of the Existing Building; and

WHEREAS, with respect to concerns raised by the Opposition which relate to the rooftop play area, the Board credits the Applicant's Program Utilization Schedule; and

WHEREAS, with respect to concerns raised by the Opposition which relate to SCA standards, the Applicant states, and the Board accepts, that the SCA standards applicable to New York City public schools and New York City afterschool programs are relevant, but not dispositive, where, as here, a not-for-profit organization with an established partnership with a public school is constructing its facility, in whole or in part, to house the school's educational program; the Board notes, moreover, that the deficiencies in the dimensions between the SCA standards and the Proposed Building are not significant; and

WHEREAS, in response to concerns raised by the Board, the Applicant submitted a Security & Visitor Management Plan, dated November 16, 2015, which the Board reviewed; pursuant to the Security & Visitor Management Plan, the Applicant represents that the Proposed Building is designed to manage access to all egress points on each floor, and will have a single outside entry point and ground floor reception/security,

MINUTES

as well as limitations on the use of the elevators and restrictions on floor-specific reentry; and

WHEREAS, specifically, as stated in the Security & Visitor Management Plan, the Proposed Building will have two elevators that will be dedicated for use by different programs; the elevators will be equipped with a card access system to prevent unauthorized visitors from accessing restricted floors, including floors with classrooms for school-aged children undergoing daytime school-related instruction; and

WHEREAS, the Security & Visitor Management Plan also provides that the Proposed Building will be equipped with cameras to cover all corridors and activity rooms, and that such cameras shall be viewable from the lobby reception/security desk; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement (“EAS”) CEQR No. 14-BSA-140K, dated August 23, 2014; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the New York City Landmarks Preservation Commission’s Environmental Review of the proposal indicated that the site has no architectural significance and no archaeological significance;

WHEREAS, the New York City Department of Environmental Protection’s (DEP) Bureau of Environmental Planning and Analysis reviewed the project for potential hazardous materials and determined that a Phase II Investigation is necessary; and

WHEREAS, the site is currently occupied by an active community facility with nearly full lot coverage; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a negative declaration, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and the Board of Standards and Appeals makes each and every one of the

required findings under ZR § 72-21 and grants a variance to permit, on a site within an R6B zoning district, the construction of a four-story with penthouse community facility (Use Group 3) building which does not comply with the underlying zoning district regulations for street wall location, setback, maximum building height, maximum base height, zoning floor area and lot coverage, contrary to ZR §§ 23-633 and 24-11, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received November 16, 2015” – ten (10) sheets; and *on further condition*:

THAT the bulk parameters of the proposed building will be in accordance with the approved plans and be limited to: a maximum floor area of 20,201 sq. ft. (4.08 FAR); a maximum lot coverage of 100 percent; a maximum total height of 80’-0” (inclusive of penthouse classroom but exclusive of outdoor recreation area fencing), rising without setback to a height of 69’-0” and then setting back 15’-0”; and a 1’-0” setback from the street wall facing Manhattan Avenue, all as shown on the BSA-approved plans;

THAT any change in or cessation of use of the Proposed Building by the New York City Public School system requires further approval by the Board;

THAT party wall construction and design shall achieve a minimum sound attenuation rating of 70 STC;

THAT prior to DOB’s issuance of any building permit, OER must issue a Notice to Proceed or a Notice of No Objection pursuant to the site’s E-designation (E-368);

THAT prior to DOB’s issuance of a Certificate of Occupancy, OER must issue a Notice of No Objection or a Notice of Satisfaction;

THAT all refuse shall be stored within the subject building until prior to scheduled pick-up;

THAT the Security & Visitor Management Plan be implemented, including, without limitation, that the security infrastructure be installed and security staff and building personnel be informed and trained as noted therein;

THAT the outdoor roof area is used only between the hours of 8:15 a.m. and 7:30 p.m.;

THAT there is no amplified sound at the outdoor roof area;

THAT there is no lighting at the outdoor roof area other than as required by law;

THAT the any modification of the following programmatic elements of the subject building requires further approval from the BSA: (1) four classrooms on the first floor of the subject building; (2) four classrooms on the second floor of the subject building; (3) one classroom on the penthouse roof of the building; (4) that the third floor of the subject building be used exclusively for UG4 offices that relate directly to the provision of services to the community; (5) that the fourth floor gymnasium be constructed as shown on the BSA-approved plan; (6) that the fourth floor mezzanine be used for athletic director’s office, locker rooms and bathrooms;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT substantial construction shall be completed

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pursuant to ZR § 72-23;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 17, 2015.

60-15-BZ

CEQR #15-BSA-177M

APPLICANT – Eric Palatnik, P.C., for Jacob Klein, owner; Bree and Oliver NYC II. Inc., lessee.

SUBJECT – Application March 17, 2015 – Special Permit (§73-36) to allow for a physical culture establishment (*Cross Fit*) within the cellar of a ten story mixed use building. C6-4/LM zoning district.

PREMISES AFFECTED – 111 Fulton Street, between William Street and Nassau Street, Block 091, Lot 7502, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated March 2, 2015 and as revised October 5, 2015, acting on Department of Buildings Application No. 122233421, reads in pertinent part:

“ZR 32-31, ZR 73-36: Proposed use as a physical culture establishment, as defined by ZR 12-10 in zoning district C6-4/LM is contrary to ZR 32-10 and must be referred to the Board of Standards and Appeals for approval pursuant to ZR 73-36”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within a C6-4 zoning district and the Special Lower Manhattan District, the operation of a physical culture establishment (PCE) in a ten (10) story plus cellar mixed-used building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on November 17, 2015 after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez, and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is a corner through-lot

located on the west side of William Street, between Fulton Street and Nassau Street; and

WHEREAS, the site has approximately 196 feet of frontage along Fulton Street, 119 feet of frontage along William Street, 197 feet of frontage along Ann Street, and 23,298 sq. ft. of lot area, and is occupied by a ten (10) story plus cellar mixed-use building with commercial use on the ground floor and residential units on floors two (2) through nine (9); and

WHEREAS, the proposed PCE will occupy approximately 250 sq. ft. on the ground floor and 4,200 sq. ft. in the cellar level of the building, for a total of 4,450 sq. ft.; and

WHEREAS, the PCE will be operated as CrossFit; and

WHEREAS, the applicant represents that the subject PCE differs from other facilities of its kind in that it does not promote screaming and the dropping of weights from the patron’s waist or above the patron’s head onto the ground, but, instead, focuses primarily on strength training by technique; and

WHEREAS, the applicant represents that the PCE will contain work stations and weight lifting equipment and offer small classes and private training sessions; and

WHEREAS, the proposed hours of operation for the PCE are: Monday through Friday, 5:00 a.m. to 9:00 p.m., and Saturday through Sunday, 8:00 a.m. to 1:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has deemed to be satisfactory; and

WHEREAS, the Fire Department, by letter dated November 5, 2015, states that it has no objections to the proposal; and

WHEREAS, the applicant represents that the proposed PCE will contain an approved interior fire alarm system, including sprinklers, manual pull stations, backup lighting, local audible and visual alarms, and connection of the interior fire alarm to a Fire Department central station; and

WHEREAS, the applicant represents that, as the proposed PCE will be located on the cellar level, where a pool and residential gym is already in operation, it will have no adverse impact on the quiet enjoyment of the residential uses on floors two (2) through nine (9) of the building; nevertheless, a ¾” rubber mat will be installed directly on top of the existing concrete slab throughout the entire subject PCE in order to mitigate noise and vibration; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the

MINUTES

evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-177M, dated March 17, 2015; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site located in a C6-4 zoning district the Special Lower Manhattan District, the operation of a PCE in the cellar and ground floor levels of a ten (10) story plus cellar mixed-use building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received October 22, 2015"- Eight (8) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on November 17, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance under Local Law 58/87 will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT sound attenuation measures shall be implemented and/or maintained as shown on the Board-approved plans;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 27, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 17, 2015.

303-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for SoBro Development Corporation, owner.

SUBJECT – Application November 15, 2013 – Variance (§72-21) to allow a new mixed use building with 36 residential units and community facility space. R6 & C1-4 zoning districts.

PREMISES AFFECTED – 506-510 Brook Avenue, east side of Brook Avenue between 147th and 148th Street, Block 2274, Lot(s) 6, 7 and 8, Borough of Bronx.

COMMUNITY BOARD #1BX

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for adjourned hearing.

41-14-BZ

APPLICANT – The Law Office of Jay Goldstein, for United Talmudical Academy, owner.

SUBJECT – Application March 7, 2014 – Special Permit (§73-19) to legalize an existing school/yeshiva (UG 3). M1-2 zoning district.

PREMISES AFFECTED – 21-37 Waverly Avenue aka 56-58 Washington Avenue, between Flushing Avenue and Park Avenue front both Washington and Waverly Avenues, Block 1874, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for continued hearing.

102-14-BZ

APPLICANT – Moshe M Friedman, P.E., for Cong. Tiferes Avraham D'Zidichov, owner.

SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the extension of house of worship (UG4) (*Congregation Tifrerer Avahom D'Zidichov*) in an existing building on the lot of a three story brick building located within an R3-2zoning district.

PREMISES AFFECTED – 4017 Avenue P, northerly side of Avenue P 40' westerly from the corner of the Northerly side of Avenue and the Westerly side of Coleman Street, Block 07859, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to February 2, 2016, at 10 A.M., for continued hearing.

229-14-BZ

APPLICANT – Jeffrey A. Chester/GSHLLP, for Marmel Realty Associates Corp., owner; Lucille Roberts Health Club, Queens, LLC, lessee.

SUBJECT – Application September 23, 2015 – Special Permit (§73-36) to seek the legalization of an existing physical culture establishment (*Lucille Roberts*). C4-3A zoning district.

PREMISES AFFECTED – 55-05 Myrtle Avenue, corner of Madison Street and St. Nicholas Avenue, Block 03450, Lot 01, Borough of Queens.

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COMMUNITY BOARD #5Q

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for adjourned hearing.

231-14-BZ

APPLICANT – Sheldon Lobel, PC, for Orangetheory Fitness, owner; OTF Man One, LLP, lessee.

SUBJECT – Application September 26, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Orangetheory Fitness*) within a portion of an existing commercial building. C6-3X zoning district.

PREMISES AFFECTED – 124 West 23rd Street, south side of West 23rd Street, between Avenue of the Americas and 7th Avenue, Block 00798, Lot 7507, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for adjourned hearing.

269-14-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for 89-40 Realty LLC/Yaron Rosenthal, owner; Sun Star Services, lessee.

SUBJECT – Application November 3, 2014 – Special Permit §73-36) to permit the physical culture establishment (*Massage Envy Spa*) on the first floor level of an existing commercial building in a C2-2 in R4 zoning district.

PREMISES AFFECTED – 89-44 Metropolitan Avenue, southeast corner of Metropolitan Avenue and Aubrey Avenue, Block 03872, Lot 33, Borough of Queens.

COMMUNITY BOARD #5Q

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for continued hearing.

318-14-BZ

APPLICANT – Walter T. Gorman, P.E., P.C., for Leemilts Petroleum Inc., owner; Capitol Petroleum Group, lessee.

SUBJECT – Application December 5, 2014 – Re-Instatement (§11-411) previously approved variance which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses which expired on October 27, 1987; Waiver of the Rules. C1-2 in R5 zoning district.

PREMISES AFFECTED – 1672-1680 86th Street aka 1-17 Bay 14th Street, south East Corner of Bay 14th Street, Block 06365, Lot 33, Borough of Brooklyn.

COMMUNITY BOARD #11BK

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for adjourned hearing.

REGULAR MEETING

TUESDAY AFTERNOON, NOVEMBER 17, 2015
1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.

ZONING CALENDAR

35-14-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA., for Demetrius Partridge, owner; Mara Parr Corp. dba CKO Kickboxing, lessee.

SUBJECT – Application February 12, 2014 – Special Permit (§73-36) to permit the operation a physical culture (*CKO Kickboxing*) within the existing building. C4-2A zoning district.

PREMISES AFFECTED – 40-06 Astoria Boulevard, Astoria Boulevard South 28.0 feet east of the intersection of Steinway Street and Astoria Boulevard, Block 00686, Lot 12, Borough of Queens.

COMMUNITY BOARD #1Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for decision, hearing closed.

240-14-BZ

APPLICANT – Gregory J. Tarone, Esq., for Laura Ziba Bauta & Marteza Bauto, owner.

SUBJECT – Application October 3, 2014 – Special Permit (§73-622) for the enlargement of a single family home contrary to floor area, open space and lot coverage (ZR 23-141(b); side yard requirement (ZR 23-461); and perimeter wall height (ZR 23-361(b)). R3-1 zoning district.

PREMISES AFFECTED – 1620 Shore Boulevard, south side of Shore boulevard between Oxford and Norfolk Streets, Block 08757, Lot 87, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to February 2, 2016, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

BULLETIN

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New Case Filed Up to November 24, 2015

257-15-A

1221 Forest Hill Road, East side of Forest Hill Road, approx. 288 ft. north of intersection with Rockland Avenue, Block 1965, Lot(s) 0059, Borough of **Staten Island, Community Board: 2**. GCL 35 proposed construction within the bed of a mapped street is contrary to Article 3 Section 35 of the General City Law R3-2(NA-1) district.

258-15-BZ

2619 East 16th Street, East 16th Street between Sheepshead Bay Road and Avenue Z, Block 7460, Lot(s) 0096, Borough of **Brooklyn, Community Board: 15**. Special Permit (73-44) to reduce the number of required accessory off street parking spaces from thirty(30) to fifteen (15) at the existing building, located within an C4-2 zoning district. C4-2 district.

259-15-A

8 Cornell Lane, Western side of Cornell Lane north of Northern Boulevard, Block 8129, Lot(s) 156, Borough of **Queens, Community Board: 11**. GCL36 to permit the enlargement of the subject building, which will comply with at zoning and building regulations other than the requirement that the site front an illegally mapped street, contrary to Article 3 Section 36 of the General City Law. R2A district.

260-15-A

122 Bard Avenue, Bard Avenue between Linden Street and Livingston Court, Block 0138, Lot(s) 0108, Borough of **Staten Island, Community Board: 1**. GCL36 to permit two, two family homes that do not have frontage on a legally mapped street, contrary to Article 3, Section 36 of the NYS General City Law. RA3X district.

261-15-A

130 Bard Avenue, Bard Avenue between Linden Street and Livingston Court, Block 0111, Lot(s) 001, Borough of **Staten Island, Community Board: 1**. GCL 36 to permit two, two family homes that do not have frontage on a legally mapped street, Article 3, Section 36 of the General City Law. R3X district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

REGULAR MEETING DECEMBER 15, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, December 15, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

10-11-BZ & 11-11-BZ

APPLICANT – Phillip L. Rampulla, for Charles Cannizaro, owner.

SUBJECT – Application September 2, 2015 – Extension of Time to Complete Construction and Amendment (72-21) Extension of time to complete construction for two one family detached residence in which the front and rear yards were modified Amendment to revise the first floor elevation, located within an R3-1 zoning district.

PREMISES AFFECTED – 115 & 121 Finley Avenue, Block 4050, Lot(s) 49, 52, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEALS CALENDAR

182-06-BZ thru 211-06-A

APPLICANT – Law Office of Lyra J. Altman, for JDS Seagirt LLC, owner.

SUBJECT – Application July 23, 2015 – Extension of time to complete construction and obtain a Certificate of Occupancy for a previously granted Common Law Vesting which expires on November 15, 2015. R4A zoning district. PREMISES AFFECTED – 146, 148, 150 Beach 5th Street, Block 15608, Lot(s) 1, 40, 42. Borough of Queens.

COMMUNITY BOARD #14Q

136-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for BIRB Realty, Inc., owner.

SUBJECT – Application June 10, 2015 – Proposed construction of a building not fronting on a legally mapped street contrary to Section 36 Article 3 of the General City Law.

PREMISES AFFECTED – 521 Durant Avenue, Block 05120, Lot 0062, Borough of Staten Island.

COMMUNITY BOARD #3SI

REGULAR MEETING DECEMBER 15, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, December 15, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

63-15-BZ

APPLICANT – Sheldon Lobel, P.C., for Sutton Owners Corporation, Inc., owner; Harriet Harkavy, Esq., lessee.

SUBJECT – Application March 23, 2015 – Variance (§72-21) to legalize the three existing enclosures of portions of the terrace of Unit PHC located on the penthouse floor of the premises. R10 zoning district.

PREMISES AFFECTED – 35 Sutton Place, corner through-lot with frontage on 59th Street between Sutton Place and Riverview Terrace, Block 01372, Lot 73, Borough of Manhattan.

COMMUNITY BOARD #6M

98-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for East 54th Street Partnership LLC, owner; SoulCycle East 54th Street, LLC, lessee.

SUBJECT – Application May 5, 2015 – Special Permit (§73-36) to allow a physical culture establishment (*SoulCycle*) within the existing building for a one family, three-story residence for accessory parking spaces. C1-9 zoning district.

PREMISES AFFECTED – 240 East 54th Street, south side of East 54th Street, 100 feet west of intersection of East 54th Street and Second Avenue, Block 01327, Lot 029, Borough of Manhattan.

COMMUNITY BOARD #6M

99-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for East 54th Street Partnership LLC, owner; Blink East 54th Street, Inc., lessee.

SUBJECT – Application May 5, 2015 – Special Permit (§73-36) to allow for a physical culture establishment (*Blink*) in an existing commercial building. C1-9 zoning district.

PREMISES AFFECTED – 240 East 54th Street, south side of East 54th Street, 100' west of intersection of East 54th Street, and 2nd Avenue, Block 01327, Lot 029, Borough of Manhattan.

COMMUNITY BOARD #6M

Ryan Singer, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, NOVEMBER 24, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.

SPECIAL ORDER CALENDAR

128-10-BZ

APPLICANT – Eric Palatnik, P.C., for Merhay Yagudayev, owner; Jewish Center of Kew Gardens, lessee.

SUBJECT – Application June 15, 2015 – Extension of time to complete Construction and obtain a Certificate of Occupancy for a Use Group 4 three-story synagogue (*Jewish Center of Kew Gardens*) religious school, and Rabbi's apartment, which expired on August 23, 2015. R4 zoning district.

PREMISES AFFECTED – 147-58 77th Road, 150th Street and 77th Road, Block 06688, Lot 031, Borough of Queens.

COMMUNITY BOARD #8Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for an extension of time to complete construction and obtain a Certificate of Occupancy pursuant to a variance, which permitted the construction of a three-story building to be occupied by a synagogue, religious school, and Rabbi's apartment, pursuant to ZR § 72-21; and

WHEREAS, a public hearing was held on this application on November 24, 2015 after due notice by publication in *The City Record*, the case was closed, and a decision was rendered on that same date; and

WHEREAS, Commissioner Ottley-Brown and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the southwest corner of 77th Road and 150th Street, in an R4 zoning district, in Queens; and

WHEREAS, the site has approximately 40 feet of frontage along 77th Road, 100 feet of frontage along 150th Street, and 4,000 sq. ft. of lot area; and

WHEREAS, the Board has exercised jurisdiction over the subject site since August 23, 2011, when, under the subject calendar number, the Board granted a variance permitting the construction of a three-story building to be occupied by a synagogue, religious school, and Rabbi's apartment, that did not comply with the underlying zoning district regulations for lot coverage, height and setback, front yard, side yards, side setback, and parking for community facilities, contrary to ZR

§§ 24-11, 24-521, 24-34 and 24-35, 24-551 and 25-31; and

WHEREAS, on August 21, 2012, under the subject calendar number, the Board granted an application to amend the August 23, 2011 variance with respect to building height, floor area, and lot coverage, contrary to ZR §§ 24-521 and 24-11; and

WHEREAS, construction was to be substantially completed by August 23, 2015, pursuant to ZR § 72-23; and

WHEREAS, the applicant represents that, by May 2015, 71 helical foundation piles have been installed, the foundation has been reinforced, the foundation slab has been poured and the foundation wall has been constructed, and anticipate that the project will be completed by late 2017; and

WHEREAS, accordingly, the applicant seeks: (1) an extension of an additional four (4) years to complete construction and obtain a Certificate of Occupancy; and

WHEREAS, in response to questions raised at hearing, the applicant represents that no construction has been completed on the premises since May 2015 because of lack of funding and a dispute with the general contractor; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to complete construction and obtain a Certificate of Occupancy is appropriate with certain conditions, as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated August 23, 2011, so that as amended this portion of the resolution reads: "to grant an extension of time to complete construction and obtain a Certificate of Occupancy to August 23, 2019; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT construction shall be completed by August 23, 2019;

THAT a Certificate of Occupancy for the premises shall be obtained by August 23, 2019;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect;

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application No. 110296028)

Adopted by the Board of Standards and Appeals, November 24, 2015.

699-46-BZ

APPLICANT – Eric Palatnik, P.C., for Gurcharan Singh, owner.

SUBJECT – Application May 22, 2015 – Extension of Time to Complete Construction of a previously approved variance permitting the operation of an Automotive Service Station (UG 16B), which expired on May 19, 2015. R3X zoning district.

PREMISES AFFECTED – 224-01 North Conduit Avenue, between 224th Street and 225th Street, Block 13088, Lot

MINUTES

0044, Borough of Queens.

COMMUNITY BOARD #13Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5

Negative:.....0

ACTION OF THE BOARD – Laid over to December 8, 2015, at 10 A.M., for decision, hearing closed.

528-64-BZ

APPLICANT – Gerald Caliendo, RA, AIA, for 240-02 Realty LLC/Tim Broliieb, owner.

SUBJECT – Application November 4, 2013 – Amendment of a previously approved Variance (§72-21) which permitted the erection of a two story enlargement of an auto showroom (UG 16B). The amendment seeks to enlarge the existing automobile showroom and include an addition of a parking deck to the existing automobile dealership (*East Hills Chevrolet*). R1-2 zoning district.

PREMISES AFFECTED – 240-02 Northern Boulevard, southwest corner of Alameda Avenue and Northern Boulevard, Block 08167, Lot 1, Borough of Queens.

COMMUNITY BOARD #11Q

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for continued hearing.

1207-66-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Apple Art Supplies of New York, LLC., owner.

SUBJECT – Application December 10, 2014 – Extension of Term of a previously granted variance for the continued operation of a UG6 art supply and bookstore which expired July 5, 2012; Waiver of the Rules. R6 zoning district.

PREMISES AFFECTED – 305 Washington Avenue aka 321 DeKalb Avenue, northeast corner of Washington Avenue & DeKalb Avenue, Block 1918, Lot 7501, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for continued hearing.

173-92-BZ

APPLICANT – Simons & Wright LLC, for Bremen House, Inc., owner.

SUBJECT – Application January 17, 2014 – Extension of Term of a previously approved Special Permit (§73-36) permitting the operation of martial arts studio which expires on January 24, 2014; Amendment to permit the relocation of the facility from the 2nd floor to the cellar. C2-8A zoning district.

PREMISES AFFECTED – 220 East 86th Street, 86th Street between 2nd and 3rd Avenues, Block 01531, Lot 38, Borough of Manhattan

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for continued hearing.

57-95-A thru 59-95-A

APPLICANT – Mitchell S. Ross, Esq., for Upwest Company, LLC, owner.

SUBJECT – Application February 9, 2015 – Amendment/Time to complete construction filed under Certificate of Occupancy Modification. R7-2 zoning district.

PREMISES AFFECTED – 473 Central Park West, West side of Central Park West between West 107th and West 108th Streets, Block 01843, Lot 32, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to February 2, 2016, at 10 A.M., for continued hearing.

182-95-BZ

APPLICANT – Rothkrug & Spector LLP, for 2465 Broadway Associates LLC., owner.

SUBJECT – Application October 14, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a PCE (*Equinox Fitness Club*) which expires on November 1, 2015; Amendment to expand the PCE into the cellar and the full third floor; Waiver of the Rules. C4-6A/R8 zoning district.

PREMISES AFFECTED – 2465 Broadway, West side of Broadway, 50' south of southwest corner of intersection of Broadway and West 92nd Street, Block 01239, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for continued hearing.

183-95-BZ

APPLICANT – Rothkrug & Spector LLP, for Haymes Broadway LLC, owner.

SUBJECT – Application October 14, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a PCE (*Equinox Fitness Club*) which expires on November 1, 2015; Amendment to expand the PCE into the cellar and the full third floor; Waiver of the Rules. C4-6A/R8 zoning district.

PREMISES AFFECTED – 2473 Broadway, southwest corner of intersection of Broadway and West 92nd Street, Block 01239, Lot 55, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for continued hearing.

MINUTES

301-03-BZ

APPLICANT – Law Office of Lyra J. Altman, for 1103 East 22nd LLC., owner.

SUBJECT – Application April 29, 2014 – Extension of Time to Complete Construction and Waiver of the rules for a single family home enlargement under 73-622 approved on January 13, 2004. R2 Zoning district.

PREMISES AFFECTED – 1103 East 22nd Street, east side of East 22nd Street between Avenue J and Avenue K, Block 07604, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for continued hearing.

105-10-BZ

APPLICANT – Eric Palatnik, P.C., for Misha Keylin, owner.

SUBJECT – Application February 24, 2015 – Amendment of a previously approved Special Permit (§73-622) permitting the enlargement of an existing single family home. The amendment seek a second story enlargement. R4A (BRSD) zoning district.

PREMISES AFFECTED – 269 77th Street, between 3rd Avenue and Ridge Boulevard, Block 05949, Lot 0054, Borough of Brooklyn.

COMMUNITY BOARD #10BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5

Negative:.....0

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

73-15-A & 74-15-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Ashland Building LLC., owner.

SUBJECT – Application March 31, 2015 – Proposed construction of buildings that do not front on a legally mapped street, pursuant to Section 36 Article 3 of the General City Law. R3X (SRD) zoning district.

PREMISES AFFECTED – 170 Arbutus Avenue, east side of Arbutus Avenue, 513.26’ north of intersection of Arbutus Avenue and Louise Street, Block 06552, Lot 0058, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decisions of the Staten Island Borough Commissioner dated March 18, 2015 acting on DOB Application Nos. 520216668 and 520216677, read in pertinent part:

The street giving access to proposed building is not duly placed on the official map of the City of New York therefore:

A) No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 of General City Law;

B) Proposed construction does not have at least 8% of the total perimeter of building(s) fronting directly upon a legally mapped street or frontage space contrary to Section 502.1 of the 2008 NYC Building Code; and

WHEREAS, this is an application to allow the construction of two (2) residences which do not front on a mapped street, contrary to General City Law (“GCL”) § 36; and

WHEREAS, a public hearing was held on this application on October 27, 2015 after due notice by publication in *The City Record*, and then to decision on November 24, 2015; and

WHEREAS, Commissioner Montanez performed an inspection of the site and surrounding neighborhood; and

WHEREAS, Community Board 3, Staten Island, recommended disapproval of this application; and

WHEREAS, the subject application applies to two proposed tax lots to be apportioned from existing Lot 58, a single zoning lot located on the east side of Arbutus Avenue, between Christine Court and Louise Street, within an R3X zoning district, in the Special South Richmond Development District, on Staten Island; and

WHEREAS, the applicant proposes to divide existing Lot 58 into two new lots—New Lot 58 (or “176 Arbutus Avenue”) with approximately 58 feet of frontage along Arbutus Avenue, and New Lot 60 (or “170 Arbutus Avenue”), with approximately 21 feet of frontage along Arbutus Avenue; and

WHEREAS, an Application for Mergers or Apportionments to apportion existing Lot 58 into New Lot 58 and New Lot 60 was submitted to the New York City Department of Finance, Property Division – Tax Map Office in or around March 2014; and

WHEREAS, the applicant further proposes to develop each lot with a single two (2) story plus cellar one (1) family residence with accessory parking for two (2) vehicles and an in-ground pool with a total of 10,709 sq. ft. of floor area and a floor area ratio (FAR) of 0.27; and

WHEREAS, the applicant represents that the two residences will front on Arbutus Avenue, a public street that is currently open and improved and provides access to existing residences in the vicinity of the subject premises; and

WHEREAS, the applicant further represents that the residences will be located on the eastern portion of the subject site and, as such, will avoid the wetland area in the western portion of the subject site; and

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WHEREAS, by letter dated July 10, 2014, the New York State Department of Environment Conservation (“NYSDEC”) confirmed that applicant’s proposed project was not located within NYSDEC regulated tidal wetlands or tidal wetlands adjacent area and an NYSDEC tidal wetlands permit was not required; and

WHEREAS, by letter dated October 23, 2015 the Fire Department states that it has no objections or recommendations to the proposal as it relates to the proposed New Lot 58 (BSA Calendar Number 74-15-A); and

WHEREAS, by letter dated October 23, 2015, the Fire Department states that it has no objections to the proposal as it relates to the proposed New Lot 60 (BSA Calendar Number 73-15-A) under the following conditions: (1) the fire apparatus access road is designed and is used exclusively to provide access only to 170 Arbutus Avenue (New Lot 60), and to no other buildings and provides direct access to the required 30’ x 30’ frontage space; (2) the height of 170 Arbutus Avenue does not exceed 35 feet above the grade plane (with the terms “building height” and “grade plane” having the meanings set forth in Section 502.1 of the Building Code); (3) the dwelling is equipped with interconnected smoke alarms, in accordance with Section 907.2.10 of the Building Code; (4) the building is protected throughout by a sprinkler system; (5) the required off-street parking space(s) is/are separate from the fire apparatus access road and the required frontage space; and (6) parking is prohibited on the fires apparatus road and a “No Parking” sign conforming to the requirements of FC503.2.7.2 is conspicuously posted at the entrance to the access road; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant approval of the application subject to certain conditions set forth herein.

Therefore it is Resolved, that the decisions of the DOB, dated March 18, 2015, acting on DOB Application Nos. 520216668 and 520216677, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received November 5, 2015”-(1) sheet; that the proposal will comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT the fire apparatus access road is designed and is used exclusively to provide access only to 170 Arbutus Avenue (Lot 60), and to no other buildings and provides direct access to the required 30’ x 30’ frontage space;

THAT the height of 170 Arbutus Avenue does not exceed 35 feet above the grade plane (with the terms “building height” and “grade plane” having the meanings set forth in Section 502.1 of the Building Code)

THAT the dwelling located at 170 Arbutus Avenue is equipped with interconnected smoke alarms, in accordance with Section 907.2.10 of the Building Code;

THAT the building at 170 Arbutus Avenue is protected

throughout by a sprinkler system;

THAT the required off-street parking space(s) for 170 Arbutus Avenue is/are separate from the fire apparatus access road and the required frontage space;

THAT parking is prohibited on the fires apparatus road and a “No Parking” sign conforming to the requirements of FC503.2.7.2 is conspicuously posted at the entrance to the access road;

THAT the any changes to the subject zoning lot shall be subject to Board approval;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 24, 2015.

234-14-A

APPLICANT – Law Offices of Marvin B. Mitzner, for Ohmni Properties, owners.

SUBJECT – Application September 29, 2014 – Appeal of the NYC Department of Buildings' determination to not revoke a Certificate of Occupancy issued in 1989 and reinstate the Certificate of Occupancy issued in 1985.

PREMISES AFFECTED – 738 East 6th Street, south side of East 6th Street between Avenue C and Avenue D, Block 00375, Lot 0028, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to February 9, 2016, at 10 A.M., for continued hearing.

ZONING CALENDAR

5-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Israel Ashkenazi & Racquel Ashkenazi, owner.

SUBJECT – Application January 9, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141); side yards (§23-461) and rear yard (§23-47) regulations. R3-2 zoning district.

PREMISES AFFECTED – 1807 East 22nd Street, east side of East 22nd Street between Quentin Road and Avenue R, Block 6805, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5
Negative:.....0

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THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated December 26, 2013, acting on DOB Application No. 320817559, reads in pertinent part:

The proposed enlargement of the existing one family residence in an R3-2 zoning district:

1. Creates non-compliance with respect to floor area by exceeding the allowable floor area ratio and is contrary to section 23-141 of the Zoning Resolution;
2. Creates non-compliance with respect to the lot coverage and open space and is contrary to section 23-141 of the Zoning Resolution;
3. Creates non-compliance with respect to the rear yard and is contrary to section 23-47 of the Zoning Resolution; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R3-2 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio (“FAR”), lot coverage and open space, and rear yards, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on July 29, 2014, after due notice by publication in *The City Record*, with continued hearings on August 19, 2014, September 16, 2014, November 18, 2014, January 27, 2015, March 3, 2015, June 23, 2015, July 28, 2015, September 22, 2015, and October 27, 2015, and then to decision on November 24, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez, Commissioner Ottley-Brown, and Commissioner Chanda performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of East 22nd Street, between Quentin Road and Avenue R, in Brooklyn, within an R3-2 zoning district; and

WHEREAS, the site has 80 feet of frontage along East 22nd Street, a depth of 100 feet, and 8,000 sq. ft. of lot area; and

WHEREAS, the site is comprised of two lots; the applicant proposes to merge these lots into a single lot and enlarge the two-story with attic single family residence which occupies the northern side of the merged lot, which contains approximately 2,364 sq. ft. of floor area (.59 FAR) (the home on the other lot will be demolished); and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single-* or *two family detached* or *semi-detached residence* within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway,

Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage*, *open space*, *floor area*, *side yard*, *rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*;
- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and
- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single-* or *two family detached* or *semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building's non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins. Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply.

The Board shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge an existing single family residence, as contemplated in ZR § 73-622; and

WHEREAS, the applicant now seeks to enlarge the subject building as follows: (1) increase the floor area of the structure to 7,174 sq. ft. (.90 FAR) (the maximum permitted floor area ratio is .50 FAR pursuant to ZR § 23-141(b)); increase the lot coverage of the structure to 36-percent (the maximum permitted lot coverage is 35-percent pursuant to ZR § 23-141(b)); decrease the open space of the site to 64-percent (the minimum required open space is 65-percent

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pursuant to ZR § 23-141(b)); reduce the depth existing rear yard to 20'-0" for a 37'-4" portion of the proposed home and increase the depth of the rear yard for the remainder of the home to 60'-0" (a 30'-0" rear yard is required pursuant to ZR § 23-47); and

WHEREAS, the applicant represents that the modified proposal will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, in support of the application, the applicant submitted a rear yard study which shows that the partial 20'-0" rear yard is consistent with adjacent properties, and notes that of the 53'-4½" width of the proposed home, 37'-4" reduces the rear yard to a depth of 20'-0", while the remainder of the home provides a rear yard of 60'-0" or more; and

WHEREAS, the applicant also notes that the proposed home provides a large southern side yard that ranges from 19'-0" to 35'-0", and increases the width of the northern side yard to 7'-7½"; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, at hearing, the Board inquired as to the use of the cellar and sub-cellar, which contains a gymnasium and basketball court, as well as to the enlargement at the cellar level which extends beyond the perimeter walls of the story above the cellar;

WHEREAS, the applicant responded, with reference to DOB Building Bulletin 2012-008, that the cellar may be used for non-dwelling purposes as an accessory to the residential use where the perimeter walls of the cellar extends the perimeter walls of the story above the cellar, provided that the entire cellar floor devoted to non-dwelling purposes is less than 50% of the total residential floor area in the building; and

WHEREAS, the applicant stated further that the proposed floor area of the building is 7,174 sq. ft., of which 472 sq. ft. is located at the cellar (which does not include the space above the gymnasium and basketball court, which is located in the sub-cellar level), and that the maximum permitted area for the cellar and sub-cellar is 3,597 sq. ft.; and

WHEREAS, the applicant stated that the cellar contains 2,560 sq. ft. of floor space, 472 sq. ft. of which is included as part of the building's residential floor area, for a total of 2,088 sq. ft. of accessory cellar floor space, and that the sub-cellar contains 1,313 sq. ft. of floor space, for a total of 3,401 sq. ft. of floor space, which is less than the permitted 3,597 sq. ft.; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental

Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R3-2 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio ("FAR"), lot coverage and open space, and rear yards, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received November 5, 2015" – Fourteen (14) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 7,174 sq. ft. (.90 FAR), side yards of 19'-0" and 7'-7½", a rear yard of 20'-0" for a length of 37'-4"; lot coverage of 36-percent and an open space ratio of 64-percent, all as illustrated on the BSA-approved plans;

THAT the chimney in the rear yard is to be approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by November 24, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 24, 2015.

261-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Julie Haas, owner.

SUBJECT – Application October 21, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space ZR 23-141 and less than the required rear yard ZR 23-47. R-2 zoning district.

PREMISES AFFECTED – 944 East 23rd Street aka 948 East 23rd Street, Block 07586, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City

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Department of Buildings (“DOB”), dated September 24, 2014, acting on DOB Application No. 320995241, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141 in that the proposed floor area ratio exceeds the maximum permitted;
2. Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required;
3. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR § 73-622, to permit, in an R2 zoning district, an enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, and rear yards contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on October 20, 2015 after due notice by publication in *The City Record*, and then to decision on November 24, 2015; and

WHEREAS, Commissioner Montanez and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the west side of East 23rd Street, between Avenue I and Avenue J, in an R2 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 60 feet of frontage along East 23rd Street, a depth of 100 feet, and 6,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with attic, one-family residence with approximately 3,015 sq. ft. of floor area (0.50 FAR); and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single-* or *two family detached* or *semi-detached residence* within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage*, *open space*, *floor area*, *side yard*, *rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area

between the *building* that is being *enlarged* and the *side lot line*;

- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and

- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single-* or *two family detached* or *semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building's non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins. Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply.

The Board shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge an existing single family residence, as contemplated in ZR § 73-622; and

WHEREAS, specifically, the applicant seeks to increase the floor area of the structure from 3,015 sq. ft. (0.50 FAR) to 6,000 sq. ft. (1.00 FAR) (the maximum permitted floor area ratio is .50 FAR pursuant to ZR § 23-141(b)); decrease the open space ratio from 143.9 OSR to 73.84 OSR (the minimum permitted OSR is 150 pursuant to ZR § 23-141(a)); and increase the depth of the rear yard from a non-complying 10'-4" to a still non-complying 20'-6"; and

WHEREAS, in response to the Board's inquiry, the applicant provided the Board with a copy of an easement agreement which creates a driveway easement, 78'-0" deep and 3'-6" wide, on the north side of the premises; the applicant represents that the proposed enlargement does not interfere with this easement or the ability of the neighbor to access their garage; and

WHEREAS, the applicant further represents that the proposal will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, based upon its review and the record, the Board finds that the proposed enlargement will neither alter the

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essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R2 zoning district, the enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio, open space ratio and rear yards, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received November 12, 2015”- twelve (12) sheets and “Received November 23, 2015”- one (1) sheet; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 6,000 sq. ft. (1.00 FAR), side yards of 8’-0” and 5’-0”, and a rear yard with a minimum depth of 20’-6”, all as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by November 24, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 24, 2015.

179-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Lillian Romano and Elliot Romano, owners.

SUBJECT – Application July 29, 2014 – Special Permit (§73-622) for the enlargement and conversion of an existing two family residence to single family residence contrary to the rear yard requirement (ZR 23-47). R5 zoning district.

PREMISES AFFECTED – 1937 East 14th Street, east side of East 14th Street between Avenue S and Avenue T, Block 07293, Lot 74, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and

Commissioner Chanda.....5
Negative:.....0
THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated July 1, 2014, acting on DOB Application No. 320932103, reads in pertinent part:

The proposed change from two to one family and enlargement of the existing two story and attic in an R5 zoning district:

1. Creates non-compliance with respect to the rear yard by not meeting the minimum requirements of Section 23-47 of the Zoning Resolution; and

WHEREAS, this is an application under ZR § 73-622, to and permit, in an R5 zoning district, the enlargement of a residence being converted from a two-family residence to single-family residence which does not comply with the zoning requirements for rear yards contrary to ZR § 23-47; and

WHEREAS, a public hearing was held on this application on August 18, 2015, after due notice by publication in the *City Record*, with continued hearings on September 18, 2015 and October 27, 2015, and then to decision on November 24, 2015; and

WHEREAS, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of East 14th Street, between Avenue S and Avenue T, in an R5 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 40 feet of frontage along East 23rd Street, a depth of 100 feet, and 4,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with attic, two-family residence with approximately 2,999 sq. ft. of floor area (0.75 FAR); and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single-* or *two family detached* or *semi-detached residence* within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage*, *open space*, *floor area*, *side yard*, *rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such

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enlargement shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*;

- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and
- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single- or two family detached or semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building's non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins.

Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply.

The Board shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge an existing two-family residence, as contemplated in ZR § 73-622; and

WHEREAS, the applicant now seeks to increase the floor area of the structure from 2,999 sq. ft. (0.75 FAR) to 4,120 sq. ft. (1.03 FAR) and increase the degree of non-compliance of the rear yard from a non-complying 26'-3½" to a still non-complying 20'-0" on the first floor and 24'-0" on the second floor; and

WHEREAS, the plans for conversion include a two-story plus attic extension in the front of the home, two one-story extensions on the southern side of the home, and an extension in the rear yard; only the proposed rear yard extension is the subject of this application; and

WHEREAS, the applicant further represents that the proposal will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, the applicant submitted a rear yard study which established that of the 35 lots on the subject block which have rear yards, 14 have rear yards with depths of less than

30'-0", and that 36% of such lots have rear yards have depths of equal to or less than 20'-0"; the applicant represents that 22 of the 35 lots have garages located in their rear yards, including the houses adjacent to the subject property; and

WHEREAS, based upon its review and the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R5 zoning district, the enlargement of a residence being converted from a two-family to a single-family residence which does not comply with the zoning requirements for rear yards contrary to ZR § 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received November 5, 2015"- (12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,120 sq. ft. (1.03 FAR), side yards of 6'-8.375" and 10'-8.375", a front yard with a minimum depth of 10'-0", and a rear yard with a minimum depth of 20'-0" at the first floor and 24'-0" at the second floor, all as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by November 24, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 24, 2015.

43-15-BZ

APPLICANT – Eric Palatnik, PC., for Joseph Tolv, owner.
SUBJECT – Application March 6, 2015 – Special Permit (§73-622) to permit an enlargement of one family home, seeking to waive the floor area, lot coverage, rear yard, perimeter wall height and open space requirements. R3-2 zoning district.

PREMISES AFFECTED – 2617 Avenue R, between East 26th and 27th Streets, Block 06809, Lot 0049, Borough of Brooklyn.

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COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated July 8, 2014, acting on DOB Application No. 320931328, reads in pertinent part:

1. Proposed plans are contrary to ZR § 23-141(b) in that the proposed Floor Area Ratio (FAR) exceeds permitted 50%;
2. Proposed plans are contrary to ZR § 23-141(b) in that the proposed open space is less than the required 65%;
3. Proposed plans are contrary to ZR § 23-141(b) in that the proposed lot coverage exceeds the maximum required 35%;
4. Proposed plans are contrary to ZR § 23-47 in that the proposed rear yard is less than 30’-0”;

and
WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R3-2 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, lot coverage, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on October 16, 2015, after due notice by publication in *The City Record*, and then to decision on November 24, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez, Commissioner Ottley-Brown, and Commissioner Chanda performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the north side of Avenue R, between East 26th Street and East 27th Street, within an R3-2 zoning district; and

WHEREAS, the site has 33.33 feet of frontage along Avenue R, a depth of 100 feet, and 3,333 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with cellar, single-family residence with approximately 1,204 sq. ft. of floor area (0.36 FAR), lot coverage of 20.83 percent, an open space ratio of 79.17 percent, a non-complying front yard of 9’-11””, two side yards with a combined width of 13’-2” and a rear yard of 54’-0””; and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single- or two family detached or semi-detached residence* within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage, open space, floor area, side yard, rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*;
- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and
- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single- or two family detached or semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building’s non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins.

Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge an existing single family residence, as contemplated in ZR § 73-622; and

WHEREAS, the applicant initially sought to increase the floor area of the structure from 1,204 sq. ft. (.36 FAR) to 2,272.84 sq. ft. (.68 FAR); reduce the open space ratio from 79.17 percent to 61.5 percent (thereby increasing the lot coverage from 20.83 percent to 38.5 percent); maintain the non-complying front yard of 9’-11” and existing side yards with a combined width of 13’-2””; reduce the depth of the rear yard from 54’-0” to 25’-2””; and extend the existing building’s non-complying perimeter wall into the rear yard at a height of 21’-8””; and

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WHEREAS, upon examination, the project architect amended its measurement of the eaves of the existing building at the second story level, such that the perimeter wall height believed to be 21'-8" was determined to be a complying 19'-5" above grade, thus, the applicant modified its proposal and now seeks to enlarge the subject building as follows: (1) increase the floor area of the structure from 1,204 sq. ft. (.36 FAR) to 2,272.84 sq. ft. (.68 FAR) (the maximum permitted floor area ratio is .5 pursuant to ZR § 23-141(b)); (2) reduce the open space ratio from 79.17 percent to 62.31 percent and, accordingly, increase the lot coverage from 20.83 percent to 37.69 percent (the minimum required open space ratio is 65 percent, and the maximum permitted lot coverage is 35 percent, pursuant to ZR § 23-141(b)); maintain the non-complying front yard of 9'-11"; maintain the complying side yards of 7'-5" and 5'-9"; and reduce the depth of the rear yard from 54'-0" to 25'-2"; and

WHEREAS, the applicant represents that the modified proposal will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, with respect to the reduction in the depth of the rear yard, the applicant notes that the subject block is characterized by rear yard garage structures, such that the reduction in the depth of the subject yard will have little discernible impact on surrounding properties which, the applicant notes, are all occupied by substantial garage structures; the applicant submitted a land use study which depicts, *inter alia*, that of the 54 lots on the subject block, 47 are occupied by garage structures located in their respective rear yards; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R3-2 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio ("FAR"), open space ratio, lot coverage, and rear yard, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this

application and marked "Received November 5, 2015" – ten (10) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 2,272.84 sq. ft. (.68 FAR); a minimum open space ratio of 62.31 percent; a maximum lot coverage of 37.69 percent; a wall height of 19'-5" and a total height of 25'-3"; a front yard with a minimum depth of 9'-11"; side yards of 7'-5" and 5'-9"; and a rear yard with a minimum depth of 25'-2", all as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

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

THAT the following items are subject to DOB approval: the proposed rear and front porch; the proposed bay window; the proposed overhang at the second story of the building; and the proposed cellar;

THAT planting shall be provided as per ZR § 23-451;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by November 24, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 24, 2015.

51-14-BZ

APPLICANT – Lewis E. Garfinkel, for David Freier, owner.
SUBJECT – Application April 2, 2014 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area and open space ZR §23-141; side yards ZR §23-461 and rear yard ZR §23-47. R2 zoning district.

PREMISES AFFECTED – 1369 East 28th Street, East side of East 28th Street, 220' north from Avenue N, Block 7664, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for decision, hearing closed.

1 The Board notes that the underlying decision of the DOB, acting on DOB Application No. 3209313281, initially stated that the "[p]roposed plans are contrary to ZR § 23-631(b) in that the perimeter wall height exceeds 21'-0";" but that such objection is no longer relevant to the subject application.

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98-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 404-414 Richmond Terrace Inc., owner.

SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the reestablishment of a banquet facility (catering hall -UG 9) with accessory parking. Located in an R5 and R3A zoning districts within the St. George Historic District. PREMISES AFFECTED – 404 Richmond Terrace, southeast corner of Richmond Terrace and Westervelt Avenue, Block 3, Lot(s) 40, 31, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for continued hearing.

129-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Mourad Louz, owner.

SUBJECT – Application June 9, 2014 – Special Permit (§73-622) as amended, to permit the enlargement of a single-family detached residence, contrary to floor area, side yard, and rear yard regulations. R5 zoning district.

PREMISES AFFECTED – 2137 East 12th Street, east side of East 12th Street between Avenue U and Avenue V, Block 07344, Lot 62, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for continued hearing.

148-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 11 Avenue A Realty LLC, owner.

SUBJECT – Application June 24, 2014 – Variance (§72-21) to permit multi-family residential use at the premises. R8A/C2-5 zoning districts.

PREMISES AFFECTED – 11 Avenue A, west side of Avenue A between East 1st Street and East 2nd Street, Block 429, Lot 39, Borough of Manhattan.

COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for decision, hearing closed.

323-14-BZ

APPLICANT – Eric Palatnik, P.C., for Avner Levy, owner.

SUBJECT – Application December 12, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area (ZR 23-141(b)). R3-1 zoning district.

PREMISES AFFECTED – 282 Corbin Place, adjacent to the Coney Island Beach and Boardwalk, Block 08723, Lot 276, Borough of Brooklyn.

COMMUNITY BOARD #3BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for decision, hearing closed.

REGULAR MEETING

TUESDAY AFTERNOON, NOVEMBER 24, 2015

1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.

ZONING CALENDAR

45-15-BZ

APPLICANT – Simons & Wright LLC, for Queensboro Development, LLC, owner; Long Island City Rock Climbing Co. LLC, lessee.

SUBJECT – Application March 10, 2015 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Rock Climbing Facility*) C5-3 zoning district.

M1-5/R7-3 (LIC) zoning district.

PREMISES AFFECTED – 23-10 41st Avenue, between 23rd and 24th Streets, Block 00413, Lot 0022, Borough of Queens.

COMMUNITY BOARD #1Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to December 15, 2015, at 10 A.M., for decision, hearing closed.

53-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 10 E53rd Street Owner LLC c/o SL Green Realty Co., owner; Equinox East 53rd Street, Inc., lessee.

SUBJECT – Application March 12, 2015 – Special Permit (§73-36) to permit a physical culture establishment (*Equinox*) within an existing building. C5-2.5(MID) + C.3MID(F) zoning district.

PREMISES AFFECTED – 10 East 53rd Street, south side of east 53rd Street, 125' west of intersection of East 53rd Street and 5th Avenue, Block 01288, Lot 7, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,

MINUTES

Commissioner Ottley-Brown, Commissioner Montanez and
Commissioner Chanda.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to December
15, 2015, at 10 A.M., for decision, hearing closed.

63-15-BZ

APPLICANT – Sheldon Lobel, P.C., for Sutton Owners
Corporation, Inc., owner; Harriet Harkavy, Esq., lessee.

SUBJECT – Application March 23, 2015 – Variance (§72-
21) to legalize the three existing enclosures of portions of
the terrace of Unit PHC located on the penthouse floor of
the premises. R10 zoning district.

PREMISES AFFECTED – 35 Sutton Place, corner through-
lot with frontage on 59th Street between Sutton Place and
Riverview Terrace, Block 01372, Lot 73, Borough of
Manhattan.

COMMUNITY BOARD #6M

ACTION OF THE BOARD – Laid over to December
15, 2015, at 10 A.M., for postponed hearing.

Ryan Singer, Executive Director

BULLETIN

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December 9, 2015

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Tuesday, December 1, 2015**

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156-92-BZ	1835 Bay Ridge Parkway, Brooklyn
131-93-BZ	3743-3761 Nostrand Avenue, Brooklyn
369-03-BZ	99-01 Queens Boulevard, Queens
202-62-BZ	950 Allerton Avenue, Bronx
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318-06-BZ	49-05 Astoria Boulevard, Queens
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319-14-BZ	1781 South Avenue, Staten Island
24-15-BZ	71-17 Roosevelt Avenue, Queens

DOCKETS

New Case Filed Up to December 1, 2015

262-15-A

64 Sharott Avenue, Corner lot formed by intersection of south side of Penton Street and West Side of Sharott Avenue, Block 7702, Lot(s) 110, Borough of **Staten Island**, **Community Board: 3**. GCL 36 to permit the development of a one story, Use Group 6 Commercial Building located within an R3X/C1-1 zoning district, contrary to Article 3, Section 36 of the NYS General City Law. R3X/C1-1 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

**REGULAR MEETING
JANUARY 12, 2016, 10:00 A.M.**

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, January 12, 2016, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

595-44-BZ

APPLICANT – Montgomery McCracken Walker & Rhoads, LLP, for Cinzia 30 CPS. Incorporated c/o Rodel USA, Incorporated, owner.

SUBJECT – Application August 4, 2015 – Extension of Term (§11-411) of a previously approved variance which permitted Office Use (UG 6) which expired on July 12, 2015. R10H zoning district.

PREMISES AFFECTED – 30 Central Park South, Block 01274, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #5M

802-48-BZ

APPLICANT – Eric Palatnik, for Rodeleven Service Stations, Inc., owner.

SUBJECT – Application June 8, 2015 – Extension of Term (72-01) to extend the term of a variance for automotive service station, repair shop and accessory convenient store, which was granted October 17, 2006. R5/C1 zoning district.

PREMISES AFFECTED – 1346 Beach Channel Drive, Block 01552, Lot 1, Borough of Queens.

COMMUNITY BOARD #14Q

196-49-BZ

APPLICANT – Vassalotti Associates Architects, LLP., for 1280 Allerton, LLC., owner.

SUBJECT – Application May 6, 2015 – Extension of Term (§11-411) of a previously approved variance permitting the operation of an Automotive Service Station (UG 16B) with accessory uses which expires on September 30, 2015; Amendment to permit the conversion of the accessory building to an accessory convenience store; Extension of Time to obtain a Certificate of Occupancy which expired on June 12, 2013; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 1280 Allerton Avenue, Block 04468, Lot 0043, Borough of Bronx.

COMMUNITY BOARD #11BX

919-57-BZ

APPLICANT – O'Sullivan & Zacchea Road, for Stanley Halpern, owner.

SUBJECT – Application March 18, 2015 – Extension of Term & Waiver (§11-411) requesting an extension of term of an expired variance (March 23, 2013) of an eating and drinking establishment also a waiver of the rules. R3-2 zoning district.

PREMISES AFFECTED – 4912 Avenue K, Block 07829, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #18BK

226-09-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Fraydun enterprises LLC, owner; NYHRC, lessee.

SUBJECT – Application June 24, 2015 – Extension of Term of a special permit (73-11) for a physical culture establishment on the third floor of an existing mixed-use building and for extension of time to obtain a Certificate of Occupancy and Waiver. C6-1 zoning district.

PREMISES AFFECTED – 24 East 13th Street, Block 0570, Lot 017, Borough of Manhattan.

COMMUNITY BOARD #2M

**REGULAR MEETING
JANUARY 12, 2016, 1:00 P.M.**

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, January 12, 2016, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

52-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Liberty Avenue Development LLC, owner; Blink Liberty Avenue Inc., lessee.

SUBJECT – Application March 12, 2015 – Special Permit (§73-36) to permit a physical culture establishment (*Blink*) within a cellar and one-story commercial building. C2-3/R6B zoning district.

PREMISES AFFECTED – 102-16 Liberty Avenue, southwest corner of intersection of Liberty Avenue and 103rd Street, Block 09523, Lot 5, Borough of Queens.

COMMUNITY BOARD #10Q

Ryan Singer, Executive Director

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REGULAR MEETING TUESDAY MORNING, DECEMBER 1, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.

SPECIAL ORDER CALENDAR

27-91-BZ

APPLICANT – Land Planning and Engineering Consultants, P.C., for Eldar Blue, LLC, owner.

SUBJECT – Application July 14, 2014 – Extension of Term of a previously approved variance for a two-story commercial building which expired June 14, 2014; Amendment to eliminate the length of term of variance due to the recently zoning change. C1-2/R3 zoning district.

PREMISES AFFECTED – 1931 Richmond Avenue, Block 02030, Lot 8, Borough Staten Island.

COMMUNITY BOARD #5SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application to extend the term of the variance previously granted by the Board under the subject calendar number, which expired on June 14, 2014, and to eliminate the term of the variance; and

WHEREAS, a public hearing was held on this application on September 22, 2015, after due notice by publication in *The City Record*, and then to decision on December 1, 2015; and

WHEREAS, Commissioner Ottley-Brown performed an inspection of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the east side of Richmond Avenue, within the R3-1/C1-2 zoning districts, on Staten Island; and

WHEREAS, the site has approximately 150 feet of frontage along Richmond Avenue, 18,750 sq. ft. of lot area, and is occupied by a two (2) story commercial building with a cellar; and

WHEREAS, on October 4, 1988, under BSA Calendar Number 71-87-BZ, when the zoning district was R3-2, the Board granted a variance pursuant to ZR § 72-21 to permit the construction of the subject two (2) story commercial building with accessory parking on the subject site; and

WHEREAS, on June 14, 1994, under the subject calendar number, the Board granted a variance to permit the construction of a larger two (2) story commercial building, subject to a term of twenty (20) years; and

WHEREAS, the instant application was timely filed per BSA Rules of Practice and Procedure § 1-07.3(b)(1); and

WHEREAS, the applicant seeks to: (1) extend the term of the variance and (2) eliminate the length of term of the variance; and

WHEREAS, applicant represents that the subject lot changed to an R3-1 district on December 2, 2003 and to an R3-1 district with C2-1 overlay on January 18, 2011; and

WHEREAS, applicant represents that the current use is permitted as-of-right under current zoning; and

WHEREAS, the applicant represents that the parking lot was approved for 38 parking spaces, but current zoning requires 41 parking spaces; and

WHEREAS, the applicant represents that increasing the number of parking spaces to comply with the parking requirements prevents compliance with minimum requirements for parking lot maneuverability and planting under ZR §§ 36-58 and §37-90; and

WHEREAS, the applicant has represented that the number of parking spaces on the subject lot will be increased to 41 spaces; and

WHEREAS, the Board finds that an extension and elimination of the length of term are appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, dated June 14, 1994, so that as amended this portion of the resolution shall read: “to permit an extension of the term of the variance and eliminate the length of term of the variance; *on condition* that the expansion shall substantially conform to drawings as filed with this application, marked ‘Received November 12, 2015’ – one (1) sheet; and *on further condition*:

THAT this grant shall not be limited for any length of term;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT a new Certificate of Occupancy for the premises shall be obtained by December 1, 2016;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, December 1, 2015.

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156-92-BZ

APPLICANT – Eric Palatnik, P.C., for Parisi Patel, Inc., owner.

SUBJECT – Application December 22, 2014 – Extension of Term of the variance (§72-21) which permitted medical office use in an existing building contrary to side yard regulation at the basement and first floor levels, which expired March 1994; Waiver. R5 zoning district.

PREMISES AFFECTED – 1835 Bay Ridge Parkway, between 18th Avenue and 19th Avenue, Block 06216, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #11BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application to waive the Rules of Practice and Procedure and extend the term of the variance previously granted by the Board under the subject calendar number, which expired on March 15, 2014; and

WHEREAS, a public hearing was held on this application on September 22, 2015 after due notice by publication in *The City Record*, and then to decision on December 1, 2015; and

WHEREAS, Commissioner Ottley-Brown and Commissioner Montanez performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the north side of Bay Ridge Parkway between 18th and 19th Avenues, within the R5 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 40 feet of frontage along Bay Ridge Parkway, 4,000 sq. ft. of lot area, and is occupied by a three (3) story building with a basement; and

WHEREAS, on March 15, 1994, under the subject calendar number, the Board granted a variance to permit medical offices within the subject building, subject to a term of twenty (20) years; and

WHEREAS, on March 15, 2014, the term of the variance grant expired and was not timely renewed; and

WHEREAS, accordingly, the applicant now seeks a waiver of BSA Rules of Practice and Procedure § 1-07.3(b)(2); and

WHEREAS, applicant has demonstrated that the use has been continuous since the expiration of the term of the grant and that substantial prejudice would result without such a where; and

WHEREAS, in addition, the applicant seeks to: (1) extend the term of the variance for an additional twenty (20) years; and

WHEREAS, the Board finds that a twenty-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and

reopens and amends the resolution, dated March 15, 1994, so that as amended this portion of the resolution shall read: “to permit an extension of the term of the variance for a term of twenty (20) years *on condition* that the site shall substantially conform to drawings as filed with this application, marked ‘Received May 11, 2015’–(17) sheets; and *on further condition*:

THAT this grant shall be limited to a term of twenty (20) years from March 15, 2014, expiring March 15, 2034;

THAT the trash is stored inside the building until pickup and placed in proper containers;

THAT the third floor use is limited to conferences and educational purposes;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT a new Certificate of Occupancy for the premises shall be obtained by December 1, 2016;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, December 1, 2015.

131-93-BZ

APPLICANT – Eric Palatnik, P.C., for Paul Memi, owner.

SUBJECT – Application April 25, 2014 – Extension of Term (§11-411) of a previously approved variance which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses which expires on November 22, 2014. C2-2/R5 zoning district.

PREMISES AFFECTED – 3743-3761 Nostrand Avenue, north of the intersection of Avenue "Y", Block 7422, Lot 53, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application to extend the term of a special permit previously granted by the Board under the subject calendar number, which expired on November 22, 2014; and

WHEREAS, a public hearing was held on this application on February 24, 2015 after due notice by publication in *The City Record*, with continued hearings on June 23, 2015, and September 22, 2015, and then to decision

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on December 1, 2015; and

WHEREAS, Vice Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the eastern side of Nostrand Avenue between Avenues X and Y, within the R5/C2-2 zoning districts, in Brooklyn; and

WHEREAS, the site has approximately 160 feet of frontage along Nostrand, 13,600 sq. ft. of lot area, and is occupied by an one (1) story automotive service station with accessory used car sales; and

WHEREAS, on March 10, 1959, under BSA Calendar Number 501-58-BZ, the Board granted a variance to permit the premises to be occupied as a gasoline service station and lawfully accessory uses, subject to a term of fifteen (15) years; and

WHEREAS, on November 6, 1974, under BSA Calendar Number 501-58-BZ, the Board granted an application for the reopening of the variance for an extension of term, subject to a term of ten (10) years; and

WHEREAS, the applicant represents that the variance lapsed in 1984; and

WHEREAS, on November 22, 1994, under the subject calendar number, the Board permitted the re-establishment of the grant, subject to a term of ten (10) years; and

WHEREAS, on November 14, 2006, under the subject calendar number, the Board granted an application for the reopening of the variance for an extension of term, subject to a term of ten (10) years and expiring November 22, 2014, and an enlargement of the existing building and expansion of the auto sale use and designated sales are; and

WHEREAS, the instant application was timely filed per BSA Rules of Practice and Procedure § 1-07.3(b)(1); and

WHEREAS, the applicant represents that the following services are currently performed on the premises: gasoline and motor oil sales, New York State inspections, automotive repairs with hand tools, used car sales, motor vehicle parking and storage; and

WHEREAS, the Board finds that a ten-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, dated November 22, 1994, so that as amended this portion of the resolution shall read: “to permit an extension of the term of the variance for a term of ten (10) years *on condition* that the site shall substantially conform to drawings as filed with this application, marked ‘Received September 2, 2015–(5) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten (10) years from November 22, 2014, expiring November 22, 2024;

THAT the site, including the walls of the abutting buildings accessed by the applicant, is to be kept graffiti-free;

THAT all landscaping is in place pursuant to the plans;

THAT fencing is kept in good repair;

THAT vehicles awaiting service and parked are limited to the number shown on the plans;

THAT there is no repair work to be done outdoors;

THAT there is no lift;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT a new Certificate of Occupancy for the premises shall be obtained by December 1, 2016;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, December 1, 2015.

369-03-BZ

APPLICANT – Law Office of Fredrick A. Becker Esq., for 99-01 Queens Boulevard LLC, owner; TSI Rego Park, LLC dba NY Sports Club, lessee.

SUBJECT – Application April 13, 2015 – Extension of Term of a previously approved Variance (§72-21) allowing the operation of a physical culture establishment/ health club which expires April 19, 2015. C1-2/R7-1 zoning district. PREMISES AFFECTED –99-01 Queens Boulevard, north side of Queens Boulevard between 66th Road and 67th Avenue, Block 02118, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda..... 5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application to extend the term of a variance for a physical cultural establishment (PCE) previously granted by the Board under the subject calendar number, which expired on April 19, 2015; and

WHEREAS, a public hearing was held on this application on October 20, 2015, after due notice by publication in *The City Record*, and then to decision on December 1, 2015; and

WHEREAS, Commissioner Ottley-Brown and Commissioner Montanez performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the northern side of Queens Boulevard between 66th Road and 67th Avenue, within an R7-1 (C1-2) zoning district, in Queens; and

WHEREAS, the site has approximately 217 feet of frontage along Queens Boulevard, 40 feet of frontage along 99th Street, 110 feet of frontage along 66th Road and 103 feet of frontage along 67th Avenue, 20,843 sq. ft. of lot area, and is occupied by an two (2) story commercial building; and

WHEREAS, the subject PCE is located in portions of the

MINUTES

cellar and cellar mezzanine of the building with an entrance on the first floor; and

WHEREAS, on April 19, 2005, under the subject calendar number, the Board granted a variance to permit the operation of the subject PCE, subject to a term of ten (10) years; and

WHEREAS, the instant application was timely filed per BSA Rules of Practice and Procedure § 1-07.3(b)(1); and

WHEREAS, the applicant seeks to: extend the term of the variance by ten (10) years; and

WHEREAS, the Board finds that a ten-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, dated April 19, 2005 so that as amended this portion of the resolution shall read: “to permit an extension of the term of the variance for a term of ten (10) years *on condition* that the site shall substantially conform to drawings as filed with this application, marked ‘Received November 12, 2015’-(5) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten (10) years from April 19, 2015, expiring April 19, 2025;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT a new Certificate of Occupancy for the premises shall be obtained by December 1, 2016;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, December 1, 2015.

202-62-BZ

APPLICANT – Warshaw Burstein, LLP, for NY Dealers Stations, LLC, owner.

SUBJECT – Application June 4, 2015 – Extension of Term and Waiver (§11-411) to extend the term and a Waiver of a previously granted variance for an automotive service station, which expired on April 3, 2011; Waiver of the Rules. C2-2/R4-1 zoning district.

PREMISES AFFECTED – 950 Allerton Avenue, southeast corner of the intersection of Allerton Avenue and Williamsbridge Road, Block 04447, Lot 062, Borough of Bronx.

COMMUNITY BOARD #11BX

ACTION OF THE BOARD – Laid over to February 2, 2016, at 10 A.M., for adjourned hearing.

129-97-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for Whitestone Plaza Associates Inc., owner.

SUBJECT – Application February 21, 2014 – Amendment to permit the proposed conversion of an existing lubricatorium to a commercial retail establishment (use group 6) and enlargement of the basement level. C1-2/R3-2 zoning district.

PREMISES AFFECTED – 150-65 Cross Island Parkway, west side of Clintonville Street distant 176.60' north of intersection of Cross Island Parkway and Clintonville Street, Block 04697, Lot 11, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for adjourned hearing.

318-06-BZ

APPLICANT – Eric Palatnik, LLP for Sun Company Inc. (R&M), owner.

SUBJECT – Application August 9, 2013 – Extension of Term (§11-411) of a previously approved variance which permitted the operation of an automotive service station (UG 16B), which expired on May 22, 2013; Extension of Time to Obtain a Certificate of Occupancy which expired on November 22, 2007; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 49-05 Astoria Boulevard, Noreast corner of Astoria Boulevard and 49th Street. Block 1000, Lot 35, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to February 23, 2016, at 10 A.M., for continued hearing.

97-08-BZ

APPLICANT – Eric Palatnik P.C., for Yismach Moshe of Williamsburgh, Inc., owner.

SUBJECT – Application March 10, 2015 – Extension of Time to obtain a Certificate of Occupancy of a previously approved Special Permit (§73-19) permitting the legalization of an existing school (UG 3), which expired on March 16, 2012; Waiver of the Rules. M1-1 district.

PREMISES AFFECTED – 84 Sanford Street, between Park Avenue and Myrtle Avenue, Block 01736, Lot 0014, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to February 2, 2016, at 10 A.M., for continued hearing.

MINUTES

47-10-BZ

APPLICANT – Eric Palatnik, P.C., for 2352 Story Avenue Realty, owner; Air Gas Use, LLC, lessee.

SUBJECT – Application April 13, 2015 – Extension of Time to Complete Construction of a previously approved Variance (§72-21) permitting manufacturing use on a residential portion of a split zoning lot, which expired on April 12, 2011; Waiver of the Rules. M1-1/R3-2 zoning district.

PREMISES AFFECTED – 895 Zerega Avenue aka 2351 Story Avenue, Block 03698, Lot 36, Borough of Bronx.

COMMUNITY BOARD #9BX

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for adjourned hearing.

98-06-BZ

APPLICANT – Eric Palatnik, P.C., for Yeshiva Siach Yitzchok, owner.

SUBJECT – Application March 3, 2015 – Amendment of a previously approved Variance (§72-21) which permitted school (Yeshiva Siach Yitzchok) contrary to bulk regulation and contrary to General City Law section 35. The Amendment seeks minor interior changes and an increase in height from fifty feet to a proposed fifty four feet. R4A zoning district.

PREMISES AFFECTED – 1045 Beach 9th Street, southwest corner of Bech 9th Street and Dinsmire Avenue, Block 15554, Lot 0049, Borough of Queens.

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Laid over to February 2, 2016, at 10 A.M., for continued hearing.

APPEALS CALENDAR

135-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Oak Point Property, LLC., owner.

SUBJECT – Application June 10, 2015 – Proposed construction of a building not fronting on a legally mapped street contrary to Section 36 Article 3 of the General City Law. M3-1 zoning district.

PREMISES AFFECTED – 50 Oak Point Avenue, north shore of east river, approximately 900 lateral feet east of East 149th Street, Block 02604, Lot 0180, Borough of Bronx.

COMMUNITY BOARD #2BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda..... 5
Negative:..... 0

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough

Commissioner dated May 21, 2015 acting on DOB Application No. 220450107, reads in pertinent part:

Proposed building not fronting on a legally mapped street is contrary to Article III, Section 36 of the General City Law and must be referred to the Board of Standards and Appeals;

WHEREAS, this is an application to allow the construction of a residence which does not front on a mapped street, contrary to General City Law (“GCL”) § 36; and

WHEREAS, a public hearing was held on this application on October 20, 2015, after due notice by publication in *The City Record*, and then to decision on December 1, 2015; and

WHEREAS, Commissioner Ottley-Brown performed an inspection of the site and surrounding neighborhood; and

WHEREAS, Community Board 2, Bronx, recommended approval of this application; and

WHEREAS, the subject site is located on the north shore of the East River, approximately 900 feet east of East 149th Street, within an M3-1 zoning district, in the Bronx; and

WHEREAS, the applicant proposes to develop the subject premises with a waterfront cement storage facility and water dependent use ship berth, requiring additional approvals from the New York State Department of Environmental Conservation and the Army Corps of Engineers; and

WHEREAS, the proposed facility with have 85,856 sq. ft. of floor area, a floor area ratio (FAR) of 0.07, and six accessory parking spaces; and

WHEREAS, the owners of the subject lot entered into a zoning lot development and easement agreement (the “Agreement”) with the owners of the parcel at Block 2604, Lot 174 (“Lot 174”) located immediately north, recorded with the New York City Department of Finance in December 2010; and

WHEREAS, under the Agreement, the owners of Lot 174 grants, declares and reserves for the benefit of the subject lot a permanent license and easement on, over and across Lot 174 for ingress and egress as well as for purposes of gaining access to and maintaining its utilities; and

WHEREAS, the applicant represents that access to the subject premises will be provided via an existing, unnamed paved road that runs east from East 149th Street immediately north of the East River (the “East 149th Street Access Easement”); and

WHEREAS, the applicant also represents that the East 149th Street Access Easement currently provides access to existing buildings and facilities, including the food and restaurant supply warehouse located on Lot 174; and

WHEREAS, applicant notes that the Board, under BSA Calendar Number 62-10-A, granted a GCL § 36 waiver to allow construction of the restaurant supply warehouse on Lot 174, which does not front on a legally mapped street and utilizes the same East 149th Street Access Easement as one of the two (2) means of access; and

WHEREAS, by letter dated October 14, 2015, the Fire Department stated that it had no objections or recommendations to the proposal; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant

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approval of the application subject to certain conditions set forth herein.

Therefore it is Resolved, that the decision of the DOB, dated May 21, 2015, acting on DOB Application No. 220450107, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received July 31, 2015"-(1) sheet; that the proposal will comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 1, 2015.

65-15-BZ/66-15-A

APPLICANT – Akerman, LLP, for 361 Central Park West, LLC., owner.

SUBJECT – Application March 25, 2015 – Variance (§72-21) to permit the conversion of an existing vacant church building into a 39 unit residential building. Companion case: 66-15-A for an Appeal pursuant to MDL 310 of MDL 30.2. R10A zoning district.

PREMISES AFFECTED – 361 Central Park West, northwest corner of Central Park West and West 96th Street, Block 01832, Lot 0029, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for continued hearing.

114-15-A thru 125-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Rossville AME Zion Church, owner; Jade's Path, LLC, lessee.

SUBJECT – Application May 27, 2015 – Proposed construction of a single family home that does not front on a legally mapped street, contrary to General City Law Section 36. R3-1 (SRD) zoning district.

PREMISES AFFECTED – 9, 11, 15, 17, 21, 23, 27, 29, 33, 35, 41 thru 43 Jade Court, Block 07267, Lot 0299, 0298, 0297, 0296, 0295, 0094, 0293, 0292, 0092, 0289, west side of Bloomingdale Road, approx. 346' south of intersection with Clay Pit Road, Borough of Staten Island.

COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,

Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for decision, hearing closed.

198-15-A & 199-15-A

APPLICANT – Gary R. Tarnoff, Kramer Levin Naftalis & Frankel, LLP, for Harlem Commonwealth Council, owner; Peter Latta, Aduie Pyle, lessee.

SUBJECT – Application August 26, 2015 – Proposed construction of a transportation and distribution services facility on a lot that does not front on a legally mapped street, contrary to Article 3 Section 36, of the General City Law. M3-1 zoning district.

PREMISES AFFECTED – 500-550 Oak Point Avenue, Block 02606, Lot(s) 02 & 20, Borough of Bronx.

COMMUNITY BOARD #2BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for decision, hearing closed.

ZONING CALENDAR

153-11-BZ

APPLICANT – Eric Palatnik, P.C., for Theodoros Parais, owner.

SUBJECT – Application September 21, 2011 – Reinstatement (§§11-411 & 11-412) to permit the continued operation of an automotive repair use (UG 16B); amendment to enlarge the existing one story building; Waiver of the Board's Rules. C1-3 zoning district.

PREMISES AFFECTED – 27-11 30th Avenue, between 27th Street and 39th Street. Block 575, Lot 23. Borough of Brooklyn.

COMMUNITY BOARD #4BK

ACTION OF THE BOARD – Application withdrawn.

Adopted by the Board of Standards and Appeals, December 1, 2015.

MINUTES

228-14-BZ

APPLICANT – Eric Palatnik, P.C., for Henry Trost, owner.
SUBJECT – Application September 22, 2014 – Special Permit (§73-622) for the enlargement of an existing two story single family home contrary to floor area, lot coverage and open space (ZR 23-141(b). R3-1 zoning district.

PREMISES AFFECTED – 149 Hasting Street, Hastings Street, between Hampton Avenue and Oriental Boulevard, Block 08751, Lot 466, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated July 1, 2014, acting on DOB Application No. 320932103, reads in pertinent part:

1. Proposes regular floor area and the floor area under the sloping roof is contrary in that it exceeds permitted floor area under ZR 23-141(b);
2. Proposed lot coverage in [sic] contrary in that, it exceeds permitted lot coverage as per ZR 23-141(b);
3. Proposed open space is contrary in that it is not at least 655 as required as per ZR 23-141(b); and

WHEREAS, this is an application under ZR § 73-622, to and permit, in an R3-1 zoning district, the enlargement of a single-family residence which does not comply with the zoning requirements for floor area, open space and lot coverage contrary to ZR § 23-141(b); and

WHEREAS, a public hearing was held on this application on October 27, 2015, after due notice by publication in *The City Record*, and then to decision on December 1, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of Hastings Street, between Hampton Avenue and Oriental Boulevard, in an R3-1 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 60 feet of frontage along Hastings Street, a depth of 100 feet, and 6,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with attic, single-family residence with approximately 2,9285 sq. ft. of floor area (0.38 FAR); and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single- or two*

family detached or semi-detached residence within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage*, *open space*, *floor area*, *side yard*, *rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*;
- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and
- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single- or two family detached or semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building's non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins. Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply.

The Board shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

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WHEREAS, the Board notes further that the subject application seeks to enlarge an existing one-family residence, as contemplated in ZR § 73-622; and

WHEREAS, the applicant now seeks to increase the floor area of the structure from 2,285 sq. ft. (0.38 FAR) to 5,191 sq. ft. (0.87 FAR), increase the degree of lot coverage from 22 percent to 36 percent, and decrease the amount of open space from 4,704 square feet (78 percent open space) to 3,847 sq. ft. (64 percent open space); and

WHEREAS, the residence is located within a floodplain zone and the first floor will be raised to 8'-10" above the curb level; and

WHEREAS, the applicant represents that the proposal is in compliance with the design requirements of ZR § 64-61 and provides landscaping along the front of the residence that is greater than 60 percent of the lot width and screens at least 50 percent of the street walls; and

WHEREAS, the applicant further represents that the proposal will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, based upon its review and the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the enlargement of a single-family residence which does not comply with the zoning requirements for floor area, open space and lot coverage contrary to ZR § 23-141(b); *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received November 10, 2015"- (13) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 5,191 sq. ft. (0.87 FAR), side yards of 5'-0" and 9'-8", a front yard with a minimum depth of 16'-10", a rear yard with a minimum depth of 30'-0", a maximum lot coverage of 36 percent, and minimum open space of 64 percent, all as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 1, 2019; and

THAT DOB must ensure compliance with all other

applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 1, 2015.

245-14-BZ

APPLICANT – Stroock & Stroock & Lavan, LLP., for Two Fulton Square, LLC., owner.

SUBJECT – Application October 9, 2014 – Special Permit (§73-66) to permit the penetration of the flight obstruction area of LaGuardia Airport contrary to §61-20. C4-2 zoning district.

PREMISES AFFECTED – 133-31 39th Avenue, 37th Avenue, Prince Street, 39th Avenue and College Point Boulevard, Block 04972, Lot 65, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the Notice of Comments of the New York City Department of Buildings ("DOB"), dated September 15, 2014, acting on Job Application No. 420652243, reads in pertinent part:

ZR 61-20 – Proposed building height exceeds limitations for C4-2 districts subject to Article VI, Chapter 1 (Special Regulations Applying Around Major Airports), contrary to ZR 61-20; and

WHEREAS, this is an application under ZR § 73-66, to permit, within an C4-2 zoning district, the construction of a residential / commercial / hotel / retail / office / community facility / parking development which exceeds the maximum height limits around airports, contrary to ZR § 61-20; and

WHEREAS, a public hearing was held on this application on October 27, 2015, after due notice by publication in *The City Record*, and then to decision on December 1, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez, Commissioner Ottley-Brown, and Commissioner Chanda performed inspections of the subject site and neighborhood; and

WHEREAS, the subject site is located on the north side of 39th Avenue between Prince Street and College Point Boulevard, within an C4-2 zoning district; and

WHEREAS, the site has not been subject of any prior applications to the Board; and

WHEREAS, the Board notes that ZR § 61-21 (Restriction on Highest Projection of Building or Structure) restricts the height of buildings or structures within designated flight obstruction areas; and

WHEREAS, specifically, the provision sets forth that

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the highest projection of any building or structure may not penetrate the most restrictive of either approach surfaces, transitional surfaces, horizontal surfaces, or conical surfaces, within an Airport Approach District of a flight obstruction area; and it may not penetrate the horizontal surface or conical surface within the Airport Circling District of the flight obstruction area; and

WHEREAS, however, pursuant to ZR § 73-66 (Height Regulations around Airports) the Board may grant a special permit to permit construction in excess of the height limits established under ZR §§ 61-21 (Restriction on Highest Projection of Building or Structure) only (1) subsequent to the applicant submitting a site plan, with elevations, reflecting the proposed construction in relation to such maximum height limits, and (2) if the Board finds that the proposed would not create danger and would not disrupt established airways; and

WHEREAS, the provision also provide that, in its review, the Board shall refer the application to the Federal Aeronautics Administration (FAA) for a report as to whether such construction will constitute a danger or disrupt established airways; and

WHEREAS, as to the information submitted by the applicant, the Board notes that the applicant submitted a site plan with elevations reflecting the proposed construction, which includes information about the maximum as-of-right height and the maximum height approved by the FAA for each building; and

WHEREAS, as to the Board's determination about the safety of the proposed construction with regard to the proximity to the airport, the Board notes that the FAA regulates the heights of buildings within proximity to airports and that since the subject site is located within the flight obstruction area for LaGuardia Airport, it falls within the area regulated by the FAA; and

WHEREAS, the applicant represents that it filed an application with the FAA for review and approval of proposed building;

WHEREAS, on June 6, 2014, the FAA issued a Determination of No Hazard to Air Navigation for the project (the "FAA Determination"), which expires on December 6, 2015; and

WHEREAS, specifically, the FAA Determination states that the proposed "structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities...."; and

WHEREAS, the FAA determination is based on an examination of four points of the four towers of the development, referred to as FAA Building Points 1-4; and

WHEREAS, the proposed height of the building is as follows: 184.830 feet above mean curb elevation / 226 feet above mean sea level (FAA Building Point 1); 175.950 feet above mean curb elevation / 226 feet above mean sea level (AMSL) (FAA Building Point 2); 180.620 feet above mean curb elevation / 226 feet above mean sea level (AMSL) (FAA Point 3); and 189.440 feet above mean curb elevation / 226 feet above mean sea level (AMSL) (FAA Point 4); and

WHEREAS, the maximum buildings heights approved by the FAA are as follows: 40 feet site elevation (SE) / 186 feet above ground level (AGL) / 226 feet above mean sea level (AMSL) (FAA Building Point 1); 40 feet site elevation (SE) / 186 feet above ground level (AGL) / 226 feet above mean sea level (AMSL) (FAA Building Point 2); 52 feet site elevation (SE) / 174 feet above ground level (AGL) / 226 feet above mean sea level (AMSL) (FAA Building Point 3); 40 feet site elevation (SE) / 186 feet above ground level (AGL) / 226 feet above mean sea level (AMSL) (FAA Building Point 4); and

WHEREAS, the Board notes that the FAA Determination is conditioned upon the following items, all of which the Board adopts as conditions to the issuance of the subject special permit: (1) the proposed structure must be marked/lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, red lights – Chapters 4, 5 (Red), and 12; (2) the applicant must file FAA Form 7460-2, Notice of Actual Construction or Alteration, in the event that the project is abandoned or within five (5) days after construction reaches its greatest height (7460-2, Part 2); and

WHEREAS, the Board notes that the FAA-approved height includes temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure, which shall not exceed the overall approved heights; and

WHEREAS, additionally, the Board notes that such temporary construction equipment with heights greater than the structure requires separate notice to the FAA;

WHEREAS, accordingly, the Board notes that the proposed building heights are equal to those approved by the FAA; and

WHEREAS, the Board notes that the FAA regulations are similar to those found in the ZR but differ slightly based on updated reference points and runway elevations; and

WHEREAS, the applicant has also submitted requests for approval to the Port Authority of New York/New Jersey (PA), which operates LaGuardia Airport; and

WHEREAS, as reflected in a no objection letter dated January 21, 2015 ("PA No Objection Letter"), the PA approves of the project and references the FAA Determination; and

WHEREAS, the PA No Objection Letter requests that all conditions stated in the FAA Determination be followed and that the proposed development project adhere to the heights stipulated therein; and

WHEREAS, the Board notes that its review was limited to the request for an increase in height above that permitted as-of-right, pursuant to the special permit; and

WHEREAS, based upon the above, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-66 and 73-03; and

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WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

Therefore it is Resolved, that the Board of Standards and Appeals issued a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-66 and 73-03, to permit, within an C4-2 zoning district the construction of a residential / commercial / hotel / retail / office / community facility / parking development which exceeds the maximum height limits around airports, contrary to ZR § 61-21; *on condition*:

THAT the maximum height of the buildings, including all appurtenances, shall be as follows: 40 feet site elevation (SE) / 186 feet above ground level (AGL) / 226 feet above mean sea level (AMSL) (FAA Building Point 1); 40 feet site elevation (SE) / 186 feet above ground level (AGL) / 226 feet above mean sea level (AMSL) (FAA Building Point 2); 52 feet site elevation (SE) / 174 feet above ground level (AGL) / 226 feet above mean sea level (AMSL) (FAA Building Point 3); 40 feet site elevation (SE) / 186 feet above ground level (AGL) / 226 feet above mean sea level (AMSL) (FAA Building Point 4);

THAT the proposed building must be marked/lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, red lights – Chapters 4, 5 (Red), and 12;

THAT the relief granted herein is only that associated with ZR § 73-66 and all construction at the site shall be as approved by DOB and must comply with all relevant Building Code and zoning district regulations;

THAT the applicant must comply with all FAA notification requirements associated with the construction at the site including, without limitation, that the applicant must file FAA Form 7460-2, Notice of Actual Construction or Alteration, in the event that the project is abandoned or within five (5) days after construction reaches its greatest height (7460-2, Part 2);

THAT substantial construction be completed in accordance with ZR § 73-70;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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

THAT the Department of Buildings must ensure compliance with all of applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 1, 2015.

314-14-BZ

CEQR #15-BSA-122X

APPLICANT – Sheldon Lobel, P.C., for Maurice Realty Inc., owner.

SUBJECT – Application November 20, 2014 – Special Permit (§73-125) to allow construction of an UG4 health care facility that exceed the maximum permitted floor area of 1,500 sf. R4A zoning district.

PREMISES AFFECTED – 1604 Williamsbridge Road, northwest corner of the intersection formed by Williamsbridge Road and Pierce Avenue, Block 04111, Lot 43, Borough of Bronx.

COMMUNITY BOARD #11BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated October 21, 2014, acting on DOB Application No. 220412337, reads in pertinent part:

Proposed treatment health care facility exceeding 1,500 sf. is contrary to ZR 22-14 and requires special permit from BSA as per ZR 73-125, limited to a maximum of 10,000 square feet of floor area; and

WHEREAS, this is an application under ZR §§ 73-125 and 73-03, to permit, in an R4A zoning district, the construction of a Use Group (“UG”) 4 treatment health care facility with 4,047 sq. ft. of floor area, contrary to ZR § 22-14; and

WHEREAS, a public hearing was held on this application on June 16, 2015 after due notice by publication in *The City Record*, with continued hearings on August 18, 2015 and October 20, 2015, and then to decision on December 1, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 11, Bronx, recommends disapproval of this application; and

WHEREAS, the subject site is located on the northeast corner of Williamsbridge Road and Pierce Avenue in an R4A zoning district, in the Bronx; and

WHEREAS, the site has approximately 82 feet of frontage along Williamsbridge Road, 53 feet of frontage along Pierce Avenue, and 3,978 sq. ft. of lot area; and

WHEREAS, the site is vacant; and

WHEREAS, the applicant proposes to construct a three (3) story with cellar building on the subject site with 4,047 sq. ft. total floor area and a floor area ratio (“FAR”) of 1.02 for use as a treatment health care facility; and

WHEREAS, the Board notes that other than the increase in floor area beyond 1,500 sq. ft. authorized by the special

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permit, the treatment health care facility must comply with all zoning parameters of the underlying district; and

WHEREAS, the applicant states that, aside from the requested increase in floor area, the proposal complies in all respects with the zoning parameters of the subject R4A zoning district; and

WHEREAS, the applicant states that the amount of open area and its distribution on the zoning lot conform to standards appropriate to the character of the neighborhood; and

WHEREAS, pursuant to ZR § 24-11, the maximum permitted lot coverage for a community facility use on a corner lot located in an R4A district is 60 percent, thus the minimum open space for a treatment health care facility on the subject lot is 40 percent; and

WHEREAS, the proposed building will have 35 percent lot coverage and 65 percent of the site will be open space; and

WHEREAS, specifically, the applicant submitted an area study indicating that lots within a 200 foot radius of the subject site have an average of 55 percent open space, that neighboring lots with residential buildings have comparable or less open space than the proposed project, and that the three other lots located on the same corner as the subject lot have considerably less open space than the proposal; and

WHEREAS, the applicant asserts that, pursuant to ZR § 24-34, the proposed 15 feet front yards along Williamsbridge Road and Pierce Avenue comply with the front yard requirements for a community facility in an R4A district and that the lots directly abutting the subject premises along Williamsbridge Road and Pierce Avenue contain residential buildings and comply with the yard requirements for residential uses on interior lots in an R4A zoning district; and

WHEREAS, in response to the Board's concern that the proposal does not adequately address the increased demand for parking created by the proposed building, the applicant amended the proposal to include accessory parking for six (6) cars on Block 4111, Lot 41, two lots east of the subject site (the "Accessory Lot");

WHEREAS, upon the Board's request, the applicant agreed to make such use of the Accessory Lot subject to a restrictive declaration to be recorded in the Office of the City Register in Bronx County; and

WHEREAS, the parking study provided by the applicant indicates that the demand for parking for staff and visitors to the subject facility will be 9 (nine) vehicles between 10 A.M. and 11 A.M., that, otherwise, the demand for parking during the facility's hours of 9 A.M. to 5 P.M. will be between 7 (seven) and 9 (nine) vehicles, and that the shortfall of 1 (one) to 3 (three) parking spaces left by the Accessory Lot can be accommodated by an off-street public parking lot located one block south of the subject premises on Sacket Avenue or by on-street parking spaces available within a 500 foot radius of the site; and

WHEREAS, in response to the Board's concerns regarding drop-offs and pick-ups in front of the facility and disruption to the bus stop area on Williamsbridge Road and the fire hydrant on Pierce Avenue, the applicant submitted an operation plan and map, represents that both the MTA and FDNY street access limitations provide for the flexible use of

these no-parking zones to be used, under limited circumstances for drop-up, pick-up and standing, and, further, applicant has submitted a "no-parking" signage request to the New York City Department of Transportation ("DOT") for the area on Pierce Avenue between the hydrant and the driveway to the subject site that will also provide space for the facility's drop-off and pick-up needs; and

WHEREAS, the applicant additionally notes that as the neighborhood is occupied by various major medical institutions, the presence of drop-off vehicles at the propose site will be neither out of character for nor disruptive to the local community; and

WHEREAS, based upon the above, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR § 73-125; and

WHEREAS, the Board further finds that the subject use will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR § 73-03; and

WHEREAS, the project is classified as Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 15-BSA-122X, dated November 20, 2014; and

WHEREAS, the EAS documents that the operation of the facility would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character, Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, the Board has determined that the operation of the facility will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-03 and 73-125, to permit, in an R4A zoning district, the construction of a UG 4 treatment health care facility with 4,047 sq. ft. of floor area, contrary to ZR § 22-14; *on condition* that all work shall substantially conform to drawings filled with this

MINUTES

application marked "Received November 12, 2015"--fourteen (14) sheets; and *on further condition*:

THAT the parameters of the building shall be as follows: three (3) stories plus cellar, a maximum wall height of 34'-6" feet, a maximum floor area of 4,048 sq. ft., a maximum lot coverage of 35 percent, minimum open space of 65 percent, and six (6) parking spaces on Block 4111, Lot 41, as reflected on the BSA-approved plans;

THAT the restricted declaration submitted in connection with this application shall be recorded in the Office of the City Register in Bronx County and proofs of filing and recordation will be provided to the Board;

THAT substantial construction will be completed in accordance with ZR § 73-70;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 1, 2015.

322-14-BZ

APPLICANT – Eric Palatnik, P.C., for Maks Kutsak, owner.

SUBJECT – Application December 12, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, lot coverage and open space (ZR 23-141); R3-1 zoning district.

PREMISES AFFECTED – 82 Coleridge Street, between Shore Boulevard and Hampton Avenue, Block 08728, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decisions of the New York City Department of Buildings ("DOB"), dated November 13, 2014 and July 29, 2015, acting on DOB Application No. 320913124, read together in pertinent part:

1. The proposed FAR of .96 exceeds the maximum permitted FAR of .5 for R3-1 district; contrary to ZR 23-141;
2. The proposed lot coverage (37%) exceeds the maximum permitted 35%; contrary to ZR 23-141;
3. The proposed open space (3,780 SF) is less than the minimum required 3,900 SF; contrary to ZR 23-141;
4. The proposed horizontal enlargement at the first floor projects into the required rear yard 4 feet; contrary to ZR 23-47; and

WHEREAS, this is an application under ZR § 73-622, to and permit, in an R3-1 zoning district, the enlargement of a single-family residence which does not comply with the zoning requirements for floor area, lot coverage and open space contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on October 20, 2015, after due notice by publication in *The City Record*, and then to decision on December 1, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Montanez performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the west side of Coleridge Street, between Shore Boulevard and Hampton Avenue, in an R3-1 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 60 feet of frontage along Coleridge Street, a depth of 100 feet, and 6,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with attic, one-family residence with approximately 1,895 sq. ft. of floor area (0.32 FAR); and

1 Recorded January 11, 2016, City Register File No. (CFRN) 201600009601.

MINUTES

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single- or two family detached or semi-detached residence* within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage*, *open space*, *floor area*, *side yard*, *rear yard* or perimeter wall height regulations, provided that:

- 1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*;
- 2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and
- 3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single- or two family detached or semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building's non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins. Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply.

The Board shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge an existing single-family residence,

as contemplated in ZR § 73-622; and

WHEREAS, the applicant seeks to increase the floor area of the structure from 1,894 sq. ft. (0.32 FAR) to 5,748 sq. ft. (0.96 FAR), increase the lot coverage from 16 percent to 37 percent, decrease the open space from 5,025 sq. ft. (84 percent) to 3,780 sq. ft. (63 percent), and decrease an 11'-0" portion of the rear yard from 33'-8" to 26'-0" and elsewhere maintain a rear yard of 30'-0"; and

WHEREAS, the residence is located within a floodplain zone and the first floor will be raised to 6'-10" above the curb level; and

WHEREAS, accordingly, the applicant has utilized the alternative height measurement for single- and two-family residences, set forth in ZR § 64-334, which requires at least two mitigating elements from the list in ZR § 64-61, and the applicant and represents that the front porch and balconies satisfy these requirements; and

WHEREAS, the applicant further represents that the proposal will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, based upon its review and the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the enlargement of a single-family residence which does not comply with the zoning requirements for floor area, lot coverage and open space contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received November 10, 2015"- Fifteen (15) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 5,748 sq. ft. (0.96 FAR), side yards of 10'-0" and 5'-0", a front yard with a minimum depth of 15'-0", a rear yard with a minimum depth of 26'-0", a maximum lot coverage of 37 percent and minimum open space of 63 percent (3,780 sq. ft.), all as illustrated on the BSA-approved plans;

THAT the existing walls are retained;

THAT the elevation of the existing floors is shown on the plans;

THAT the demolition of the existing structure by more than 50 percent of the floor area will not be permitted;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

MINUTES

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 1, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 1, 2015.

219-14-BZ

APPLICANT – Slater & Beckerman, P.C., for People 4 Parks LLC., owner.

SUBJECT – Application September 4, 2014 – Variance (§72-21) to permit the construction of a three-story, single-family residence with one parking space. M1-1 zoning district.

PREMISES AFFECTED – 64 DeGraw Street, south side of DeGraw Street between Columbia and Van Brunt Streets, Block 00329, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for deferred decision.

220-14-BZ and 221-14-BZ

APPLICANT – Slater & Beckerman, P.C., for Post Industrial Thinking, LLC, owner.

SUBJECT – Application September 4, 2014 – Variance (§72-21) to permit the construction of two 3-story single family residences. M1-1 zoning district.

PREMISES AFFECTED – 8 & 10 Underhill Avenue, west side of Underhill Avenue between Atlantic Avenue and Pacific Street, Block 01122, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #8K

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for deferred decision.

319-14-BZ

APPLICANT – Eric Palatnik, P.C., for Shore Plaza LLC, owner; Staten Island MMA1, Inc., lessee.

SUBJECT – Application December 5, 2014 – Special Permit (§73-36) to permit the legalization of a physical culture establishment (*UFC Gym*). C43 zoning district.

PREMISES AFFECTED – 1781 South Avenue, within West Shore Plaza 1745-1801 South Avenue, Block 02800, Lot 37, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to February 9, 2016, at 10 A.M., for adjourned hearing.

24-15-BZ

APPLICANT – Cozen O'Connor, for Roosevelt 5 LLC, owner.

SUBJECT – Application February 11, 2015 – Special Permit (§73-66) to permit the construction of a new building in excess of the height limits established under ZR 61-21. C2-3/R6 zoning district.

PREMISES AFFECTED – 71-17 Roosevelt Avenue, frontage on Roosevelt Avenue and 72nd Street, Block 01282, Lot (s) 137,138,141,151,160, Borough of Queens.

COMMUNITY BOARD #3Q

ACTION OF THE BOARD – Laid over to December 8, 2015, at 10 A.M., for deferred decision.

Ryan Singer, Executive Director

BULLETIN

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828-86-BZ	269-10 Grand Central Parkway, Queens
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DOCKETS

New Case Filed Up to December 8, 2015

263-15-BZ

45 Little Clove Road, northeast corner of the intersection of Little Clove Road and Cayuga Avenue, Block 00662, Lot(s) 29 & 32, Borough of **Staten Island, Community Board: 1**. Special Permit (§73-126) to allow a medical office, contrary to bulk regulations (§22-14). R3X zoning district. R3X district.

264-15-A

5 Herbert Street, north side of Herbert Street northwest corner of Holten Avenue, Block 6681, Lot(s) 30, Borough of **Staten Island, Community Board: 3**. Proposed construction of two family detached residence not fronting on a legally mapped street, contrary to General City Law 36 R3X (SSRD) zoning district R3X (SRD) district.

265-15-A

11 Herbert Street, north side of Herbert Street 52 feet west of Holten Avenue, Block 6681, Lot(s) 31, Borough of **Staten Island, Community Board: 3**. Proposed construction of two family detached residence not fronting on a legally mapped street, contrary to General City Law 36 R3X (SSRD) zoning district R3X (SRD) district.

266-15-A

17 Herbert Street, north side of Herbert Street 100 feet west of Holten Avenue, Block 6681, Lot(s) 40, Borough of **Staten Island, Community Board: 3**. Proposed construction of two family detached residence not fronting on a legally mapped street, contrary to General City Law 36 R3X (SSRD) zoning district R3X (SRD) district.

267-15-A

23 Herbert Street, north side fo Herbert Street 143 feet west of Holten Avenue, Block 6681, Lot(s) 41, Borough of **Staten Island, Community Board: 3**. Proposed construction of two family detached residence not fronting on a legally mapped street, contrary to General City Law 36 R3X (SSRD) zoning district R3X (SRD) district.

268-15-A

14 Holten Avenue, west side of Holten Avenue 102.99 feet north of Herbert Street, Block 6681, Lot(s) 34, Borough of **Staten Island, Community Board: 3**. Proposed construction of two family detached residence not fronting on a legally mapped street, contrary to General City Law 36 R3X (SSRD) zoning district R3X (SRD) district.

269-15-BZ

2076 Ocean Parkway, west side of Ocean Parkway between Avenue T and Avenue U, Block 07108, Lot(s) 39, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) for the enlargement of an existing two-family home. R4 (OP) zoning district. R5 (OP) district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

REGULAR MEETING JANUARY 22, 2016, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Friday morning, January 22, 2016, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

382-80-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Full Gospel NY Church, owner.

SUBJECT – Application July 29, 2015 – Extension of Term of a previously approved variance permitting the operation of a theater (UG 8) on the mezzanine and second floor of an existing building which expired on July 1, 2015. R8B zoning district.

PREMISES AFFECTED – 316-318 East 91st Street, Block 1553, Lot 41, Borough of Manhattan.

COMMUNITY BOARD #8M

1255-80-BZ

APPLICANT – Gerald J. Caliendo, RA. AIA, for Brett Morgan LLP, owner.

SUBJECT – Application November 23, 2014 – Extension of Term; Amendment and Waiver 72-01: request an extension of term for a previously expired variance that expired on 6/2/2011 and Amendment to change from the use (UG 17) to (UG6) and also require Waiver of the Rules. R5 zoning district.

PREMISES AFFECTED – 35-33 31st Street, Block 00604, Lot 1, Borough of Queens.

COMMUNITY BOARD #1Q

APPEALS CALENDAR

220-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Ridgeway Abstracts LLC., owner.

SUBJECT – Application September 14, 2015 – Proposed construction of a mixed use building that does not front on a legally mapped street, contrary to Article 3, Section 36 of the General City Law. R3A zoning district.

PREMISES AFFECTED – 3858-60 Victory Boulevard, east corner of intersection of Victory Boulevard and Ridgeway Avenue, Block 2610, Lot 22, Borough of Staten Island.

COMMUNITY BOARD #2SI

2016-4-A thru 2016-1184-A

APPLICANT – Mayor’s Office of Housing Recovery Operations (“HRO”)

SUBJECT – Application January 5, 2016 – Waiver of General City Law 36 for 1181 properties destroyed or substantially damaged by Hurricane Sandy filed by HRO on behalf of individual property owners enrolled in New York City’s Build-It-Back (“BIB”) program.

PREMISES AFFECTED – Borough of Brooklyn, Borough of Queens, Borough of Staten Island.

REGULAR MEETING JANUARY 22, 2016, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Friday afternoon, January 22, 2016, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

24-14-BZ

APPLICANT – Gerald J. Caliendo, Architect, PC, for Frank Moreno, owner.

SUBJECT – Application February 3, 2014 – Variance (§72-21) to legalize an enlargement of an existing one family residence and a conversion from one dwelling unit to two dwelling units, contrary to front and side yards (§23-45 and §23-46). R4 zoning district.

PREMISES AFFECTED – 106-02 Sutter Avenue, Block 11506, Lot 42, Borough of Queens.

COMMUNITY BOARD #10Q

95-15-BZ

APPLICANT – Eric Palatnik, P.C., for Shalev Shoshani, owner; Rudolf Abramov, lessee.

SUBJECT – Application April 30, 2015 – Special Permit (§73-36) to a physical culture establishment (*Retro Fitness*), within two-story masonry building. C8-3 Div. by R7-1 W/C2-4 zoning district.

PREMISES AFFECTED – 1203 Jerome Avenue, Block 02506, Lot 062, Borough of Bronx.

COMMUNITY BOARD #4BX

158-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 125 Park Owner LLC, Blink 125 Park, Inc., lessee.

SUBJECT – Application July 14, 2015 – Special Permit (73-36) to allow a physical culture establishment (“PCE”) to be operated as (Blink Fitness) within an existing twenty-four story commercial building. C5-3(MID) zoning district.

PREMISES AFFECTED – 125 Park Avenue, northwest corner of intersection of Park Avenue and East 42nd Street, Block 01296, Lot 01, Borough of Manhattan.

COMMUNITY BOARD #5M

CALENDAR

203-15-BZ

APPLICANT – Kramer Levin Naftalis & Frankell LLP, for Margaret Cotter, Liberty Theaters, owners.

SUBJECT – Application August 28, 2015 – Variance (§72-21) to allow the restoration, reuse and enlargement of an existing commercial building located partly in a C6-4 district/Special Union Square District and an R8B district. The building is Tammany Hall and is a landmark.

PREMISES AFFECTED – 44 Union Square East, Block 0872, Lot 078, Borough of Manhattan.

COMMUNITY BOARD #5M

Ryan Singer, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, DECEMBER 8, 2015
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.

SPECIAL ORDER CALENDAR

699-46-BZ

APPLICANT – Eric Palatnik, P.C., for Gurcharan Singh, owner.

SUBJECT – Application May 22, 2015 – Extension of Time to Complete Construction of a previously approved variance permitting the operation of an Automotive Service Station (UG 16B), which expired on May 19, 2015. R3X zoning district.

PREMISES AFFECTED – 224-01 North Conduit Avenue, between 224th Street and 225th Street, Block 13088, Lot 0044, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda..... 5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for an extension of time to complete construction pursuant to a variance, as amended, which permitted the operation of an automotive service station with accessory use, pursuant to ZR § 11-412; and

WHEREAS, a public hearing was held on this application on October 16, 2015, after due notice by publication in *The City Record*, with a continued hearing on November 24, 2015, and then to decision on December 8, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the north side of North Conduit Avenue between 224th Street and 225th Street, in an R3X zoning district, in Queens; and

WHEREAS, the site has approximately 133 feet of frontage along North Conduit Avenue, 186 feet of frontage along 224th Street, 120 feet of frontage along 143rd Avenue, and 18,720 sq. ft. of lot area; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 28, 1947, when, under the subject calendar number, the Board granted a variance permitting the reconstruction and enlargement of an existing gasoline service station and an accessory building for auto accessory sales, lubricatorium, office and laundry; and

WHEREAS, on September 9, 1947, under the subject

calendar number, the Board amended the resolution to permit an automobile showroom in the accessory building; and

WHEREAS, on February 3, 1948, under the subject calendar number, the Board further amended the resolution to extend the time in which to complete all construction and obtain all permits to February 3, 1949; and

WHEREAS, on February 23, 1949, under the subject calendar number, the Board granted an additional one (1) year extension of time to complete construction and obtain permits; and

WHEREAS, on October 25, 1949, February 13, 1952, and November 13, 1968, under the subject calendar number, the Board granted applications for amendments to the resolutions relating to the location of pumps and number of gasoline storage tanks permitted on the subject premises; and

WHEREAS, on November 19, 2013, under the subject calendar number, the Board granted an application for an amendment permitting the conversion of the automotive service bays to an accessory convenience store, the elimination of automobile repair use, an increase in the number of gasoline pumps, and other related site conditions and required that a new certificate of occupancy be obtained by May 19, 2015; and

WHEREAS, the applicant represents that no construction has been performed on the subject premises pursuant to the November 19, 2013 approval because of delays in the Department of Buildings (DOB) review process;

WHEREAS, accordingly, the applicant seeks: (1) an extension of an additional three (3) years to complete construction and obtain a certificate of occupancy; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to complete construction and obtain a certificate of occupancy is appropriate with certain conditions, as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated January 28, 1947, so that as amended this portion of the resolution reads: “to grant an extension of time to complete construction and obtain a certificate of occupancy to May 19, 2018; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT construction shall be completed by May 19, 2018;

THAT a Certificate of Occupancy for the premises shall be obtained by May 19, 2018;

THAT plantings shall be provided on the premises as shown in the BSA-approved plans;

THAT fencing shall be replaced with black aluminum fencing and locking gates;

THAT the curb cuts shown on the BSA-approved plans shall be restored;

THAT all open DOB violations on the premises shall be cured;

THAT the premises shall be kept free of all graffiti and debris;

THAT barbed wire shall not be permitted on the premises;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect;

MINUTES

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Application No. 420594315)

Adopted by the Board of Standards and Appeals, December 8, 2015.

333-78-BZ

APPLICANT – Goldman Harris LLC., for 136 Loft Corporation, owner.

SUBJECT – Application May 5, 2015 – Amendment (72-21) to reopen and amend the captioned variance to permit the transfer of unused development rights for the premises for use in a commercial development, located within an M1-6 zoning district.

PREMISES AFFECTED – 136-138 West 24th Street, south of West 24th Street between Sixth and Seventh Avenue, Block 0799, Lot 060, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application to reopen and amend the variance granted by the Board under BSA Cal. No. 333-78-BZ (the “Variance”), which permitted the conversion, from manufacturing and commercial uses to residential use, of the second through fifth floors of the building known as and located at 136 West 24th Street, in Manhattan (the “Building”); and

WHEREAS, the purpose of this application is to facilitate the transfer of unused development rights appurtenant to the subject site (Block 799, Lot 60) by the owner of the site, 136 Loft Corporation (the “Applicant”) to the owner of a development site (the “Development Site”) within a zoning lot to be created upon the merger of the subject site with contiguous parcels located on Block 799 (the “Proposed Zoning Lot Merger”); and

WHEREAS, a public hearing was held on this application on October 20, 2015, after due notice by publication in *The City Record*, and then to decision on December 8, 2015; and

WHEREAS, Commissioner Montanez and Commissioner Chanda performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 4, Manhattan, recommends that the Board deny this application; and

WHEREAS, the application is brought on behalf of the Applicant, which owns the subject site and wishes to enter into the Proposed Zoning Lot Merger, for which it seeks the Board’s authorization; and

WHEREAS, the subject site has approximately 49 feet of frontage along the south side of West 24th Street, between Avenue of the Americas and Seventh Avenue, in Manhattan, within an M1-6 zoning district; and

WHEREAS, the subject site has a lot area of approximately 4,839 sq. ft. and the Building contains approximately 19,069.2 sq. ft. of floor area; and

WHEREAS, the Applicant states that a maximum FAR of 10.0 is permitted at the site, thus there are 29,545.8 sq. ft. of unused development rights appurtenant to the site; and

WHEREAS, the Building contains retail use on the ground floor and, as authorized by the Variance, residential uses on the second through fifth floors; and

WHEREAS, the Board notes that the Variance involved the change of use of certain floors within the existing Building with no impact on bulk; and

WHEREAS, the Applicant represents that there are not any changes to the Building associated with the Proposed Zoning Lot Merger and development rights transfer; and

WHEREAS, in addition, the Applicant contends that the proposed transfer of development rights is consistent with the Court’s decision in *Bella Vista v. Bennett*, 89 N.Y. 2d 565 (1997), setting forth the parameters of Board review of requests for the transfer of development rights from sites for which a variance has been granted; and

WHEREAS, the Applicant asserts that a transfer of the unused development rights from the subject site is not in conflict with the Variance; and

WHEREAS, the Applicant represents that, at the time of the Variance, there were no viable opportunities to use the unused development rights to enlarge the Building or to transfer the unused development rights to an adjacent or secondarily adjacent lot, because of market conditions, the built conditions of the lots on the subject block, and the ownership of such lots; the foregoing representation was supported by an expert analysis of the unused development rights at the time of the Variance, together with a diagram identifying all possible receptors for the unused development rights at that time; and

WHEREAS, in hearing, the Board asked the Applicant to provide proof that potential receiving sites for the unused development rights at issue herein were separately owned in 1978; the Applicant provided ACRIS printouts and deeds showing that the properties were owned separately at that time; and

WHEREAS, the Applicant argues that because the unused development rights had no value at the time of the Variance, the Board incorporated the value of such rights into its analysis when it determined that a conforming use of the Building could not generate a reasonable return; and

WHEREAS, thus, the Applicant states that an amendment of the Variance to facilitate the transfer of the unused development rights from the subject site to the Development Site does not undermine the integrity of the Board’s earlier findings concerning ZR §§ 72-21(b) or 72-21(e) because the facts of the instant application are readily distinguishable from those underlying the Court’s holding in *Bella Vista*; and

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WHEREAS, the Applicant concludes that the use of the development rights as a result of the Proposed Zoning Lot Merger is therefore not inconsistent with the Variance; and

WHEREAS, the Board notes that *Bella Vista* concerned a permit request for a new as-of-right residential building proposed to be built through the transfer of development rights—from a site in which the Board granted a use variance to permit the operation of a movie theater in a residential zoning district, to a separate adjacent site under common ownership—for development of a complying residential building; and

WHEREAS, the Court held that review and approval of such transfers by the Board was required, *inter alia*, because the basis for the original grant, particularly with respect to the findings of financial hardship under ZR § 72-21(b) and minimum variance needed to provide relief under ZR § 72-21(e), may be implicated by the proposed transfer; and

WHEREAS, the Board notes that, unlike in *Bella Vista*, the subject site and the Development Site have been under separate, unrelated ownership since the Board's grants; therefore, the Applicant lacked control over the timing and nature of the development of the Development Site; and

WHEREAS, the Board also notes that a brief period of time elapsed between the issuance of the variance underlying the *Bella Vista* decision and the date of the permit application in which the owner proposed to use floor area transferred from the variance site, further distinguishing that case from the instant application and the Proposed Zoning Lot Merger; and

WHEREAS, the Board notes that in *Bella Vista*, the permit application proposing to use floor area transferred from the variance site was filed only three years after the Board grant, while the subject Variance was issued in 1978 (approximately thirty seven years before the filing of the instant application); and

WHEREAS, the Board agrees that the differences in timing and in the health of the respective real estate markets distinguish the *Bella Vista* case from the instant case and supports the conclusion that the use of the subject site's unused development rights was not foreseeable by the owner of the Development Site or the Board; and

WHEREAS, the Board finds that the proposed transfer of development rights does not implicate or affect the basis for its findings in general, and specifically the (b) and (e) finding, at the time that they were made; and

WHEREAS, the Board observes that this finding is based on both the infeasibility of assemblage at the time of the Variance and on the changing real estate market conditions in the neighborhood surrounding the subject site; and

WHEREAS, based upon its review of the record, the Board does not object to the Proposed Zoning Lot Merger or transfer of unused development rights from the subject site, but notes that any further changes to the subject site that are inconsistent with prior approvals are subject to the Board's review and approval; and

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolutions, having been

adopted on December 19, 1978, so that as amended this portion of the resolutions shall read: "to permit the merger of the subject site with contiguous parcels located on Block 799, Manhattan, and the associated modifications to the BSA-approved site plan; and *on condition*:

THAT the zoning calculations, including any transfer of development rights, shall be subject to DOB's review and approval and shall be in full compliance with underlying bulk regulations;

THAT the site shall remain subject to the Board's jurisdiction, including modifications to the buildings on the site;

THAT all conditions from the prior resolution not specifically waived by the Board shall remain in effect;

THAT DOB shall ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, December 8, 2015.

14-10-BZII

APPLICANT – Friedman & Gotbaum LLP by Shelly S. Friedman, Esq., for Cooper Square Assoc. Limited Partnership, owner; Grace Church School, lessee.

SUBJECT – Application March 30, 2015– Extension of Time to Complete Construction (73-01) for a previously granted variance and companion to 70-15-BZ (72-01) to construct a gymnasium in the existing school, located within an M1-5B zoning district.

PREMISES AFFECTED – 38-50 Cooper Square, Block 0544, Lot 7503/aka 38, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to complete construction for a previously approved special permit; and

WHEREAS, a public hearing was held on this application on December 8, 2015, after due notice by publication in the *City Record*, and then to decision on the same date; and

WHEREAS, the applicant filed a companion application under BSA Cal. No. 70-15-BZ for a variance to allow the construction of a gymnasium on the fourth floor of the subject building; the Board heard the applications and granted the variance approval on the same date; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Vice-Chair Hinkson;

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and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the application is brought on behalf of Cooper Square Associates Limited Partnership, as owner, and the Board of Trustees of Grace Church School, a not-for-profit school, as lessee (the "School"); and

WHEREAS, the site is located on the west side of Cooper Square, between East 4th Street and Astor Place, within an M1-5B zoning district; and

WHEREAS, the site has a lot area of 19,877 sq. ft.; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 8, 2010 when, under BSA Cal. No. 14-10-BZ, the Board granted a special permit to allow the proposed operation of a Use Group 3 school on a site in an M1-5B zoning district within the NoHo Historic District; and

WHEREAS, substantial construction was to be completed by May 8, 2014 in accordance with ZR § 73-70; and

WHEREAS, the applicant represents that the construction is complete on the lower levels and floors one through three occupied by the School; and

WHEREAS, however, the School has not been able to occupy and complete work on the fourth floor because it remains occupied by two commercial tenants whose leases pre-date the 2010 special permit; and

WHEREAS, the School awaits the fourth-floor tenants' departure so that it may invoke its option to expand into those units and construct the gymnasium pursuant to the companion variance; and

WHEREAS, further, the School notes that it did not comply with the 2010 special permit requirement that the School, prior to the issuance of a Certificate of Occupancy, obtain from DEP either a Notice of No Objection or a Notice of Satisfaction with regard to vapor testing with the building upon completion of the work approved in the resolution; and

WHEREAS, as part of the subject application, the School provided the required reports, which stated that testing did not indicate vapor intrusion and detected levels do not present a concern for the school use, and DEP issued a letter on January 20, 2015 to confirm that it did not have any objection; and

WHEREAS, as to the special permit condition that the School "obtain any supplemental approvals from LPC, as required," LPC issued a Certificate of Appropriateness on November 16, 2011 to approve the exterior work related to the special permit approval and has since issued a second Certificate of Appropriateness, dated September 9, 2014, to approve the work associated with the variance; and

WHEREAS, the applicant revised the approved plans to incorporate the changes associated with the variance approval; and

WHEREAS, accordingly, the applicant now requests an extension of time to complete construction; and

WHEREAS, the Board notes that it conducted an environmental review of the underlying action and documented relevant information about the project in the Final Environmental Assessment States (EAS) CEQR No. 10BSA043M, dated May 14, 2010; and

WHEREAS, the applicant provided the Board with a Technical Memorandum dated November 24, 2015, updating the May 14, 2010 EAS; the Technical Memorandum states that neither the project nor the proposed modification thereto, nor the changes in the background conditions, would result in any significant adverse environmental impact and that the proposed project is consistent with the conclusion of the May 14, 2010 EAS; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, based upon the above, the Board finds that the requested extension of time is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals adopts the findings of the November 24, 2015 Technical Memorandum prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of the Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and *reopens* and *amends* the resolution, dated May 8, 2010, so that as amended this portion of the resolution shall read: "to grant an extension of time to complete construction and obtain a certificate of occupancy, to expire on December 8, 2019, and to permit the noted modifications to the previously-approved plans; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 7, 2015" – fifteen (15) sheets and; *on further condition*:

THAT substantial construction be completed by December 8, 2019;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Application No. 120232319)

Adopted by the Board of Standards and Appeals, December 8, 2015.

70-15-BZ

CEQR #10-BSA-043M

APPLICANT – Friedman & Gotbaum LLP by Shelly S. Friedman, Esq., for Cooper Square Assoc. Limited Partnership, owner; Grace Church School, lessee.

SUBJECT – Application March 30, 2015– Variance (§72-21) with an SOC companion(14-10-BZII) to construct a multifunctional Gymnasium with appropriate floor-to-ceiling heights on the fourth floor of an existing school building presently housing Grace Church School high school division. Extension of Time to Complete

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Construction (§73-01) for a previously granted Special Permit (§73-19). M1-5B zoning district.

PREMISES AFFECTED – 38-50 Cooper Square, Block 0544, Lot 7503/aka 38, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated July 27, 2015, acting on Department of Buildings Application No. 120232319, reads in pertinent part:

Proposed work increases the extent of the rear yard non-compliance in an M1-5B district, contrary to ZR 43-26; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-5B zoning district, within the NoHo Historic District, the proposed enlargement of an existing building to accommodate a gymnasium at the fourth floor, that increases the degree of rear yard non-compliance pursuant to ZR § 43-26; and

WHEREAS, the application is brought on behalf of Cooper Square Associates Limited Partnership, as owner, and the Board of Trustees of Grace Church School, a not-for-profit school, as lessee (the “School”); and

WHEREAS, the site is located on the west side of Cooper Square, between East 4th Street and Astor Place, within an M1-5B zoning district; and

WHEREAS, the site has a lot area of 19,877 sq. ft.; and

WHEREAS, the applicant states that the site is located on a portion of Lot 38, which also includes the buildings located at 32-36 Cooper Square; and

WHEREAS, the site is currently occupied by a four-story building primarily used by the School’s high school division (the “Building”); and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 8, 2010 when, under BSA Cal. No. 14-10-BZ, the Board granted a special permit pursuant to ZR § 73-19 to allow the operation of a Use Group 3 school on a site in an M1-5B zoning district within the NoHo Historic District; and

WHEREAS, the applicant filed a companion application to the current variance for an extension of time to complete the construction associated with the special permit (BSA Cal. No. 14-10-BZ); the Board heard both applications and granted both approvals on the same date; and

WHEREAS, a public hearing was held on this application on December 8, 2015, after due notice by publication in the *City Record*, and then to decision on the same date; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Vice-Chair Hinkson;

and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the School proposes to raise by varying degrees a portion of the existing roof over the 42-50 Cooper Square portion of the Building to provide for a curvilinear roof over a new 6,110 sq. ft. gymnasium (the “Gymnasium”) on the fourth floor (the “Roof Modification”); and

WHEREAS, the School represents that the Roof Modification will increase the Building’s volume but not its or its zoning lot’s zoning floor area, which will remain at 131,632 sq. ft. (4.46 FAR), below both the 5 FAR permitted in M1-5B zoning districts for manufacturing and commercial uses and 6.5 FAR permitted for community facility uses; and

WHEREAS, the School states that the Roof Modification is the only feasible and programmatically acceptable means for providing a multifunctional gymnasium with appropriate floor-to-ceiling heights that will accommodate the high school’s physical education program and an on-site location for its athletics program, which are both essential to the School’s curriculum; and

WHEREAS, the Building was originally built in the mid-19th Century as a row of four houses which were joined internally and used for various industrial and commercial purposes throughout the first half of the 20th Century; the current commercial façade was applied in 1960; the Building currently houses the School on the lower levels and on floors one through three and commercial tenants on floor four; and

WHEREAS, the applicant states that the existing four-story Building rises without setback to a height of 58.5 ft. at its highest point and that its massing complies with all Zoning Resolution bulk provisions except ZR § 43-26, which requires a rear yard with a depth of 20 feet; and

WHEREAS, the applicant states that the depth of the rear yard, which has existed since the mid-19th Century, is ten feet and includes a chimney within the noncompliant portion of the rear yard; and

WHEREAS, the applicant notes that the rear yard is a legal noncompliance that pre-dates the effective date of the Zoning Resolution; and

WHEREAS, the applicant states that the degree of non-compliance was decreased upon conversion of the Building to community facility use in 2010, at which time that portion of the noncompliance below the level of the second floor and a height of 23 feet became a permitted obstruction; and

WHEREAS, the applicant states that the proposed Roof Modification, a new 92.75-ft. by 68.67-ft. curvilinear standing seam roof over the fourth floor gymnasium, will increase the maximum height of the Building to 78.5 feet; because the Roof Modification is sloped, the increase in height varies between 9.75 feet at the roof’s lowest point to 22 feet at its highest point; and

WHEREAS, the applicant states that approximately 85 percent of the proposed Roof Modification is in compliance with the Zoning Resolution because it falls outside of the

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rear yard; however, the 927.5 sq. ft. (92.75 feet by 10 feet) western portion of the Roof Modification will increase the extent of the existing rear yard noncompliance because the noncompliant rear wall's height will increase by 9.75 feet and then, for the ten feet that the existing roof remains within the required rear yard, the new roof will slope up to a height of 18.58 feet above the existing roof; it will reach its full height of 38.5 feet (or 22 feet above the existing roof) beyond the rear yard line, where is it fully compliant; and

WHEREAS, the applicant describes the request as allowing relief to permit 15 percent of the new roof to be built in an already non-complying rear yard, thereby increasing the extent of an existing rear yard noncompliance; the Roof Modification will increase the height of that part of the Building located within the noncomplying rear yard from 9.75 feet at the rear wall to 18.58 feet at the rear yard line; and there will be no change in the location of the noncomplying rear wall; and

WHEREAS, because of the aforementioned noncompliance, the School seeks a variance; and

WHEREAS, the School represents that the waiver is sought to enable it to construct a facility that meets its programmatic needs within the historic building with a noncomplying rear yard; and

WHEREAS, the School identifies the following primary programmatic needs: (1) to satisfy the New York State Board of Regents' requirement for physical education for grades 7 through 12 of at least two or three times per week; (2) to accommodate the physical education requirement for all high school students within the Building; and (3) to create a gymnasium that achieves regulation dimensions; and

WHEREAS, as to satisfying the scheduling requirements, the School currently uses the Lower School gymnasium and commercial and institutional sports facilities in the area, some of which require up to an hour of travel time; and

WHEREAS, the School states that the Lower School gymnasium is used at its full capacity between the hours of 8:35 a.m. and 3:20 p.m. by the lower division for its own mandated daily physical education classes and by the middle division for its mandated physical education classes at least three times per week, requiring significant programmatic compromises and hardships in scheduling High School physical education classes; and

WHEREAS, the School states that potential classroom and study time for every High School student is compromised by the need to use the Lower School for physical education classes which must be scheduled either before 8:35 am or after 3:20 pm; and

WHEREAS, as to the size of the Gymnasium, the School requires suitable ceiling heights to accommodate the complete range of high school physical education and athletic programming; and

WHEREAS, the applicant contends that, per ZR § 72-21(a), the history of development of the site, when coupled with the School's programmatic needs, creates practical difficulties and unnecessary hardship in developing the site in compliance with the zoning regulations; and

WHEREAS, the applicant states that the irregular shape of the zoning lot and the Building, as well as the Building's existing internal configuration and the School's programming needs, are all factors that dictate the location of the Gymnasium be where it is proposed on the fourth floor; and

WHEREAS, the applicant notes that the subject Block 544 is a convex quadrilateral (four sides, non-parallel), formed by the nearly parallel Astor Place and West 4th Street, significantly non-parallel Cooper Square, which runs diagonal to the Manhattan street grid, and Broadway, which between the Battery and Union Square is on the Manhattan grid; and

WHEREAS, the applicant cites to the resultant unique geometry of the zoning lot: a 95-ft. side lot line to the north, a 115-ft. side lot line to the south, the 177-ft. Cooper Square frontage running straight but at a 70 degrees angle to the side lot line, a 50-ft portion of the rear lot line runs almost parallel to the street line and the remaining 117-ft. of the rear lot line runs perpendicular to the side lot lines; and

WHEREAS, accordingly, the resulting building, a six-sided structure with two non-parallel ten-ft. rear yards, is a composition of four row houses built in the mid-19th Century and joined internally around the turn of the 20th Century as one industrial building; and

WHEREAS, due to the unique configuration of the lot and the historic building, the applicant asserts that there is not any possibility of accommodating a regulation-size gymnasium within the building occupied by other school uses or otherwise on the site; and

WHEREAS, specifically, the applicant states that the internal configuration within the Building retains substantial elements of the four original structures; new elevator cores and stairs have since been introduced into the existing configuration so as to work around the remaining original structures, and cannot easily be relocated to accommodate a gymnasium; and

WHEREAS, the applicant adds that, programmatically, the gymnasium cannot be accommodated elsewhere in the building due to the limits of the existing conditions such as floor heights between 8.5 feet and 10.5 feet; and

WHEREAS, the applicant asserts that only on the fourth floor can the roof be raised to achieve a satisfactory height but, due to stair locations and other programmatic requirements, the only feasible location on the fourth floor is at the rear; and

WHEREAS, the applicant asserts that to locate the Gymnasium in any other part of the Building would result in a floor plan that significantly compromises the efficiency of the floor for educational purposes and interrupts important functional relationships among the remaining academic uses on the floor; and locating the proposed gymnasium elsewhere in the Building on a lower floor level would require the demolition of existing floor slabs and the pouring of new slabs at floor-to-floor heights in order to accommodate the necessary gymnasium heights; and

WHEREAS, additionally, the applicant states that

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constructing the Gymnasium elsewhere on the roof would be impossible due to the existing fire stair and elevator bulkheads, which cannot be relocated and locating the it on a portion of the fourth floor that would have permitted the raised roof to be located without a rear yard objection is impossible thus, partially encroaching within the site's noncomplying rear yard is the only viable location for the Roof Modification; and

WHEREAS, finally, the applicant asserts that locating the Roof Modification in an area that would not encroach within the noncomplying rear yard would increase its visibility to an extent that would be inconsistent with the Landmarks Preservation Commission's guidelines for approval of a Certificate of Appropriateness; and

WHEREAS, in analyzing the applicant's waiver requests, the Board notes at the outset that the School, as a nonprofit New York State chartered educational institution, may rely on its programmatic needs, which further its mission, as a basis for the requested waivers; and

WHEREAS, the Board acknowledges that the School, as an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, as noted by the applicant, under well-established precedents of the courts and this Board, an application for a variance that is needed in order to meet the programmatic needs of a non-profit educational institution is entitled to significant deference and shall be permitted unless the application can be shown to have an adverse effect upon the health, safety, or welfare of the community (*see, e.g., Cornell University v Bagnardi*, 68 NY2d 583 (1986)); and

WHEREAS, the Board observes that *Cornell* deference has been afforded to comparable institutions in numerous other Board decisions, certain of which were cited by the applicant in its submissions; and

WHEREAS, the applicant states that based on an extensive review of its facility and operations, the proposal is the most efficient and effective use of its educational programmatic space, and the applicant concludes that the bulk relief requested is necessary to meet the School's programmatic needs; and

WHEREAS, the Board finds that the proposal has been designed to be consistent and compatible with adjacent uses and with the scale and character of the surrounding neighborhood and is, therefore, consistent with the standard established by the decision in *Cornell*; and

WHEREAS, the Board concurs that the waivers will facilitate construction that will meet the School's articulated needs; and

WHEREAS, in sum, the Board concludes that the applicant has fully explained and documented the need for the waivers to accommodate the School's programmatic needs; and

WHEREAS, based upon the above, the Board finds that, consistent with ZR § 72-21(a), the programmatic needs of the School along with the existing constraints of the site create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the School is a non-profit educational institution and the variance is needed to further its educational mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant asserts that the variance, if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant notes that the proposal does not have any impact on the historic rear yard condition, which consists of two ten-ft.-wide noncomplying rear yards along the rear lot line and that there will not be any changes to the footprint of the Building or its historic relationships to the rear and side walls of the adjacent buildings; and

WHEREAS, the applicant represents that the proposed Roof Modification is compatible with the scale and bulk of the surrounding area; and

WHEREAS, because the site is within the NoHo Historic District, the applicant obtained approval for the Roof Modification from the Landmarks Preservation Commission ("LPC") by Certificate of Appropriateness issued September 9, 2014; and

WHEREAS, the applicant states that the proposed Roof Modification will not substantially alter the views from the public way or any of the adjacent buildings; the approval of this variance will have no public visual impacts on its immediate surroundings or the urban context to which the Building contributes; and

WHEREAS, the applicant proposes to use mostly translucent clerestory windows on the east and west sides (not facing any adjacent residential uses), combined with light gray corrugated metal siding with a matching light gray standing seam roof; and

WHEREAS, additionally, the applicant states that the arch form of the roof beams makes them more structurally efficient and hence shallower than a flat form, thus maximizing the clearance required below and minimizing the exterior bulk; and

WHEREAS, the applicant states that the gymnasium will be constructed on a fully-built roof with the lowest height of among the group of adjacent buildings; and

WHEREAS, the applicant asserts that the choice of materials is consistent with the rooftop materials found throughout the NoHo Historic District, allowing the new materials to blend into the background of surrounding buildings and mechanical equipment; and

WHEREAS, further, the applicant states that the proposal will not bring new uses nor increase in density to the community; and

WHEREAS, the Board agrees that the proposed Roof Modification will not alter the essential character of the surrounding neighborhood, impair the appropriate use and development of adjacent property, or be detrimental to the public welfare; and

WHEREAS, the applicant states that, pursuant to ZR §

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72-21(d), the unnecessary hardship encountered by compliance with zoning regulations is created by its programmatic needs in connection with the physical constraints of the Building, constructed in the mid-19th Century, which has pre-existing noncomplying bulk conditions that constrain any development; and

WHEREAS, the applicant concludes, and the Board agrees, that the practical difficulties and unnecessary hardship that necessitate this application have not been created by the School or a predecessor in title; and

WHEREAS, the applicant represents that the requested waivers are the minimum necessary to accommodate the School's current and projected programmatic needs, in accordance with ZR § 72-21(e); and

WHEREAS, specifically, the applicant notes that the Roof Modification only requires relief from ZR § 43-26 to permit a 15 percent portion of the new roof to be built in an already noncomplying rear yard, thereby increasing the extent of an existing rear yard noncompliance; and the Roof Modification will increase the height of that part of the Building located within the noncomplying rear yard from 9.75 feet at the rear wall to 18.58 feet at the rear yard line; and

WHEREAS, the applicant states that the rear yard waiver represents the minimum variance necessary to allow the School to meet its programmatic needs; and

WHEREAS, the Board therefore finds that the requested waiver represents the minimum variance necessary to allow the School to meet its programmatic needs; and

WHEREAS, accordingly, based upon its review of the record and its site visits, the Board finds that the applicant has provided sufficient evidence to support each of the findings required for the requested variances; and

WHEREAS, the Board notes that it conducted an environmental review of the May 2, 2010 Special Permit and documented relevant information about the project in the Final Environmental Assessment States (EAS) CEQR No. 10BSA043M, dated May 14, 2010; and

WHEREAS, the applicant provided the Board with a Technical Memorandum dated November 24, 2015, updating the May 14, 2010 EAS; the Technical Memorandum states that neither the project nor the proposed modification thereto, nor the changes in the background conditions, would result in any significant adverse environmental impact and that the proposed project is consistent with the conclusion of the May 14, 2010 EAS; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved that the Board of Standards and Appeals adopts the findings of the November 24, 2015 Technical Memorandum prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of the Procedure for City

Environmental Quality Review and Executive Order No. 91 of 1977, as amended,, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an M1-5B zoning district, within the NoHo Historic District, the proposed enlargement of an existing building to accommodate a gymnasium at the fourth floor, that increases the degree of rear yard non-compliance pursuant to ZR § 43-26; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 7, 2015" – fifteen (15) sheets and *on further condition*:

THAT the proposed building will have the following parameters: (1) floor area of 131,632 sq. ft. (4.46 FAR); (2) a maximum height of 78'-6"; (3) four stories; and (4) a minimum rear yard depth of ten feet;

THAT the use of the Building will be a Use Group 3 school; any change in use requires the Board's review and approval;

THAT there shall be no exterior lighting or sound amplification;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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

THAT construction will be substantially completed in accordance with the requirements of ZR § 72-23; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 8, 2015.

826-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartments, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 269-10 Grand Central Parkway, northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to March 8, 2016, at 10 A.M., for continued hearing.

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827-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartments, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 270-10 Grand Central Parkway, northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to March 8, 2016, at 10 A.M., for continued hearing.

828-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartment, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 269-10 Grand Central Parkway, northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to March 8, 2016, at 10 A.M., for continued hearing.

APPEALS CALENDAR

35-15-A

APPLICANT – Herrick Feinstein, LLP, for Baychester Retail III, LLC., owner.

SUBJECT – Application February 25, 2015 – An administrative appeal challenging the Department of Buildings' final determination dated January 26, 2015, to permit the installation of 54 individual signs at the subject property. C7 zoning district.

PREMISES AFFECTED – 2001 Bartow Avenue, Block 05141, Lot 0101, Borough of Bronx.

COMMUNITY BOARD #10BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to February 23, 2016, at 10 A.M., for decision, hearing closed.

83-15-A thru 86-15-A

APPLICANT – Jesse Masyr, Esq. Fox Rothschild, LLP, for 1-10 Bush Terminal, LP, owner.

SUBJECT – Application April 16, 2015 – Proposed construction to build in the bed of a privately owned mapped street and to build an elevated pedestrian walkway and loading docks to improve pedestrian and vehicle safety and the flow of traffic. M3-1 zoning district.

PREMISES AFFECTED –

220 and 219 36th Street, Block 0695, Lot 20; Block 0691, Lot 1, 33, 67, 87, 35 35th Street, Block 0687, Lot 1, 67, 87, 34th Street, Block 0683, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for decision, hearing closed.

181-15-A thru 186-15-A

APPLICANT – Eric Palatnik, P.C., for Joseph McGinn, owner.

SUBJECT – Application August 13, 2015 – Proposed construction of single family residences not fronting on a legally mapped street, contrary to General City Law Section 36. R1-1 zoning district.

PREMISES AFFECTED – 7, 11, 15, 23, 27 Carriage Court, Block 866, Lot(s) 389, 388, 387, 386, 385, Borough of Staten Island.

COMMUNITY BOARD #2SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to February 9, 2016, at 10 A.M., for decision, hearing closed.

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ZONING CALENDAR

316-14-BZ

CEQR #15-BSA-123K

APPLICANT – Law Office of Jay Goldstein, PLLC, for United Talmudical Academy, owner.

SUBJECT – Application November 25, 2014 – Variance (§72-21) to permit the enlargement of an existing Yeshiva building (Talmudical Academy) for lot coverage (§24-11) and rear yard (§24-36. R6 zoning district.

PREMISES AFFECTED – 115 Heyward Street, northern side of Heyward Street between Lee Avenue and Bedford Avenue, Block 02225, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 12, 2014, acting on Department of Buildings Application No. 320972239, reads in pertinent part:

- 1) The maximum lot coverage permitted under ZR 24-11 is 65%, the proposed building is over and is approximately 75% refer to BSA;
- 2) The required rear yard per ZR 24-36 is 30' the proposed is 8' 8" [and] 25', refer to BSA; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within an R6 zoning district and partially within an R6 (C1-3) zoning district, the enlargement of an existing three-story school building, contrary to ZR §§ 24-11 and 24-36; and

WHEREAS, a public hearing was held on this application on June 23, 2015, after due notice by publication in *The City Record*, with a continued hearing on September 1, 2015 and October 27, 2015, and then to decision on December 8, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez performed inspections of the subject site and surrounding neighborhood; and

WHEREAS, Community Board 6, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site has approximately 140 feet of frontage along the north side of Heyward Street, between Bedford Avenue, to the west, and Lee Avenue, to the east, partially within an R6 zoning district and partially within an R6 (C1-3) zoning district, in Brooklyn; and a total lot area of 14,992 sq. ft.; and

WHEREAS, the site is currently improved with a three-story building with approximately 24,800 sq. ft. of floor area and a floor area ratio ("FAR") of 1.65; and

WHEREAS, the building is an individually designated

New York City landmark and, as such, is under the jurisdiction of the New York City Landmarks Preservation Commission ("LPC"); and

WHEREAS, the applicant proposes to enlarge the existing building so as to accommodate its programmatic needs; and

WHEREAS, specifically, the applicant proposes to square off the rear portion of the existing building, creating a total of 48,698 sq. ft. of floor rea (3.25 FAR), lot coverage of 77.4 percent (the maximum lot coverage permitted is 65 percent, pursuant to ZR § 24-11) and rear yards at the upper floors of 8'-8" and 25' (a rear yard of 30' is required pursuant to ZR § 24-36); and

WHEREAS, because the proposed enlargement does not comply with the applicable bulk regulations in the subject zoning district, the School seeks the requested variance; and

WHEREAS, the School states that the variance sought is necessary to meet its programmatic needs of accommodating its current student body, the relocation of students from other locations that are currently beyond capacity, and allowing for the school's modest growth over the next 6 (six) years; and

WHEREAS, specifically, the enlargement addresses the School's need for additional classroom space and also provides additional bathrooms, resource rooms, multi-purpose rooms, a kitchen, lunchroom, and play areas on the second floor and roof; and

WHEREAS, the School notes that the proposed building has been designed with the assistance of the LPC and that the proposal seeks to preserve the historic nature of the existing building; the bulk and design of the Heyward Street façade remains unchanged and will, additionally, be restored by the School in accordance with LPC guidelines; and

WHEREAS, the Board has exercised jurisdiction over this site since July 28, 1953 when, under BSA Calendar No. 533-53-A, the Board granted a variance application to convert the use of the building from a factory to a school; and

WHEREAS, on February 18, 1958, under BSA Calendar No. 533-53-A, the Board amended the sprinkler condition of the previously granted variance to permit a sprinkler system in only the hallways of the building; and

WHEREAS, the School represents that the premises have continuously been used as a school since the grant of the variance in 1953; and

WHEREAS, the premises have most recently been used as a high school for girls, but is currently vacant, and the proposed enlargement is intended to accommodate the elementary and middle school boys divisions of the School, which totals 900 children and 75 employees and cannot fit in the existing building; and

WHEREAS, the School asserts that an as-of-right alteration of the building would not satisfy its programmatic needs; and

WHEREAS, the building's landmark status inhibits an enlargement to the full bulk permitted as-of-right in an R6

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zoning district, and an enlargement that is consistent with the present proposal, less the requested lot coverage and rear yard waivers, would neither provide sufficient additional classroom space nor accommodate the School's current student body, much less accommodate the anticipated growth of the student body over the next 6 (six) years; and

WHEREAS, accordingly, the School contends that the requested waivers are both modest and essential to its ability to meet its programmatic needs; and

WHEREAS, the Board acknowledges that the School, as both a religious and educational institution, is entitled to deference under the law of the State of New York as to zoning and its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in *Cornell University v. Bagnardi*, 68 NY2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based on the above, the Board finds that the programmatic needs of the school along with the existing constraints of the premises create unnecessary hardship and practical difficulty in developing the premises in compliance with the applicable zoning regulations; and

WHEREAS, because the School is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth in ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the School represents that, pursuant to ZR § 72-21(c), the variance, if granted, will not alter the character of the neighborhood, impair the appropriate use or development of adjacent property, or be detrimental to the public welfare; and

WHEREAS, specifically, the School states that the use is an as-of-right use; the block on which the premises is located is predominated by residential and community facility uses; the proposed bulk of the building complies with the height, floor area and floor area ratio regulations of the underlying R6 zoning district; that the building façade will not be altered; that the enlargement has been designed so as to minimize its visibility and impact from the street and maintain the historical aesthetic of the building; that Heyward Street and the surrounding area can accommodate the increased traffic demands imposed by the use at its full capacity and, further, the no-standing zone in front of the premises ensures that buses can pull up directly in front of the school and not block traffic in order to pick up and drop off students; dismissals will be staggered so as to minimally impact pedestrian traffic in the surrounding neighborhood; and

WHEREAS, in response to the Board's questions regarding the potential nuisance of the roof play areas, the School represents that the second floor roof play area will have a 10'-0" high fence and acoustic barriers for noise

attenuation and that the rooftop play area's use will be limited to certain school day hours and it will have no noise amplification features or lighting; and

WHEREAS, on May 22, 2014, the LPC issued a Status Update Letter noting their approval of the proposal to modify the building entrance and construct a rear yard edition (expiring May 20, 2020); and

WHEREAS, accordingly, the School asserts that the proposal will have no negative impacts on the surrounding neighborhood; and

WHEREAS, the Board agrees with the School that the proposal will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the School states that, per ZR § 72-21(d), the hardship was not self-created; and

WHEREAS, the Board finds that the hardship herein was not created by the School; and

WHEREAS, the School represents that, consistent with ZR § 72-21(e), the proposal represents the minimum variance needed to accommodate its current and projected programmatic needs; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to allow the School to fulfill its programmatic needs; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. CEQR 15-BSA-123K, dated October 7, 2014; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every

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one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site partially within an R6 zoning district and partially within an R6 (C1-3) zoning district, the enlargement of an existing three-story school building, contrary to ZR §§ 24-11 and 24-36, *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received November 18, 2015” – Fourteen (14) sheets; and *on further condition*:

THAT a Certificate of Appropriateness from the LPC must be obtained prior to issuance of permits;

THAT substantial construction will be completed in accordance with ZR § 72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 8, 2015.

24-15-BZ

APPLICANT – Cozen O'Connor, for Roosevelt 5 LLC, owner.

SUBJECT – Application February 11, 2015 – Special Permit (§73-66) to permit the construction of a new building in excess of the height limits established under ZR 61-21. C2-3/R6 zoning district.

PREMISES AFFECTED – 71-17 Roosevelt Avenue, frontage on Roosevelt Avenue and 72nd Street, Block 01282, Lot (s) 137,138,141,151,160, Borough of Queens.

COMMUNITY BOARD #3Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the Notice of Comments of the New York City Department of Buildings (“DOB”), dated January 22, 2015, acting on Job Application No. 420653000, reads in pertinent part:

ZR 61-21 – The proposed height of building exceeds maximum allowable height as per section 61-21 of the NYC Zoning Resolution; and

WHEREAS, this is an application under ZR § 73-66, to permit, within an R6 (C2-3) zoning district, the construction of a 15-story mixed-use community facility/retail/residential building which exceeds the

maximum height limits around airports, contrary to ZR § 61-21; and

WHEREAS, a public hearing was held on this application on October 27, 2015, after due notice by publication in *The City Record*, with a continued hearing on December 1, 2015 and then to decision on December 8, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Chanda performed inspections of the subject site and neighborhood; and

WHEREAS, the subject site is located on the north side of Roosevelt Avenue Boulevard, between 72nd Street and the Brooklyn Queens Expressway, within an R6 (C2-3) zoning district; and

WHEREAS, the site has not been subject of any prior applications to the Board; and

WHEREAS, the Board notes that ZR § 61-21 (Restriction on Highest Projection of Building or Structure) restricts the height of buildings or structures within designated flight obstruction areas; and

WHEREAS, specifically, the provision sets forth that the highest projection of any building or structure may not penetrate the most restrictive of either approach surfaces, transitional surfaces, horizontal surfaces, or conical surfaces, within an Airport Approach District of a flight obstruction area; and it may not penetrate the horizontal surface or conical surface within the Airport Circling District of the flight obstruction area; and

WHEREAS, however, pursuant to ZR § 73-66 (Height Regulations around Airports) the Board may grant a special permit to permit construction in excess of the height limits established under ZR §§ 61-21 (Restriction on Highest Projection of Building or Structure) only (1) subsequent to the applicant submitting a site plan, with elevations, reflecting the proposed construction in relation to such maximum height limits, and (2) if the Board finds that the proposed would not create danger and would not disrupt established airways; and

WHEREAS, the provision also provides that, in its review, the Board shall refer the application to the Federal Aeronautics Administration (FAA) for a report as to whether such construction will constitute a danger or disrupt established airways; and

WHEREAS, as to the information submitted by the applicant, the Board notes that the applicant submitted a site plan with elevations reflecting the proposed construction, which includes information about the maximum as-of-right height and the maximum height approved by the FAA for each building; and

WHEREAS, as to the Board’s determination about the safety of the proposed construction with regard to the proximity to the airport, the Board notes that the FAA regulates the heights of buildings within proximity to airports and that since the subject site is located within the flight obstruction area for LaGuardia Airport, it falls within the area regulated by the FAA; and

WHEREAS, the applicant represents that it filed an application with the FAA for review and approval of

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proposed building;

WHEREAS, on May 13, 2014, the FAA issued a Determination of No Hazard to Air Navigation for the project (the "FAA Determination"), which originally expired on November 15, 2015, but was renewed on October 20, 2015 and now expires on April 20, 2017; and

WHEREAS, specifically, the FAA Determination states that the proposed "structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities...."; and

WHEREAS, the FAA determination is based on an "aeronautical study [that] considered and analyzed the impact [of the building] on existing and proposed arrival, departure, and en route procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative impact resulting from the studied structure when combined with the impact of other existing or proposed structures..."; and

WHEREAS, the proposed height of the building is as follows: 161.25 feet above ground level (AGL), measured from a base plan of 65.78 feet above mean sea level (AMSL), or 227 feet above mean seal level (AMSL); and

WHEREAS, the maximum buildings heights approved by the FAA are as follows: 61 feet site elevation (SE) / 166 feet above ground level (AGL) / 227 feet above mean sea level (AMSL); and

WHEREAS, the Board notes that the FAA Determination is conditioned upon the following items, all of which the Board adopts as conditions to the issuance of the subject special permit: (1) the proposed building must be marked/lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, red lights – Chapters 4, 5 (Red), and 12; (2) the applicant must file FAA Form 7460-2, Notice of Actual Construction or Alteration, in the event that the project is abandoned or within five (5) days after construction reaches its greatest height (7460-2, Part 2); and

WHEREAS, the Board notes that the FAA-approved height includes temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure, which shall not exceed the overall approved heights; and

WHEREAS, additionally, the Board notes that such temporary construction equipment with heights greater than the structure requires separate notice to the FAA;

WHEREAS, accordingly, the Board notes that the proposed building heights are equal to those approved by the FAA; and

WHEREAS, the Board notes that the FAA regulations are similar to those found in the ZR but differ slightly based on updated reference points and runway elevations; and

WHEREAS, the applicant has also submitted requests for approval to the Port Authority of New York/New Jersey (PA), which operates LaGuardia Airport; and

WHEREAS, as reflected in a no objection letter dated

February 2, 2015 ("PA No Objection Letter"), the PA approves of the project and references the FAA Determination; and

WHEREAS, the PA No Objection Letter requests that all conditions stated in the FAA Determination be followed and that the proposed development project adhere to the heights stipulated therein; and

WHEREAS, based upon the above, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-66 and 73-03; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

Therefore it is Resolved, that the Board of Standards and Appeals issued a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-66 and 73-03, to permit, within an R6 (C2-3) zoning district the construction of a 15-story mixed-use community facility/retail/residential building which exceeds the maximum height limits around airports, contrary to ZR § 61-21; *on condition* that all work will substantially conform to the drawings filed with this application and marked "Received November 6, 2015"-(7) sheets; and *on further condition*:

THAT the maximum height of the buildings, including all appurtenances, shall be as follows: 61 feet site elevation (SE) / 166 feet above ground level (AGL) / 227 feet above mean sea level (AMSL);

THAT the proposed building must be marked/lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, red lights – Chapters 4, 5 (Red), and 12;

THAT the relief granted herein is only that associated with ZR § 73-66 and all construction at the site shall be as approved by DOB and must comply with all relevant Building Code and zoning district regulations;

THAT the applicant must comply with all FAA notification requirements associated with the construction at the site including, without limitation, that the applicant must file FAA Form 7460-2, Notice of Actual Construction or Alteration, in the event that the project is abandoned or within five (5) days after construction reaches its greatest height (7460-2, Part 2);

THAT substantial construction be completed in accordance with ZR § 73-70;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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

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granted; and

THAT the Department of Buildings must ensure compliance with all of applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 8, 2015.

30-12-BZ

APPLICANT – Eric Palatnik, P.C., for Don Ricks Associates, owner; New York Mart Group, Inc., lessee.

SUBJECT – Application February 8, 2012 – Remand Back to Board of Standards and Appeals; seeks a judgment vacating the resolution issued on January 15, 2013 and filed on January 17, 2013. R6-/C2-2 zoning district.

PREMISES AFFECTED – 142-41 Roosevelt Avenue, northwest corner of Roosevelt Avenue and Avenue B, Block 5020, Lot 34, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to March 8, 2016, at 10 A.M., for continued hearing.

193-13-BZ

APPLICANT – Eric Palatnik, Esq., for Centers FC Realty LLC, owner.

SUBJECT – Application July 2, 2013 – Special Permit (§73-44) for the reduction in parking from 190 to 95 spaces to facilitate the conversion of an existing building to UG 6 office and retail use. C2-2/R6A & R-5 zoning districts

PREMISES AFFECTED – 4770 White Plains Road, White Plains Road between Penfield Street and East 242nd Street, Block 5114, Lot 14, Borough of Bronx.

COMMUNITY BOARD #12BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5

Negative:.....0

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for decision, hearing closed.

44-15-BZ

APPLICANT – Akerman, LLP, for 145 CPN, LLC., owner.

SUBJECT – Application March 6, 2015 – Variance (§72-21) to permit the construction of a conforming fourteen-story, (UG 2) residential building containing 24 dwelling units contrary to the maximum building height and front setback requirements (§23-633) and rear setback requirements (§23-633(b)). R8 zoning district.

PREMISES AFFECTED – 145 Central Park North, between Adam Clayton Powell and Lenox Avenue, Block 01820, Lot 0006, Borough of Manhattan.

COMMUNITY BOARD #10M

ACTION OF THE BOARD – Laid over to February

2, 2016, at 10 A.M., for continued hearing.

62-15-BZ

APPLICANT – Glen V. Cutrona, AIA, for 139 Bay Street Point, LLC, owner.

SUBJECT – Application March 20, 2015 – Variance (§72-21) enlargement of a mixed use building contrary floor area regulations, lot coverage, balconies below third story, distance from legally required windows, lot line and side yard regulation, located within an C4-2/SG zoning district. PREMISES AFFECTED – 139 Bay Street, Bay Street between Slosson terrace and Central Avenue, Block 00001, Lot(s) 10,17,18,19, Borough of Staten Island.

COMMUNITY BOARD #1SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5

Negative:.....0

ACTION OF THE BOARD – Laid over to January 12, 2016, at 10 A.M., for decision, hearing closed.

REGULAR MEETING

TUESDAY AFTERNOON, DECEMBER 8, 2015

1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.

ZONING CALENDAR

57-15-BZ

APPLICANT – Eric Palatnik, P.C., for Yossi Toleando, owner.

SUBJECT – Application March 13, 2015 – Variance (§72-21) to permit the development of a three-story, three family residential and to waive the side yard open space of the existing premises. R5/C1-3 zoning district.

PREMISES AFFECTED – 482 Logan Street, between Pitkin Avenue and Belmont Avenue Block 04227, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #5BK

ACTION OF THE BOARD – Laid over to February 2, 2016, at 10 A.M., for postponed hearing.

Ryan Singer, Executive Director

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*CORRECTION

This resolution adopted on May 19, 2015, under Calendar No. 172-79-BZ and printed in Volume 100, Bulletin No. 22, is hereby corrected to read as follows:

172-79-BZ

APPLICANT – Alfonso Duarte, for Luciano Utopia LLC., owner.

SUBJECT – Application July 16, 2014 – Extension of Term of a previously approved variance permitting the operation of a Real Estate office and accessory parking which will expire on July 24, 2014. R2 zoning district.

PREMISES AFFECTED – 167-04 Northern Boulevard, southeast corner of 16th Street, Block 5398, Lot 11, Borough of Queens

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a re-opening, an extension of term for a variance permitting an office (Use Group 6) within an R2 zoning district, which expired on July 24, 2014, and an amendment to eliminate the condition requiring Board approval for any change in the owners or operator of the site; and

WHEREAS, a public hearing was held on this application on January 13, 2015, after due notice by publication in *The City Record*, with continued a hearing on March 24, 2015, and then to decision on May 19, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 7, Queens, recommends approval of the application, on condition that the grant retain the condition requiring Board approval for a change in operator or owner; and

WHEREAS, Assemblyman Edward Braunstein, Councilman Paul Vallone, and Queens Borough President Melinda Katz, and certain members of the surrounding community, including the Auburndale Improvement Association, recommend approval of the application, on condition that the grant retain the condition requiring Board approval for a change in operator or owner; and

WHEREAS, the subject site is located at the southeast corner of the intersection of Northern Boulevard and 167th Street, within an R2 zoning district; and

WHEREAS, the site, approximately 64 feet of frontage along Northern Boulevard, approximately 89 feet of frontage along 167th Street, and approximately 5,694 sq. ft. of lot area; and

WHEREAS, the site has is occupied by a one-story office building (Use Group 6) with approximately 1,300 sq. ft.

of floor area (0.23 FAR) and six accessory parking spaces; and

WHEREAS, the Board has exercised jurisdiction over the site since July 24, 1979, when, under the subject calendar number, it granted, pursuant to ZR § 72-21, an application to permit, on a site within an R2 zoning district, the enlargement of an existing one-story building to be operated as a real estate office (Use Group 6) with four accessory parking spaces, contrary to use regulations, for term of 10 years, to expire on July 24, 1989; and

WHEREAS, the grant included several conditions, including the following: “that this variance shall lapse with any change in ownership or control”; and

WHEREAS, the term of the grant was extended on April 18, 1990 (to expire on July 24, 1999) and again on July 13, 1999, for a term of 15 years, to expire on July 24, 2014; the 1999 grant included an amendment allowing the addition of two parking spaces, bringing the number of spaces at the site to its current six; and

WHEREAS, accordingly, the applicant now seeks an extension of the term of the variance; in addition, the applicant seeks an amendment removing the condition requiring Board approval for a change in the owner or operator of the site; and

WHEREAS, the Board notes that, initially, the applicant sought to increase the number of parking spaces at the site to seven; however, in response to the Board concern about the provision of a parking space for a person with certain physical disabilities, the applicant revised its proposal to provide only six parking spaces, including an ADA-compliant space; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may, in appropriate cases, modify the conditions of a variance; and

WHEREAS, the applicant asserts that the condition requiring Board approval for a change in the owner or operator creates an unnecessary hardship for the owner, who cannot sell or lease the building without prior Board approval; further, the applicant contends that the condition has no land use regulation purpose that cannot be accomplished with a limitation on the permitted use; and

WHEREAS, the applicant also notes that changes from one Use Group 6 office to another are permitted as-of-right under the Zoning Resolution; and

WHEREAS, at hearing, the Board directed the applicant to: (1) verify that the signage complies with the prior grant; (2) install and maintain landscaping at the rear of the site; and (3) replace the existing chain enclosure for the curb cut along 167th Street with a more robust enclosure; and

WHEREAS, in response, the applicant demonstrated that the signage was in compliance with the prior grant; in addition, the applicant revised its plans to include notes regarding the required landscaping and enclosure for 167th Street curb cut; and

WHEREAS, as to the removal of the condition regarding the identity of the owner/operator, the Board observes that while such a condition is necessary for a non-profit entity receiving a variance—because such grants are directly related to the non-profit’s demonstrated programmatic needs—it is not necessary in this case, because the land use purpose of ensuring

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that the commercial use operates harmoniously within in the residence district can be accomplished with: (1) a term; and (2) a condition permitting Use Group 6 office use only; and

WHEREAS, based on the foregoing, the Board has determined that the evidence in the record supports the findings required to be made for an extension of term under ZR §§ 72-01 and 72-22.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated July 24, 1979, so that as amended the resolution reads: “to permit an extension of the term of the variance for an additional ten years from the prior expiration, to expire on July 24, 2024 and to permit the elimination of the condition requiring Board approval for a change in the owner or operator of the site; *on condition on condition* that all work shall substantially conform to drawings, filed with this application marked ‘Received April 30, 2015’ –(4) sheets; and on further condition:

THAT the term of the variance shall expire on July 24, 2024;

THAT the use of the site shall be limited to Use Group 6 offices;

THAT all site conditions, including parking, signage, and landscaping, shall comply with the BSA-approved plans;

THAT the site shall be maintained free of graffiti and debris;

THAT the above conditions shall be noted on the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by May 19, 2016;

THAT DOB shall verify that the signage complies with the applicable regulations;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s); and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, May 19, 2015.

*The resolution has been amended. **Corrected in Bulletin No. 48, Vol. 100, dated December 16, 2015.**

BULLETIN

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December 23, 2015

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Tuesday, December 15, 2015**

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Affecting Calendar Numbers:

283-14-BZ	3255 Bedford Avenue, Brooklyn
63-15-BZ	35 Sutton Place, Manhattan
98-15-BZ	240 East 54th Street, Manhattan
99-15-BZ	240 East 54th Street, Manhattan

DOCKETS

New Case Filed Up to December 15, 2015

270-15-BZ

338 Devoe Street, south side 125' east fo the intersection of Devoe Street and Catherine Street, Block 02924, Lot(s) 12, Borough of **Brooklyn, Community Board: 1**. Variance (§72-21) to permit the construction of a 3 story residential buildng contrary to use regulations. M1-1 zoning district. M1-1 district.

271-15-BZ

1842 Victory Boulevard, south side of Victory Boulevard, 0' west of Lester Street, Block 00713, Lot(s) 101, Borough of **Staten Island, Community Board: 1**. Special Permit (§73-211) to allow an automotive service station with an accessory convenience store and automotive laundry (UG 16B). C2-1/R3-2 zoning district. C2-1/R3-2 (SGMD) district.

272-15-A

35 Derick Court, private road that connects to Arthur Kill road, Block 07206, Lot(s) 510, Borough of **Staten Island, Community Board: 3**. Proposed construction of a commercial building, not fronting a legally mapped street, contrary to General City Law 36, M3-1 zoning district. M3-1 district.

273-15-BZ

110-43 160th Street, east side fo 160th Street, 157 ft. north of the corner formed by the intersection of 111th Avenue & 160th Street, Block 12164, Lot(s) 4, Borough of **Queens, Community Board: 12**. Variance (§72-21) to permit the construction of a 2-story two-family residence contrary to ZR §23-461c (open area between buildings containing residences). R3A zoning district R3A district.

274-15-BZ

144-29 South Road, north west corner of South Road & Inwood Street., Block 10045, Lot(s) 18, Borough of **Queens, Community Board: 12**. Variance (§72-21) to permit the construction of a 2-story two-family residence contrary to ZR §23-461c (open area between buildings containing residences) and ZR §23-141 (Lot Coverage) R4-1 zoning district R4-1 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

REGULAR MEETING FEBRUARY 2, 2016, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, February 2, 2016, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

402-86-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Urban/College Point Associates, Inc., owner.

SUBJECT – Application December 29, 2014 – Amendment of a previously approved Variance which permitted the use of Warehouse (UG 16) in a then R4 zoning district. The amendment seeks to eliminate the term since the subject site has been rezoned to M1-1; Waiver of the Rules. M1-1 zoning district.

PREMISES AFFECTED – 22-12 129th Street, Block 04204, Lot 0034, Borough of Queens.

COMMUNITY BOARD #7Q

APPEALS CALENDAR

141-15-A thru 155-15-A

APPLICANT – Eric Palatnik, P.C., for 1671 Hylan Boulevard, LLC., owner.

SUBJECT – Application July 6, 2015 – Proposed construction for fifteen single family residential homes not fronting on a legally mapped street, pursuant to Article 3 Section 36 of the General City Law, located within an R1-2 zoning district.

PREMISES AFFECTED – 219 Cheevers Lane, Bordered by Page Avenue, Block 07792, Lot 0307, Borough of Staten Island.

COMMUNITY BOARD #3SI

223-15-A

APPLICANT – Lauria Associates, for Jeffery Arcello, owner.

SUBJECT – Application September 23, 2016 – Proposed construction of a one story 15,000 square foot building with mezzanines throughout which does not have frontage on a legally mapped street contrary to Article 3, Section 36 of the General City Law. M1-1 Zoning District.

PREMISES AFFECTED – 638 Sharrotts Road, Block 7400, Lot 50, Borough of Staten Island.

COMMUNITY BOARD #3SI

REGULAR MEETING FEBRUARY 2, 2016, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, February 2, 2016, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

200-14-BZ

APPLICANT – Simon & Wright LLC, for Masjid-e-Noor, Inc., owner.

SUBJECT – Application August 22, 2014 – Variance (§72-21) to construct a community facility seeking waivers of floor area ratio, sky exposure plane, side yards and parking. R2 zoning district.

PREMISES AFFECTED – 46-05 Parsons Boulevard aka 147-08 46th Avenue, Block 05462, Lot 3, Borough of Queens.

COMMUNITY BOARD #7Q

329-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Isaac Mishan, owner.

SUBJECT – Application December 30, 2014 – Special Permit (§73-622) for the enlargement of an existing single family semi-detached residence contrary to floor area (ZR 23-141); side yard (ZR 23-461) and less than the minimum required rear yard (ZR 23-47). R4-1 zoning district.

PREMISES AFFECTED – 1316 Avenue S, south side of Avenue S between East 13th Street and East 14th Street, Block 07292, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #15BK

64-15-BZ

APPLICANT – Greenberg Traurig, LLP, for J.P.L Realty Corp., owner; Summit Residences LLC, lessee.

SUBJECT – Application March 23, 2015 – Variance (§72-21) to permit the conversion of a former manufacturing building to residential use contrary to 42-10. M1-5 zoning district.

PREMISES AFFECTED – 39 Clarkson Street, north side of Clarkson Street 117' east of the corner formed by intersection of Greenwich Street and Clarkson Street, Block 601, Lot 72, Borough of Manhattan.

COMMUNITY BOARD #2M

CALENDAR

169-15-BZ

APPLICANT – Francis R. Angelino, Esq., for 93 Worth Street Retail LLC, by Eldad Blaustein, owner; 93 Worth Gym, LLC, lessee.

SUBJECT – Application July 29, 2015 – Special Permit (§73-36) to allow a physical culture establishment ("93") to be operated within an existing building.

PREMISES AFFECTED – 93 Worth Street, Block 00173, Lot 7504, Borough of Manhattan.

COMMUNITY BOARD #1M

Ryan Singer, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, DECEMBER 15, 2015 10:00 A.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.

SPECIAL ORDER CALENDAR

1059-84-BZ

APPLICANT – Troutman Sanders, LLP., for BMS Realty Company LLC, owner;

Bally Total Fitness Corporation, owner.

SUBJECT – Application February 27, 2015 – Extension of term of a Special Permit for the operation of a physical culture establishment (24 Hour Fitness) which expired on May 7, 2015; Amendment to reflect a change in ownership. C4-2 & C8-2 (OP) zoning district.

PREMISES AFFECTED – 943/61 Kings Highway, aka 2032 Coney Island Avenue, northwest corner of intersection Kings Highway and Coney Island Avenue, Block 06666, Lot 0018, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda..... 4

Negative:.....0

Absent: Vice-Chair Hinkson.....1

THE RESOLUTION –

WHEREAS, this is an application to extend the term of a special permit for a physical cultural establishment (PCE) previously granted by the Board under the subject calendar number, which expired on May 7, 2015, and amend the special permit to change the operator and hours of operation; and

WHEREAS, a public hearing was held on this application on November 17, 2015, after due notice by publication in *The City Record*, and then to decision on December 15, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the northern side of Kings Highway at the corner of Coney Island Avenue, partially within a C8-2 zoning district and partially within a C4-2 zoning district, in the Special Ocean Parkway District, in Brooklyn; and

WHEREAS, the site has approximately 141 feet of frontage along Kings Highway, 60 feet of frontage along Coney Island Avenue, and 38 feet of frontage along Quentin Road, 13,430 sq. ft. of lot area, and is occupied by an two (2) story building; and

WHEREAS, the subject PCE is located in portions of the

cellar, the first floor and the second floor of the building; and

WHEREAS, on May 7, 1985, under the subject calendar number, the Board granted a special permit to permit the extension of the PCE located in the cellar to the second floor, subject to a term of ten (10) years, and limited the hours of operation to Monday through Friday 6:30 A.M. to 10:00 P.M., Saturday 9:00 A.M. to 6:00 P.M. and Sunday 9:00 A.M. to 5:00 P.M.; and

WHEREAS, on October 16, 1996, under the subject calendar number, the Board granted an application to extend the term of the special permit, subject to a term of ten (10) years; and

WHEREAS, on October 7, 2003, under the subject calendar number, the Board granted an application to allow an extension of the PCE to the first floor and change the hours of operation to Monday through Friday 6:00 A.M. to Midnight, Saturday, 9:00 A.M. to 6:00 P.M. and Sunday 9:00 A.M. to 5:00 P.M.; and

WHEREAS, on May 15, 2007, under the subject calendar number, the Board granted an application to extend the term of the special permit, subject to a term of ten (10) years; and

WHEREAS, the instant application was timely filed per BSA Rules of Practice and Procedure § 1-07.3(b)(1); and

WHEREAS, the applicant seeks to: (1) extend the term of the special permit, (2) amend the resolution to change the operator from Bally Total Fitness of Greater New York to 24 Hour Fitness, Inc., and (3) amend the resolution to change the hours of operation on Saturday and Sunday to 8:00 A.M. to 9:00 P.M.; and

WHEREAS, the Department of Investigation (DOI) has performed a background check on the relevant entities, including all affiliates and principals, and not found any associated completed investigations; and

WHEREAS, the Board finds that a ten-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, dated May 7, 1985 so that as amended this portion of the resolution shall read: “to permit an extension of the term of the variance for a term of ten (10) years, a change in operator to 24 Hours Fitness, Inc., and a change in hours of operation to 8:00 A.M. to 9:00 P.M. on Saturday and Sunday *on condition* that the site shall substantially conform to drawings as filed with this application, marked ‘Received August 18, 2015’–(3) sheets and ‘November 23, 2015’-(1) sheet; and *on further condition*:

THAT this grant shall be limited to a term of ten (10) years from May 7, 2015, expiring May 7, 2025;

THAT all signage on the site comply with all applicable provisions of the Zoning Resolution;

THAT the calculations for the signage take into account the square footage of the rooftop sign, if appropriate;

THAT the stated hours of the subject PCE be posted conspicuously on the premises;

THAT a public assembly permit will be obtained by December 15, 2016;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

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THAT the above conditions shall appear on the Certificate of Occupancy;

THAT a new Certificate of Occupancy for the premises shall be obtained by December 15, 2016;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, December 15, 2015.

427-05-BZ

APPLICANT – Eric Palatnik, P.C., for Linwood holdings, LLC., owner.

SUBJECT – Application June 8, 2015 – Extension of Time to Complete Construction (§73-11) to seek an extension of time to complete construction which expired May 10, 2015. C4-2 zoning district.

PREMISES AFFECTED – 133-47 39th Avenue, between Price Street and College Point Boulevard, Block 04972, Lot 059, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown and Commissioner Montanez.....3

Negative:.....0

Absent: Vice-Chair Hinkson.....1

Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, this is an application for an extension of time to complete construction pursuant to a special permit, which permitted a decrease in required off-street accessory parking spaces for a retail, community facility, and office development, pursuant to ZR §§ 73-44 and 73-03; and

WHEREAS, a public hearing was held on this application on October 16, 2015, after due notice by publication in *The City Record*, and then to decision on December 15, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the north side of 39th Avenue between Prince Street and College Point Boulevard, in an C4-2 zoning district, in Queens; and

WHEREAS, the site has approximately 50 feet of frontage along 39th Avenue and 7,138 sq. ft. of lot area; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 20, 2007, when, under the subject calendar number, the Board approved a special permit to permit a decrease in required off-street accessory parking spaces for an eight (8) story plus penthouse retail, community

facility, and office development; and

WHEREAS, on May 10, 2011, under the subject calendar number, the BSA amended the resolution and extended the time to complete construction for a term of four years, to expire on May 10, 2015; and

WHEREAS, accordingly, the applicant seeks: (1) an extension of an additional four (4) years to complete construction; and

WHEREAS, the applicant represents that the delay in construction between 2007 and 2011 was due to the financial crisis, that a financial dispute between the partners in the subject development that lasted until mid-2014 further delayed construction, and that the partners were in China seeking additional investors in June 2015, the time of the subject application; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to complete construction and obtain a certificate of occupancy is appropriate with certain conditions, as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated March 20, 2007, so that as amended this portion of the resolution reads: “to grant an extension of time to complete construction to May 10, 2019; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT construction shall be completed by May 10, 2019;

THAT all open Department of Buildings (DOB) violations on the premises shall be cured;

THAT the subject premises shall not be utilized as a parking lot prior to the commencement of construction;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect;

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Application No. 402032885)

Adopted by the Board of Standards and Appeals, December 15, 2015.

364-87-BZ

APPLICANT – Sheldon Lobel P.C., for 1710 Flatbush Realty Corp., owner.

SUBJECT – Application January 23, 2015 – Extension of Term (§11-411) of a previously granted variance permitting an automotive repair facility which expired on March 22, 2013; Waiver of the Rules. C2-2/R5 zoning district.

PREMISES AFFECTED – 1710-1720 Flatbush Avenue, corner of the intersection formed by East 34th Street and Flatbush Avenue, Block 07598, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

MINUTES

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....4
Negative:.....0
Absent: Vice-Chair Hinkson.....1

THE RESOLUTION –

WHEREAS, this is an application to waive the Rules of Practice and Procedure and extend the term of a variance permitting an automotive repair facility previously granted by the Board under the subject calendar number, which expired on March 22, 2013; and

WHEREAS, a public hearing was held on this application on November 17, 2015, after due notice by publication in *The City Record*, and then to decision on December 15, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the southwest corner of Flatbush Avenue and East 34th Street, in an R5 (C2-2), in Brooklyn; and

WHEREAS, the site has approximately 112 feet of frontage along Flatbush Avenue and 130 feet of frontage along East 34th Street, 7,444 sq. ft. of lot area, and is occupied by a one (1) story plus mezzanine building and open parking lot with spaces for six (6) vehicles; and

WHEREAS, on June 27, 1950, under BSA Calendar Number 560-47-BZ, the Board granted an application for a variance to permit the extension of an existing gasoline service station and erection of a new building at the subject premises, subject to a term of fifteen (15) years; and

WHEREAS, on March 25, 1952, under BSA Calendar Number 560-47-BZ, the Board amended the resolution adopted on June 27, 1950 so as to be subject to a term of fifteen (15) years as of January 26, 1952; and

WHEREAS, on March 8, 1966, under BSA Calendar Number 540-47-BZ, the Board granted an application to extend the term of the variance, subject to a term of ten (10) years; and

WHEREAS, the variance approved for the operation of a gasoline service station at the subject premises under BSA Calendar Number 560-47-BZ lapsed in or around March 1976; and

WHEREAS, on March 22, 1988, under the subject calendar number, the Board granted an application for a variance legalizing the change of use from an automobile service station to an automobile repair facility, subject to a term of five (5) years; and

WHEREAS, on December 14, 1993, under the subject calendar number, the Board granted an application to extend the term of the variance, subject to a term of ten (10) years; and

WHEREAS, on July 19, 2005, under the subject calendar number, the Board waived the Rules of Practice and Procedure and granted an application to extend the term of the variance, subject to a term of ten (10) years; and

WHEREAS, the term of the variance expired on March 22, 2013 and an application for extension was not timely filed; and

WHEREAS, accordingly, the applicant now seeks a

waiver of BSA Rules of Practice and Procedure § 1-07.3(b)(2); and

WHEREAS, applicant has demonstrated that the use has been continuous since the expiration of the term of the grant and that substantial prejudice would result without such a waiver; and

WHEREAS, in addition, the applicant seeks to: (1) extend the term of the variance for an additional ten (10) years; and

WHEREAS, the Board finds that a ten-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, dated March 22, 1988 so that as amended this portion of the resolution shall read: “to permit an extension of the term of the variance for a term of ten (10) years *on condition* that the site shall substantially conform to drawings as filed with this application, marked ‘Received November 25, 2015’–(7) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten (10) years from March 22, 2013, expiring March 22, 2023;

THAT there will be no parking on the sidewalk;

THAT no repair work will be done outside;

THAT the entire site will be maintained free of graffiti and trash;

THAT all trash bins will stored inside the building;

THAT a sign will be added on the sidewalk stating that any parking thereon will be towed;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT a new Certificate of Occupancy for the premises shall be obtained by December 15, 2016;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, December 15, 2015.

301-03-BZ

APPLICANT – Law Office of Lyra J. Altman, for 1103 East 22nd LLC., owner.

SUBJECT – Application April 29, 2014 – Extension of Time to Complete Construction and Waiver of the rules for a single family home enlargement under 73-622 approved on January 13, 2004. R2 Zoning district.

PREMISES AFFECTED – 1103 East 22nd Street, east side of East 22nd Street between Avenue J and Avenue K, Block 07604, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on

MINUTES

condition.

THE VOTE TO GRANT –

Affirmative: Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda..... 3

Negative: Chair Perlmutter.....1

Absent: Vice-Chair Hinkson.....1

THE RESOLUTION –

WHEREAS, this is an application to waive the Rules of Practice and Procedure and for an extension of time to complete construction pursuant to a special permit issued by the Board of Standards and Appeals on January 13, 2004, which permitted the enlargement of a single-family home, pursuant to ZR § 73-622, and obtain a Certificate of Occupancy, which expired on January 13, 2012; and

WHEREAS, a public hearing was held on this application on July 28, 2015 after due notice by publication in *The City Record*, with continued hearings on August 25, 2015, October 29, 2015, and November 24, 2015, and then to decision on December 15, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez, and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the east side of East 22nd Street, between Avenue J and Avenue K, in an R2 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 50 feet of frontage along East 22nd Street, and 5,000 sq. ft. lot area; and

WHEREAS, as noted, on January 13, 2004, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-622, for the enlargement of an existing-one-family dwelling which did not comply with the zoning requirements for floor area ratio, open space ratio, and rear and side yards, contrary to ZR §§ 23-141, 23-46 and 23-47; and

WHEREAS, on May 12, 2009, under the subject calendar number, the Board granted an application for an amendment to the previously approved plans as well as for an extension of time to complete construction and obtain a Certificate of Occupancy by January 13, 2012; and

WHEREAS, the applicant represents that DOB approved the amended plans on or around September 3, 2009, but audited the application before construction could resume, that the applicant purchased the property from the previous owner in January of 2014 and that the DOB audit is ongoing, but will not continue unless and until the instant application for an extension of time to complete construction is granted; and

WHEREAS, accordingly, the applicant seeks (1) an extension of an additional four (4) years to complete construction and obtain a Certificate of Occupancy; and

WHEREAS, in addition, the subject application, dated April 29, 2014, was not timely filed and the applicant requests a waiver of BSA Rules of Practice and Procedure §§ 1-07.3(c)(3) and 1-07.3(d)(2); and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to complete construction and obtain a Certificate of Occupancy is appropriate with certain conditions, as set forth below.

Therefore it is Resolved, that the Board of Standards and

Appeals waives the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated January 13, 2004, so that as amended this portion of the resolution reads: “to permit an extension of time to complete construction and obtain a Certificate of Occupancy to December 15, 2019 that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received August 6, 2015” – Ten (10) sheets; and *on further condition*:

THAT DOB shall approve cellar layout;

THAT DOB shall approve 6’-0” wood fence on curb;

THAT DOB shall approve shed;

THAT DOB shall approve open porch;

THAT DOB shall approve new one car garage filed under separate application;

THAT construction shall be completed by December 15, 2019;

THAT a Certificate of Occupancy for the premises shall be obtained by December 15, 2019;

THAT all conditions from the prior resolutions not previously waived by the Board remain in effect;

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

(DOB Application No. 301622885)

Adopted by the Board of Standards and Appeals, December 15, 2015.

585-91-BZ

APPLICANT – Paul F. Bonfilio Architect, PC, for Luis Mejia, owner; SAJ Auto Service, lessee.

SUBJECT – Application March 11, 2015 – Extension of Term (§11-411) a previously approved variance which permitted the operation of an automotive service station (UG 16B), which expired on March 30, 2013; Waiver of the Rules. C1-3/R4 zoning district.

PREMISES AFFECTED – 222-44 Braddock Avenue, southeast corner of Braddock Avenue and Winchester Boulevard, Block 10740, Lot 0012, Borough of Queens.

COMMUNITY BOARD #13Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5

Negative:.....0

ACTION OF THE BOARD – Laid over to February 9, 2016, at 10 A.M., for decision, hearing closed.

16-12-BZ

APPLICANT – Eric Palatnik, P.C., for Congregation Adas Yereim, owner.

SUBJECT – Application April 2, 2015 – Amendment of a previously approved Special Permit (§73-19) permitting a school (*Congregation Adas Yereim*) contrary to use

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regulations (§42-00). The amendment seeks changes to the interior, an increase in the height of the building. M1-2 zoning district.

PREMISES AFFECTED – 184 Nostrand Avenue, northwest corner of Nostrand Avenue and Willoughby Avenue, Block 01753, Lot 0042, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to February 9, 2016, at 10 A.M., for continued hearing.

10-11-BZ & 11-11-BZ

APPLICANT – Phillip L. Rampulla, for Charles Cannizaro, owner.

SUBJECT – Application September 2, 2015 – Extension of Time to Complete Construction and Amendment (72-21) Extension of time to complete construction for two one family detached residence in which the front and rear yards were modified Amendment to revise the first floor elevation, located within an R3-1 zoning district.

PREMISES AFFECTED – 115 & 121 Finley Avenue, Block 4050, Lot(s) 49, 52, Borough of Staten Island.

COMMUNITY BOARD #2SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

12-15-A & 13-15-A

APPLICANT – Prospect Place Development, LLC, for Prospect Place Development LLC, by Leonid Loyfman, owner.

SUBJECT – Application January 21, 2015 – Proposed construction of one family detached dwelling does not front on a legally mapped street contrary to Section 36, of the General City Law. R3X zoning district.

PREMISES AFFECTED – 53 Prospect Place, north side of Prospect Place, 476.88’ from the corner formed by the intersection of the west side of Amboy Road, Block 04306, Lot 27, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....4
Negative:.....0
Absent: Vice-Chair Hinkson.....1

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner dated December 30, 2014 acting on DOB Application Nos. 520211299 and 520214081, reads in pertinent part:

The street giving access to proposed building is not duly placed on the official map of the City of New York therefore:

- A) No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 of General City Law;
- B) Proposed construction does not have at least 8% of the total perimeter of building(s) fronting directly upon a legally mapped street or frontage space contrary to Section 502.1 of the 2008 NYC Building Code; and

WHEREAS, this is an application to allow the construction of a residence which does not front on a mapped street, contrary to General City Law (“GCL”) § 36; and

WHEREAS, a public hearing was held on this application on October 27, 2015 after due notice by publication in *The City Record*, and then to decision on December 15, 2015; and

WHEREAS, Commissioner Montanez performed an inspection of the site and surrounding neighborhood; and

WHEREAS, Community Board 3, Staten Island, recommended disapproval of this application; and

WHEREAS, the applicant represents that the subject lots are subdivided from Existing Tax Lot 26 in Block 4306, with a total lot area of approximately 13,218 sq. ft., into three individual Tax Lots (New Tax Lot 26, New Tax Lot 27, and New Tax Lot 28), each with a total lot area of approximately 4,265 sq. ft.; and

WHEREAS, the applicant intends to develop a one (1) family dwelling on each new tax lot and, as the dwelling to be located on New Lot 26 is fronting part of the street that is

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already placed on the official map of the City of New York and does not require approval of the Board, only New Tax Lot 27 and New Tax Lot 28 are the subject of this application; and

WHEREAS, New Tax Lot 27 and New Tax Lot 28 are located east of the dead end portion of Prospect Place, an open roadway that lies along their southern property lines with a paved width ranging from eight (8) to ten (10) feet, within an R3X zoning district, on Staten Island; and

WHEREAS, the applicant proposes to construct a two (2) story plus cellar detached one (1) family dwelling with approximately 2,502 sq. ft. of floor, a one (1) car garage and one (1) additional parking space at the right side of the dwelling on each of New Lot 27 and New Lot 28; and

WHEREAS, the applicant further proposes to widen Prospect Place to a width of twenty-four (24) feet curb-to-curb and permit no permanent construction or parking in front of the subject lots; and

WHEREAS, by letter dated October 23, 2015, the Fire Department stated that it had no objections or recommendations to the proposal; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant approval of the application subject to certain conditions set forth herein.

Therefore it is Resolved, that the decision of the DOB, dated December 30, 2014 acting on DOB Application Nos. 520211299 and 520214081, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received November 24, 2015"- (1) sheet; that the proposal will comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT all necessary approvals from the Department of City Planning (DCP) shall be obtained;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 15, 2015.

300-08-A

APPLICANT – Law office of Marvin B. Mitzner LLC, for Steven Baharestani, owner.

SUBJECT – Application April 24, 2014 – Extension of time to complete construction and obtain a Certificate of Occupancy for the construction of a hotel under common law vested rights. M1-2 /R5-B zoning district.

PREMISES AFFECTED – 39-35 27th Street, east side of 27th Street between 39th and 40th Avenues, Block 397, Lot 2, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for continued hearing.

163-14-A thru 165-14-A

APPLICANT – Ponte Equities, for Ponte Equities, Ink, owner.

SUBJECT – Application July 10, 2014 – Appeal seeking waiver of Section G304.1.2 of the NYC Building Code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A zoning district.

PREMISES AFFECTED – 502, 504, 506 Canal Street, Greenwich Street and Canal Street, Block 595, Lot 40, 39, 38, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for continued hearing.

182-06-BZ thru 211-06-A

APPLICANT – Law Office of Lyra J. Altman, for JDS Seagirt LLC, owner.

SUBJECT – Application July 23, 2015 – Extension of time to complete construction and obtain a Certificate of Occupancy for a previously granted Common Law Vesting which expires on November 15, 2015. R4A zoning district.

PREMISES AFFECTED – 146, 148, 150 Beach 5th Street, Block 15608, Lot(s) 1, 40, 42. Borough of Queens.

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for continued hearing.

136-15-A

APPLICANT –Rothkrug Rothkrug & Spector LLP, for BIRB Realty, Inc., owner.

SUBJECT – Application June 10, 2015 – Proposed construction of a building not fronting on a legally mapped street contrary to Section 36 Article 3 of the General City Law.

PREMISES AFFECTED – 521 Durant Avenue, Block 05120, Lot 0062, Borough of Staten Island.

COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5

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Negative:.....0
ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for decision, hearing closed.

ZONING CALENDAR

303-13-BZ

CEQR #14-BSA-069X

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for SoBro Development Corporation, owner.

SUBJECT – Application November 15, 2013 – Variance (§72-21) to allow a new mixed use building with 36 residential units and community facility space. R6 & C1-4 zoning districts.

PREMISES AFFECTED – 506-510 Brook Avenue, east side of Brook Avenue between 147th and 148th Street, Block 2274, Lot(s) 6, 7 and 8, Borough of Bronx.

COMMUNITY BOARD #1BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda..... 4

Negative:.....0

Absent: Vice-Chair Hinkson.....1

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough Commissioner, dated September 20, 2013, with regards to the subject site reads in pertinent part:

The proposed mixed use building is (6) stories 36 residential units and a community facility.

The proposed building does not meeting [*sic*] the following zoning requirements:

ZR 23-145, ZR 23-22, ZR 25-25; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R6 (C1-4) zoning district, the construction of a mixed-use residential and community facility building, contrary to ZR §§ 23-145, 23-22 and 25-25; and

WHEREAS, a public hearing was held on this application on February 3, 2015, after due notice by publication in *The City Record*, with continued hearings on March 3, 2015, March 31, 2015, June 2, 2015, July 21, 2015, September 22, 2015 and November 17, 2015, and then to decision on December 15, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez performed inspections of the subject site and surrounding neighborhood; and

WHEREAS, Community Board 1, Bronx, recommends approval of this application; and

WHEREAS, the application is brought on behalf of SoBro Development Corporation, the real estate development arm of the South Bronx Overall Economic Development Corporation, a not-for-profit organization, whose stated mission is to enhance the quality of life in the South Bronx by strengthening businesses and creating

innovative economic, housing, educational, and career development programs for youth and adults; and

WHEREAS, the subject site consists of three lots (Lots 6, 7 and 8) on the southeast corner of Brook Avenue and East 148th Street, in an R6 (C1-4) zoning district, in the Bronx; and

WHEREAS, each lot has approximately 25 feet of frontage (and the subject site has a total of 75 feet of frontage) along Brook Avenue, Lot 8 has approximately 95 feet of frontage along East 148th Street and Lots 6 and 7 each have a depth of 98 feet; and

WHEREAS, Lots 6 and 7 each have a total lot area of approximately 2,450 sq. ft., Lot 8 has a total lot area of approximately 2,375 sq. ft. and the subject site has approximately 7,275 sq. ft. of total lot area; and

WHEREAS, Lot 6 contains a five-story community facility and residential building and Lots 7 and 8 have been vacant since approximately 1976; and

WHEREAS, the applicant owns Lots 7 and 8 and has a contract to purchase Lot 6 contingent upon the grant of the subject application; and

WHEREAS, the applicant proposes to demolish the existing building on Lot 6 and develop, on all three lots, a six-story mixed-use building with a total of 35,943 sq. ft. of floor area; the building will contain 36 residential units of affordable housing comprised of studios, one- and two-bedroom apartments with a total residential floor area ratio (“FAR”) of 4.47 (32,544 sq. ft.) and 3,399 sq. ft. of floor area on the ground floor and cellar level to be used as a church; the proposed building will have lot coverage of 82 percent and provide no off-street accessory parking space; and

WHEREAS, the church space in the proposed development will be filled by the church currently operating on the ground floor of the five-story mixed-use building located on Lot 6; and

WHEREAS, the church is the owner of Lot 6 and has agreed to relocate all existing tenants to other upgraded housing developed by the subject applicant; and

WHEREAS, the applicant notes that the proposal is an affordable housing project, with an income range for the dwelling units of 40 percent to 80 percent of area median income, and will be financed with a previously agreed-to initial capital allocation from the Office of the Bronx Borough President, the sale of Low Income Housing tax credits from New York State Division of Housing and Community Renewal, private bank financing and deferred developer fees; and

WHEREAS, in order to construct the building as proposed, the applicant seeks the following waivers: (1) residential FAR (a maximum residential FAR of 3.00 is permitted, per ZR § 12-145); (2) lot coverage (the maximum permitted residential lot coverage is 80 percent, per ZR § 23-145); (3) number of dwelling units (the maximum number of dwelling units is 32, per ZR § 23-22); and (4) required accessory off-street parking (13 spaces are required, per ZR § 25-25); and

WHEREAS, the applicant states that, per ZR § 72-

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21(a), the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in conformance with underlying district regulations: (1) sandy soil conditions with poor load bearing capacity; (2) contaminated subsurface conditions; and (3) the presence of a five-story building on Lot 6 that must be demolished; and

WHEREAS, the applicant represents that Lots 7 and 8 contain miscellaneous fill to a depth of approximately 8 to 10 feet followed by approximately 42 feet of fine to coarse sand with trace silt and gravel and that, as a result, a mat foundation must be used in order to provide optimal support for the development; and

WHEREAS, in response to questions posed by the Board, the applicant investigated and reviewed the soil bearing conditions of lots within 1,500 feet of the subject site and represents that the poor load bearing soil condition at the subject site is a unique condition in the area; and

WHEREAS, the presence of several metals above allowable concentrations in the soil and groundwater collected at the subject site will also necessitate environmental remediation measures prior to development; and

WHEREAS, in addition, the building located on Lot 6 is attached by a party wall to an occupied five-story building supported by a sensitive stone rubble foundation set on weak sandy soil and, thus, demolition of the building on Lot 6 will require stabilization of the adjacent building to avoid inversely impacting its structural integrity; and

WHEREAS, the sandy soil affects the underpinning work required to demolish the building on Lot 6 in that it, *inter alia*, increases the level of shoring, posting, bracing, transferring of loads, and stabilizing methods and techniques, all at significant cost; and

WHEREAS, based upon the above, the Board agrees that the aforementioned unique physical conditions create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since it is a not-for-profit organization and the development will be in furtherance of its not-for-profit mission; and

WHEREAS, nevertheless, the applicant asserts that there is no reasonable possibility that the development of the site with affordable housing in conformance with the Zoning Resolution will bring a reasonable return; and

WHEREAS, the applicant represents that the site's unique conditions create premium construction costs as follows: (1) \$303,000 for the construction of a mat slab foundation (nearly double the cost of a standard foundation); (2) \$635,000 for site remediation; and (3) \$515,000 for the demolition of the Lot 6 building and underpinning on the site; and

WHEREAS, the applicant states that an as-of-right building would have 21 dwelling units at a premium construction cost of approximately \$69,190 per unit; in contrast, the proposed building distributes the premium

construction costs over 36 dwelling units, at a cost of \$40,361 per unit, making affordable housing at the site feasible; and

WHEREAS, additionally, in an as-of-right scenario, parking would have to be provided in the cellar, supplanting, in part, the community use required by Quality Housing; and

WHEREAS, based upon its review of the applicant's submissions, the Board has determined that because of the site's unique physical conditions, there is no reasonable possibility that an affordable housing development in strict compliance with applicable zoning requirements is feasible; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the surrounding area is primarily residential; that there are several six-story multiple dwellings along Brook Avenue on adjacent blocks; the proposed building height of 62'-2" (measured to the top of the parapet) is contextual for a corner lot in the area and there are two buildings directly across Brook Avenue that are as tall as or taller than the subject proposal; and

WHEREAS, the applicant states that the neighborhood is well-served by public transit, including the No. 2 and No. 5 trains with two separate stations within approximately three blocks of the site, multiple bus lines, including the Bx2, Bx4, Bx15, Bx17, Bx19 and Bx21, which run on adjacent streets, and Metro-North, which has a station approximately half a mile away; and

WHEREAS, the applicant represents that there are very low rates of automobile ownership in affordable housing developments of an average of 60 percent of area median income, like the subject proposal, particularly in areas, like the subject area, that are well-served by public transportation and, additionally, there are thirteen public or private parking lots within 1,200 feet of the subject site, as well as ample street parking on Brook Avenue and surrounding side streets; and

WHEREAS, further, the applicant represents that the subject site is located in one of the lowest income neighborhoods in the United States and that the proposed development fills a need for additional units of affordable housing in the area; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is due to the peculiarities of the site and applicant's objective to provide affordable housing; and

WHEREAS, the Board also finds that this proposal is the minimum necessary to afford the owner relief, in

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accordance with ZR § 72-21(e); and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 14-BSA-069X, dated November 6, 2015; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, by letter dated February 3, 2014, the New York City Landmarks Preservation Commission (“LPC”) states that the subject properties have no architectural or archaeological significance; and

WHEREAS, by letter dated October 9, 2015, the New York State Historic Preservation Office (“SHPO”) states that the subject proposal will have No Adverse Effect upon historic resources provided the following conditions are met: (1) a construction protection plan shall be put in place for all historic resources within 90 feet of the proposed construction and the plan shall be developed in accordance with the New York City Department of Buildings “Technical Policy Procedure Notice #10/88” and (2) if there are substantive changes to the proposed new construction height or massing, consultation with the SHPO shall resume; and

WHEREAS, the New York City Department of Environmental Protection, Bureau of Environmental Planning and Analysis (“DEP”) reviewed the project for potential hazardous materials; and

WHEREAS, DEP reviewed and accepted the Remedial Action Plan and Construction Health and Safety Plan provided that particular revisions to each were made by the applicant; and

WHEREAS, the applicant made the revisions requested by DEP; and

WHEREAS, DEP additionally requested that a Remedial Closure Report certified by a Professional Engineer and indicating that all remedial requirements have been properly implemented be submitted to DEP for review and approval; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, in an R6 (C1-4) zoning district, the construction of a mixed-use residential and community facility use building, contrary to ZR §§ 23-145, 23-22 and 25-25, *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received December 14, 2015” – fourteen (14) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: maximum lot coverage of 82 percent, maximum residential floor area of 32,544 sq. ft., and maximum residential floor area ratio (“FAR”) of 4.47, as indicated on the BSA-approved plans;

THAT any change in ownership, operator, or control of the building shall require the prior approval of the Board;

THAT a construction protection plan developed in accordance with DOB’s “Technical Policy Procedure Notice #10/88” shall be put in place for all historic resources within 90 feet of the proposed construction and the plan;

THAT substantial construction will be completed in accordance with ZR § 72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT DOB will not issue a Certificate of Occupancy prior to DEP’s approval of the Remedial Closure Report;

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 15, 2015.

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35-14-BZ

CEQR #14-BSA-118Q

APPLICANT – Gerald J. Caliendo, RA, AIA., for Demetrius Partridge, owner; Mara Parr Corp. dba CKO Kickboxing, lessee.

SUBJECT – Application February 12, 2014 – Special Permit (§73-36) to permit the operation a physical culture (CKO Kickboxing) within the existing building. C4-2A zoning district.

PREMISES AFFECTED – 40-06 Astoria Boulevard, Astoria Boulevard South 28.0 feet east of the intersection of Steinway Street and Astoria Boulevard, Block 00686, Lot 12, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....4

Negative:.....0

Absent: Vice-Chair Hinkson.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated January 16, 2014, acting on Department of Buildings (“DOB”) Application No. 420630561, reads in pertinent part:

“Proposed Physical Culture Establishment in a C4-2A zoning district requires a Special Permit from the Board of Standards and Appeals pursuant to § 73-36 Z.R.”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site located within a C4-2A zoning district, a physical culture establishment (PCE), which operates on the second floor of three (3) story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on November 17, 2015 after due notice by publication in *The City Record*, and then to decision on December 15, 2015; and

WHEREAS, Community Board 1, Queens, recommends approval of this application; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the south side of Astoria Boulevard, between Steinway Street and 41st Street; and

WHEREAS, the site has approximately 40 feet along Astoria Boulevard, and is occupied by a three (3) story commercial building; and

WHEREAS, the PCE occupies approximately 4,821 sq. ft. on the second floor of the subject building and has been in operation since December 2013; and

WHEREAS, the parking requirements for the PCE, as set forth in ZR § 36-21, are waived under ZR § 36-231; and

WHEREAS, the PCE operates as Maba aka CKO Kickboxing; and

WHEREAS, the proposed hours of operation for the PCE

are: Monday through Friday, 6:00 a.m. to 10:00 p.m., and Saturday through Sunday, 8:00 a.m. to 6:00 p.m.; and

WHEREAS, the PCE provides kickboxing training for all skill levels through group fitness classes; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has deemed to be satisfactory; and

WHEREAS, the Fire Department, by letter dated November 16, 2015, states that it has no objections to the proposal; and

WHEREAS, the applicant represents that the proposed PCE will contain an approved interior fire alarm system, including sprinklers, manual pull stations, backup lighting, local audible and visual alarms, and connection of the interior fire alarm to a Fire Department central station; and

WHEREAS, the applicant has submitted documentation confirming that an Interior Fire Alarm has been installed, inspected and approved by both the DOB and the Fire Department; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 14-BSA-118Q, dated February 2, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to legalize, on a site located in a C4-2A, a PCE operating on the second floor of a three (3) story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received December 2, 2015”—Six (6) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on

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December 1, 2023;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance under Local Law 58/87 will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT sound attenuation measures shall be implemented and/or maintained as shown on the Board-approved plans;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 15, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 15, 2015.

51-14-BZ

APPLICANT – Lewis E. Garfinkel, for David Freier, owner.
SUBJECT – Application April 2, 2014 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area and open space ZR §23-141; side yards ZR §23-461 and rear yard ZR §23-47. R2 zoning district.

PREMISES AFFECTED – 1369 East 28th Street, East side of East 28th Street, 220’ north from Avenue N, Block 7664, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda..... 4

Negative:.....0

Absent: Vice-Chair Hinkson.....1

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated March 28, 2014, acting on DOB Application No. 320594237, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141(a) in that the proposed floor area ratio (FAR) exceeds the permitted 50%;
2. Proposed plans are contrary to ZR 23-141(a) in

that the proposed open space ratio (OSR) is less than the required 150%;

3. Plans are contrary to ZR 23-461(a) in that the proposed side yards are less than the required 5’-0” and 8’-0”;

4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than 30’-0”;

WHEREAS, this is an application under ZR § 73-622, to permit, in an R2 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, side yards and rear yards contrary to ZR §§ 23-141(a), 23-461(a) and 23-47; and

WHEREAS, a public hearing was held on this application on March 24, 2015 after due notice by publication in *The City Record*, with continued hearings on May 12, 2015, and November 24, 2015, and then to decision on December 15, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez, and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of East 28th Street, Between Avenue M and Avenue N, in an R2 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 28 feet of frontage along East 28th Street, a depth of 100 feet, and 2,750 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story plus attic, one-family residence with approximately 1,639 sq. ft. of floor area (0.60 FAR); and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single-* or *two family detached* or *semi-detached residence* within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage*, *open space*, *floor area*, *side yard*, *rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*;

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- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and
- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single- or two family detached or semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building's non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins.

Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply.

The Board shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge an existing single family residence, as contemplated in ZR § 73-622; and

WHEREAS, the applicant initially sought to demolish the house, but maintain the full existing foundation, and install a pre-fabricated structure that would increase the floor area of the structure from 1,639 sq. ft. (0.60 FAR) to 2,750 sq. ft. (1.00 FAR); decrease the open space from 1,931 sq. ft. (1.18 OSR) to 1,503 sq. ft. (0.55 OSR); reduce the existing 39'-0" rear yard to 20'-0"; maintain the existing non-complying 10'-10" front yard at the first floor and reduce the existing compliant 19'-11" front yard at the second floor to a still compliant 15'-0"; and maintain the existing non-complying side yard that measures 4'-0" decrease the other existing complying 7'-6" side yard to 5'-10"; and

WHEREAS, in response to the Board's concerns that the initial proposal was not, in fact, an enlargement entitled to a special permit under ZR § 73-622, the applicant modified the proposed enlargement; and

WHEREAS, thus, the applicant now proposes to keep a substantial portion of the existing exterior walls and all of the existing floors and seeks to increase the floor area of the structure from 1,639 sq. ft. (0.60 FAR) to 2,750 sq. ft. (1.00 FAR); decrease the open space from 1,931 sq. ft. (1.18 OSR) to 1,503 sq. ft. (0.55 OSR); reduce the existing 39'-0" rear yard to

20'-0"; maintain the existing non-complying 10'-10" front yard; maintain the existing non-complying side yard that measures 4'-0" and decrease the other existing complying 7'-6" side yard to 5'-0"; and

WHEREAS, the applicant represents that the modified proposal will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, with respect to the proposed rear yard, the applicant states that the rear of the subject property abuts an open area that is used as a parking lot and playground for the Hebrew Language Academy charter school and, therefore, the reduction in the depth of the rear yard will have no impact on the views or light and air enjoyed by neighboring property owners; and

WHEREAS, based upon its review and the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio, open space ratio, side yards and rear yards contrary to ZR §§ 23-141(a), 23-461(a) and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received November 25, 2015"-twelve (12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 2,750 sq. ft. (1.00 FAR), a rear yard with a minimum depth of 20'-0", a front yard with a minimum depth of 10'-10", side yards of 4'-0" and 5'-0", all as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 15, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 15, 2015.

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148-14-BZ

CEQR No. 15BSA016M

APPLICANT – Sheldon Lobel, P.C., for 11 Avenue A Realty LLC, owner.

SUBJECT – Application June 24, 2014 – Variance (§72-21) to permit multi-family residential use at the premises. R8A/C2-5 zoning districts.

PREMISES AFFECTED – 11 Avenue A, west side of Avenue A between East 1st Street and East 2nd Street, Block 429, Lot 39, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda..... 4

Negative:.....0

Absent: Vice-Chair Hinkson.....1

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated June 13, 2014, acting on Department of Buildings Application No. 121184182, reads in pertinent part:

“ZR 23-32: Zoning lot does not meet the minimum lot area requirement of 1,700 sf for multi-family use in an R8A/C2-5 District, contrary to ZR 23-32”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R8A (C2-5) zoning district, multi-family residential use, contrary to ZR § 23-32; and

WHEREAS, a public hearing was held on this application on January 20, 2015, after due notice by publication in *The City Record*, with continued hearings on March 24, 2015, April 28, 2015, June 16, 2015, July 14, 2015, August 25, 2015, October 20, 2015, and November 24, 2015, and then to decision on December 15, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda performed inspections of the subject site and surrounding neighborhood; and

WHEREAS, Community Board 3, Manhattan, recommends disapproval of this application; and

WHEREAS, the subject lot is located on the east side of Avenue A between East 1st Street and East 2nd Street, has approximately 19 feet of frontage along Avenue A and 1,500 sq. ft. total lot area in an R8A (C2-5) zoning district, in Manhattan; and

WHEREAS, the lot is currently improved with a three-story plus cellar commercial building with 3,784 sq. ft. total floor area and a floor area ratio (“FAR”) of 2.52; and

WHEREAS, the applicant proposes to enlarge the existing building by an additional three stories to result in a six-story mixed-use building with commercial use on the ground floor and cellar, one three-bedroom dwelling unit on both the second and third floors, and one two-bedroom dwelling unit on each of the fourth through sixth floors, for a total of five dwelling units in the building; and

WHEREAS, the total floor area proposed is 6,305 sq.

ft. (4.1 FAR), comprised of 1,484 sq. ft. of commercial floor area and 4,821 square feet of residential floor area, and a total building height of 60’-0”;

WHEREAS, thus, the only waiver requested in the subject application is with regards to minimum lot area for multi-family residential use in an R8A zoning district; and

WHEREAS, the applicant states that, per ZR § 72-21(a), the narrow width and depth of the lot combined with the obsolescence of the building for its as-of-right use creates practical difficulties and unnecessary hardship in developing the subject site in conformance with underlying district regulations; and

WHEREAS, specifically, the applicant states that the small size of the lot severely constrains the ability to attract and maintain commercial tenants; and

WHEREAS, in support of this application, the applicant submitted a land study of the lots within 400 feet of the subject premises which demonstrates that (1) there are only 5 lots, out of a total of 53 lots within a 400-foot radius, with less lot area than the subject premises; (2) of the 5 smaller lots, 2 of the lots are built close to or fully to the allowable floor area, whereas the subject premises is underbuilt by nearly half of its allowable floor area; (3) one of the smaller lots has 50 feet of frontage—more than double that at the subject premises; and (4) all of the lots with less lot area are mixed-use residential and commercial; and

WHEREAS, thus, the applicant maintains that the combination of the small size of the lot, the narrow width of the lot, and the underbuilt status of the lot makes the premises unique; and

WHEREAS, in further support of this application, the applicant submitted an area study encompassing an area bounded by Second Avenue on the west, Avenue B to the east, East 4th Street to the north, and East Houston Street to the south, which demonstrates that (1) the subject premises is one of 28, out of the total 243 lots within the surveyed area, with a lot area of 1,500 sq. ft. or less; (2) only 3 of the 28 lots with a lot area of 1,500 sq. ft. or less, including the subject premises, do not have at least a partial residential use (the other two properties, not including the subject premises, are operated as or in conjunction with a religious use); and (3) only 8 of the 25 lots of 1,500 sq. ft. of lot area or less with at least partial residential use have two or fewer dwelling units (17 of the 25 lots have three dwelling units or more); and

WHEREAS, the Board finds that the aforementioned unique physical condition creates unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that, per ZR § 72-21(b), there is no reasonable possibility that the development of the site in conformance with the Zoning Resolution will bring a reasonable return; and

WHEREAS, the applicant provided a financial analysis for (1) two three-bedroom duplex dwelling units (“As-of-Right Residential”), (2) a six-story mixed-use building, with setback, with ground floor retail space and

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five residential units consisting of two- and three-bedroom units on the second through fifth floors and a one-bedroom unit on the sixth floor (“As-of-Right Mixed Use”), and (3) the subject proposal; and

WHEREAS, the applicant represents that only the proposal would provide a reasonable return; and

WHEREAS, the applicant contends that income generated by the As-of-Right Residential alternative cannot be offset by the income generated thereby; and

WHEREAS, the applicant notes that the setback in the As-of-Right Mixed Use results in an almost 300 sq. ft. decrease in building area than the proposal, but the reduction in massing has little impact on the overall development costs of the project and certain costs, such as elevator work, remain the same; and

WHEREAS, in response to questions asked in hearing, the applicant stated that while the setback in the As-of-Right Mixed Use alternative provides for a terrace for the unit on the sixth floor, it also reduces the size of the sixth floor unit from two-bedroom to one-bedroom, thus reducing its value; and

WHEREAS, the applicant maintains that the mix of unit sizes and their configuration plays a significant role in the viability of the development scenarios due the small lot size; and

WHEREAS, thus, based upon its review of the applicant’s submissions, the Board has determined that because of the subject lot’s unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the surrounding area, including along the Avenue A frontage of the site, is predominantly comprised of multi-family residences and mixed-use commercial and residential buildings; and

WHEREAS, the subject proposal will provide the thirty-foot rear yard required for residential use; and

WHEREAS, in response to questions posed by the Board regarding the impact of the proposed six-story building on the neighborhood’s essential character, the applicant provided a neighborhood building height study demonstrating that the surrounding area is not uniform with regards to building heights and there are buildings ranging from one- to twenty-three story buildings within a 400 foot radius of the site; and

WHEREAS, the applicant also notes that the dominant use for similarly sized lots in the surrounding area is multi-family residential, suggesting that the proposed use is consistent with the character of the neighborhood; and

WHEREAS, in response to questions posed by the Board regarding the façade of subject proposal, the applicant provided a detail façade drawing illustrating that the

proposed façade contains many of the same historical architectural elements as buildings adjacent to the subject site and is, thus, cohesive with the neighborhood architectural fabric; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the applicant represents that the proposal represents the minimum variance needed to allow for a reasonable and productive use of the site; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 15BSA016M, dated June 23, 2014; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R8A (C2-5) zoning district, multi-family residential use, contrary to ZR § 23-32, *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received November 20, 2015” – twelve (12) sheets; and *on further condition*:

THAT the façade of the building be comprised of the materials as specified on sheet 12 of the BSA-approved

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plans;

THAT substantial construction will be completed in accordance with ZR § 72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 15, 2015.

149-14-BZ

APPLICANT – Lewis E. Garfinkel, for Abraham Schreiber, owner.

SUBJECT – Application June 25, 2014 – Special Permit (§73-622) to for the enlargement of an existing single family residence contrary to floor area and open space (ZR 23-141(a)); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R-2 zoning district.

PREMISES AFFECTED – 3173 Bedford Avenue, east side of Bedford Avenue 400’ north from Avenue K, Block 07607, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....4

Negative:.....0

Absent: Vice-Chair Hinkson.....1

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated June 3, 2014, acting on DOB Application No. 320915168, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141(a) in that the proposed floor area ratio (FAR) exceeds the permitted 50%;
 2. Proposed plans are contrary to ZR 23-141(a) in that the proposed open space ratio (OSR) is less than the required 150%;
 3. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less then [sic] 30’-0”;
- and

WHEREAS, this is an application under ZR § 73-622, to permit, in an R2 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio and rear yards contrary to ZR §§ 23-141(a) and 23-47; and

WHEREAS, a public hearing was held on this application on October 16, 2015 after due notice by publication in *The City Record*, and then to decision on

December 15, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez, and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of Bedford Avenue, between Avenue J and Avenue K, in an R2 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 35 feet of frontage along Bedford Avenue, a depth of 100 feet, and 3,492 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with attic, one-family residence with approximately 1,455 sq. ft. of floor area (0.42 FAR); and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single-* or *two family detached* or *semi-detached residence* within the following areas:

- a. Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- b. R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage*, *open space*, *floor area*, *side yard*, *rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*;
- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and
- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single-* or *two family detached* or *semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building’s non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins. Above such height, the setback regulations

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of Section 23-31, paragraph (b), shall continue to apply.

The Board shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge an existing single family residence, as contemplated in ZR § 73-622; and

WHEREAS, the applicant initially sought to increase the floor area of the structure from 1,455 sq. ft. (0.42 FAR) to 3,469 sq. ft. (1.00 FAR); decrease the open space from 2,663 sq. ft. (1.83 OSR) to 1,944 sq. ft. (0.59 OSR); maintain the degree of non-compliance of the 9'-8" front yard; reduce the existing 52'-9" rear yard to 20'-0"; and maintain an existing complying 6'-0" side yard and decrease the other 8'-6" side yard to 5'-4"; and

WHEREAS, in response to the Board's concerns that the initially proposed enlargement was not compatible with, and would therefore alter, the essential character of the neighborhood in which the building is located, the applicant modified the proposed enlargement; and

WHEREAS, specifically, at hearing the Board expressed concern about the additional floor area allocated in the attic level and the reduction of the existing rear yard to 20'-0" at the upper stories; and

WHEREAS, thus, the applicant now seeks to increase the floor area of the structure from 1,455 sq. ft. (0.42 FAR) to 3,247 sq. ft. (0.93 FAR); decrease the open space from 2,663 sq. ft. (1.83 OSR) to 1,944 sq. ft. (0.59 OSR); maintain the degree of non-compliance of the 9'-8" front yard; reduce the existing 52'-9" rear yard to 20'-0" at the first floor and 26'-0" at the second and attic floors; maintain the compliance of the 5'-11" and 6'-9" side yards by providing 6'-0" and 5'-4" side yards; and

WHEREAS, the applicant represents that the modified proposal will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, based upon its review and the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R.

Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio, open space ratio, and rear yards, contrary to ZR §§ 23-141(a) and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received November 25, 2015"- (12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 3,247 sq. ft. (0.93 FAR), side yards of 6'-0" and 5'-4", a front yard with a minimum depth of 9'-8", and a rear yard with a minimum depth of 20'-0" at the ground floor and 26'-0" at the second and attic floors, all as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objection(s);

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 15, 2019; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 15, 2015.

45-15-BZ

CEQR #15-BSA-169Q

APPLICANT – Simons & Wright LLC, for Queensboro Development, LLC, owner; Long Island City Rock Climbing Co. LLC, lessee.

SUBJECT – Application March 10, 2015 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Rock Climbing Facility*) C5-3 zoning district.

M1-5/R7-3 (LIC) zoning district.

PREMISES AFFECTED – 23-10 41st Avenue, between 23rd and 24th Streets, Block 00413, Lot 0022, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....4

Negative:.....0

Absent: Vice-Chair Hinkson.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough

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Commissioner, dated February 11, 2015 acting on Department of Buildings Application No. 410103677, reads in pertinent part:

“The proposed use of the subject property as a physical cultural establishment in a M1-5/R7-3/LIC zoning district is contrary to ZR Section 42-00 and requires a special permit from the NYC Board of Standards and Appeals pursuant to ZR Section 73-36”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within a M1-5/R7-3 zoning district and the Special Long Island City Mixed Use District, the operation of a physical culture establishment (PCE) in a seventeen (17) story residential building, contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on November 24, 2015, and then to decision on December 15, 2015; and

WHEREAS, Community Board 1, Queens, recommends approval of this application; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez, and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is a corner through-lot located on the south side of 41st Avenue, between 23rd Street and 24th Street; and

WHEREAS, the site has approximately 100 feet of frontage along 23rd Street, 185 feet of frontage along 41st Avenue, 100 feet of frontage along 24th Street, and 18,536 sq. ft. of lot area, and is occupied by a seventeen (17) story residential building with residential uses on floors four (4) through seventeen (17) and an accessory lobby and parking on floors one (1) through three (3); and

WHEREAS, the proposed PCE will occupy approximately 20,900 sq. ft. in the cellar and sub-cellar of the building, with an entrance on the first floor; and

WHEREAS, the PCE will be operated as Long Island City Rock Climbing Gym Co. LLC d/b/a Brooklyn Boulders Queensbridge; and

WHEREAS, the applicant represents that the PCE is an artificial indoor rock climbing facility and will contain rock climbing walls and related training equipment along with open space for conditional classes, programs and instruction; and

WHEREAS, the proposed hours of operation for the PCE are: Monday through Friday, 5:30 a.m. to 12:00 a.m., and Saturday through Sunday, 7:00 a.m. to 12:00 a.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has deemed to be satisfactory; and

WHEREAS, the Fire Department, by letter dated November 20, 2015, states that it has no objections to the proposal; and

WHEREAS, the applicant represents that the proposed PCE will contain an approved interior fire alarm system, including sprinklers, manual pull stations, backup lighting,

local audible and visual alarms, and connection of the interior fire alarm to a Fire Department central station; and

WHEREAS, the applicant represents that, as the proposed PCE will be located on the cellar and sub-cellar levels, it will be four floors below the nearest residential use and be separated from that nearest residential use by one level containing a garage, and thus, there is adequate separation between the residents of the building and the PCE such that the PCE will have no adverse impact on the residential units; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 15-BSA-169Q, dated March 4, 2015; and

WHEREAS, the EAS documents that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site located in a M1-5/R7-3 zoning district the Special Lower Manhattan District, the operation of a PCE in the cellar and sub-cellar floor levels of a seventeen (17) story

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residential building, contrary to ZR § 42-00; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received September 15, 2015” - Six (6) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on December 15, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance under Local Law 58/87 will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT sound attenuation measures shall be implemented and/or maintained as shown on the Board-approved plans;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 15, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 15, 2015.

53-15-BZ

CEQR #15-BSA-172M

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 10 E53rd Street Owner LLC c/o SL Green Realty Co., owner; Equinox East 53rd Street, Inc., lessee.

SUBJECT – Application March 12, 2015 – Special Permit (§73-36) to permit a physical culture establishment (*Equinox*) within an existing building. C5-2.5(MID) + C.3MID)(F) zoning district.

PREMISES AFFECTED – 10 East 53rd Street, south side of east 53rd Street, 125’ west of intersection of East 53rd Street and 5th Avenue, Block 01288, Lot 7, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda..... 4
Negative:.....0

Absent: Vice-Chair Hinkson.....1

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated March 2, 2015 and as revised March 6, 2015, acting on Department of Buildings Application No. 122252631, reads in pertinent part:

“Proposed ‘Physical Culture Establishment’ is not permitted As-Of-Right as per section ZR 32-31 and a special permit by the Board of Standards and Appeals (BSA) is required to comply with ZR 73-36”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located partially within a C5-2.5 zoning district and partially within a C5-3 zoning district and in the Special Midtown District, the operation of a physical culture establishment (PCE) in a thirty-eight (38) story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on November 24, 2015 after due notice by publication in *The City Record*, and then to decision on December 15, 2015; and

WHEREAS, Community Board 5, Manhattan, waived the holding of a public hearing with regards to this application; and

WHEREAS, Vice-Chair Hinkson and Commissioner Ottley-Brown performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is an irregular through-lot located on the south side of East 53rd Street, between Fifth Avenue and Madison Avenue; and

WHEREAS, the site has approximately 100 feet of frontage along East 53rd Street, 79 feet of frontage along East 52nd Street, 17,071 sq. ft. of lot area, and is occupied by a thirty-eight (38) story commercial building; and

WHEREAS, the proposed PCE will occupy approximately 582 sq. ft. on the sub-cellar level, 6,829 sq. ft. on the cellar level, 1,652 sq. ft. on the first floor, 1,099 sq. ft. on the mezzanine level, 9,606 sq. ft. on the second floor, and 11,552 sq. ft. on the third floor, for a total of 23,909 sq. ft. of zoning floor area and 31,320 sq. ft. including the exempt floor area located in the cellar and sub-cellar levels; and

WHEREAS, the majority of the proposed PCE will be located in portions of the building located in a C5-2.5 zoning district, but a portion of the space on the cellar and third floor levels will be located in the northern portion of the subject building that extends into a C5-3 zoning district; and

WHEREAS, no parking is required in connection with the proposed PCE in a C5 zoning district pursuant to ZR § 36-21; and

WHEREAS, the PCE will be operated as Equinox; and

WHEREAS, the applicant represents that the PCE will contain facilities for group fitness classes as well as weight lifting and aerobic exercise equipment; and

WHEREAS, the proposed hours of operation for the PCE are: Monday through Friday, 5:00 a.m. to 11:30 p.m., and Saturday through Sunday, 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has deemed to be satisfactory;

MINUTES

and

WHEREAS, the Fire Department, by letter dated November 20, 2015, states that it has no objections to the proposal; and

WHEREAS, the applicant represents that the proposed PCE will contain an approved interior fire alarm system with automatic wet sprinklers and connected to a Fire Department-approved central station; and

WHEREAS, the applicant further represents that sound attenuation measures, including cushioned mats in the weight lifting areas and independently-mounted speakers; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 15-BSA-172M, dated September 21, 2015; and

WHEREAS, the EAS documents that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site located partially within a C5-2.5 zoning district and

partially within a C5-3 zoning district and in the Special Midtown District, the operation of a PCE in the sub-cellar, cellar, first, mezzanine, second and third floor levels of an existing thirty-eight (38) story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received December 11, 2015”—Nineteen (19) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on December 15, 2025;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT accessibility compliance under Local Law 58/87 will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT sound attenuation measures shall be implemented and/or maintained as shown on the Board-approved plans;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by December 15, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited objection(s);

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

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 15, 2015.

322-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Gloria B. Silver, owner.

SUBJECT – Application December 18, 2013 – Reinstatement (§11-411) of a previously approved variance which permitted accessory parking on the zoning lot for the use Group 6 commercial building, which expired on September 23, 1990; Waiver of the Rules. R6/C1-2 and R6 zoning district.

PREMISES AFFECTED – 42-01 Main Street, southeast corner of the intersection of Main Street and Maple Avenue, Block 5135, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to February 23, 2016, at 10 A.M., for continued hearing.

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330-13-BZ

APPLICANT – Alexander Levkovich, for Dilshoda Nasriddinova, owner.

SUBJECT – Application December 31, 2013 – Special Permit (§73-622) for the legalization of an enlargement to an existing single family home contrary to floor area (ZR 23-141). R4-1 zoning district.

PREMISES AFFECTED – 2801 Brown Street, east side of Brown Street, 230' south of intersection with Shore Parkway, Block 08800, Lot 0095, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to February 23, 2016, at 10 A.M., for adjourned hearing.

30-14-BZ

APPLICANT – Eli Katz of Binyan Expediting, for Cong. Machine Chaim, owner; Yeshiva Bais Sorah, lessee.

SUBJECT – Application February 11, 2014 – Variance (§72-21) proposed enlargement to an existing school (Use Group 3) is contrary to §§42-00 & 43-43. M1-1 zoning district.

PREMISES AFFECTED – 6101 16th Avenue aka 1602 61st Street aka 1601 62nd Street, north east corner of 62nd Street and south east side of 16th Avenue, Block 5524, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #11BK

ACTION OF THE BOARD – Laid over to February 2, 2016, at 10 A.M., for continued hearing.

31-14-BZ

APPLICANT – Moshe M. Friedman, PE, for Bnos Square of Williamsburg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-19) to allow a conversion of an existing Synagogue (*Bnos Square of Williamsburg*) building (Use Group 4 to (Use Group 3). M1-2 zoning district.

PREMISES AFFECTED – 165 Spencer Street, 32'6" Northerly from the corner of the northerly side of Willoughby Avenue and easterly side of Spencer Street, Block 1751, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for deferred decision.

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REGULAR MEETING TUESDAY AFTERNOON, DECEMBER 15, 2015 1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.

ZONING CALENDAR

283-14-BZ

APPLICANT – Dennis D. Dell'Angelo, for Morris Weiss, owner.

SUBJECT – Application November 5, 2014 – Special Permit (§73-622) for the enlargement of an existing two family residence to be converted to a single family home contrary to floor area and open space (ZR 23-141) and less than the required rear yard (ZR 23-47). R2 zoning district. PREMISES AFFECTED – 3255 Bedford Avenue, eastside Bedford Avenue between Avenue K and Avenue L, Block 07625, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #3BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to January 22, 2016, at 10 A.M., for decision, hearing closed.

63-15-BZ

APPLICANT – Sheldon Lobel, P.C., for Sutton Owners Corporation, Inc., owner; Harriet Harkavy, Esq., lessee.

SUBJECT – Application March 23, 2015 – Variance (§72-21) to legalize the three existing enclosures of portions of the terrace of Unit PHC located on the penthouse floor of the premises. R10 zoning district.

PREMISES AFFECTED – 35 Sutton Place, corner throughlot with frontage on 59th Street between Sutton Place and Riverview Terrace, Block 01372, Lot 73, Borough of Manhattan.

COMMUNITY BOARD #6M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to February 9, 2016, at 10 A.M., for decision, hearing closed.

98-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for East 54th Street Partnership LLC, owner; SoulCycle East 54th Street, LLC, lessee.

SUBJECT – Application May 5, 2015 – Special Permit (§73-36) to allow a physical culture establishment (*SoulCycle*) within the existing building for a one family, three-story residence for accessory parking spaces. C1-9 zoning district.

PREMISES AFFECTED – 240 East 54th Street, south side of East 54th Street, 100 feet west of intersection of East 54th Street and Second Avenue, Block 01327, Lot 029, Borough of Manhattan.

COMMUNITY BOARD #6M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to February 9, 2016, at 10 A.M., for decision, hearing closed.

99-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for East 54th Street Partnership LLC, owner; Blink East 54th Street, Inc., lessee.

SUBJECT – Application May 5, 2015 – Special Permit (§73-36) to allow for a physical culture establishment (*Blink*) in an existing commercial building. C1-9 zoning district.

PREMISES AFFECTED – 240 East 54th Street, south side of East 54th Street, 100' west of intersection of East 54th Street, and 2nd Avenue, Block 01327, Lot 029, Borough of Manhattan.

COMMUNITY BOARD #6M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to February 2, 2016, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director