

---

# BULLETIN

OF THE  
NEW YORK CITY BOARD OF STANDARDS  
AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
250 Broadway, 29<sup>th</sup> Floor, New York, N.Y. 10007.

---

Volume 99, No. 19

May 14, 2014

---

## DIRECTORY

**MEENAKSHI SRINIVASAN**, *Chair*

CHRISTOPHER COLLINS, *Vice-Chair*

DARA OTTLEY-BROWN

SUSAN M. HINKSON

EILEEN MONTANEZ

*Commissioners*

Jeffrey Mulligan, *Executive Director*

Becca Kelly, *Counsel*

---

<b>OFFICE -</b>	<b>250 Broadway, 29th Floor, New York, N.Y. 10007</b>
<b>HEARINGS HELD -</b>	<b>22 Reade Street, Spector Hall, New York, N.Y. 10007</b>
<b>BSA WEBPAGE @</b>	<b><a href="http://www.nyc.gov/html/bsa/home.html">http://www.nyc.gov/html/bsa/home.html</a></b>

<b>TELEPHONE - (212) 386-0009</b>
<b>FAX - (646) 500-6271</b>

## CONTENTS

DOCKET .....	362
<b>CALENDAR</b> of May 20, 2014	
Morning .....	363-364

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, May 6, 2014**

Morning Calendar .....365

**Affecting Calendar Numbers:**

823-19-BZ	1901 10 <sup>th</sup> Avenue, Brooklyn
156-02-BZ	964 65 <sup>th</sup> Street, Brooklyn
192-96-BZ	1832 86 <sup>th</sup> Street, aka 1854 86 <sup>th</sup> Street, 1-29 Bay Street, 2-6 Bay Street, Brooklyn
174-07-BZ	1935 Coney Island Avenue, Brooklyn
245-32-BZ	123-05 101 <sup>st</sup> Street, Queens
611-52-BZ	35-35 24 <sup>th</sup> Street, Queens
322-05-BZ	69-69 Main Street, Queens
173-09-BZ	839-845 Broadway, aka 12-14 Park Street, Brooklyn
140-11-A & 141-11-A	69-17 38 <sup>th</sup> Avenue, aka 69-19 38 <sup>th</sup> Avenue, Queens
123-13-A	86 Bedford Street, Manhattan
110-13-A	120 President Street, Brooklyn
304-13-A	517-519 West 19 <sup>th</sup> Street, Manhattan
312-13-A	521-525 West 19 <sup>th</sup> Street, Manhattan
313-13-A	531 West 19 <sup>th</sup> Street, Manhattan
303-12-BZ	1106-1108 Utica Avenue, Brooklyn
269-13-BZ	110 West 73 <sup>rd</sup> Street, Manhattan
305-13-BZ	30-50 Whitestone Expressway, Queens
318-13-BZ	74 Grand Street, Manhattan
103-13-BZ	81 Jefferson Street, Brooklyn
124-13-BZ	95 Grattan Street, Brooklyn
125-13-BZ	97 Grattan Street, Brooklyn
178-13-BZ	21-41 Mott Avenue, Queens
250-13-BZ	3555 White Plains Road, Bronx
254-13-BZ	2881 Nostrand Avenue, Brooklyn
273-13-BZ	321 East 60 <sup>th</sup> Street, Manhattan
277-13-BZ	1769 Fort George Hill, Manhattan
279-13-BZ	21/-222 West 35 <sup>th</sup> Street, Manhattan
286-13-BZ	2904 Voorhies Avenue, Brooklyn
294-13-BZ	220 Lafayette Street, Manhattan
310-13-BZ	459 East 149 <sup>th</sup> Street, Bronx
331-13-BZ	2005 86 <sup>th</sup> Street, aka 2007 86 <sup>th</sup> Street, Brooklyn
3-14-BZ	12-22 East 89 <sup>th</sup> Street, aka 1238 Madison Avenue, Manhattan
7-14-BZ	1380 Rockaway Parkway, Brooklyn

---

# DOCKETS

---

New Case Filed Up to May 6, 2014  
-----

**89-14-A**

215 East 64th Street, North side of East 64th Street between Second Avenue and Third Avenue, Block 1419, Lot(s) 10, Borough of **Manhattan, Community Board: 8**. Extension of Time to obtain a Class B Certificate of Occupancy to legalize Affinia 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. R8B district.  
-----

**90-14-BZ**

229-27 Merrick Boulevard, North West Corner of Merrick Boulevard and 230th Street, Block 12968, Lot(s) 116, Borough of **Queens, Community Board: 13**. Special Permit (§73-30) to install a proposed non-accessory radio facility (The Communication Facility,) on a portion of the property. Located within an R3-2/C1-3 zoning district. R3-2/C1-3 district.  
-----

**91-14-BZ**

3420 Bedford Avenue, Southwest corner of Bedford Avenue and Avenue M, Block 7660, Lot(s) tent 45, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to allow the enlargement of a single family residence. R2 zoning district. R2 district.  
-----

**92-14-A**

790 7th Avenue, Bounded by West 51st Street, Broadway, West 52nd Street and 7th Avenue, Block 1023, Lot(s) 29, Borough of **Manhattan, Community Board: 10**. Appeals filed pursuant to MDL Section 310(2) ( c ) for variance of court requirements and legally required windows under MDL Sections 26 (7) & 30 for the construction of a residential addition to an existing building . C6-7.C6-6(MID) zoning district . C6-7/C6-6 MID district.  
-----

**93-14-BZ**

455 West 37th Street, between Dyer and 10th Avenues, Block 735, Lot(s) 6, Borough of **Manhattan, Community Board: 4**. Special Permit (§73-36) to allow a physical culture establishment (Title Boxing Club). R8A/C2-5 zoning district. R8A/C2-5 district.  
-----

**95-14-A**

237 East 72nd Street, North Side of East 72nd Street 192.6' West of 2nd Avenue, Block 1427, Lot(s) 116, Borough of **Manhattan, Community Board: 8**. 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 district.  
-----

**94-14-BZ**

1150 East 22nd Street, West side of East 22nd Street, 140 feet North of Avenue "K", Block 7603, Lot(s) 79, Borough of **Brooklyn, Community Board: 3**. Special Permit (§73-622) to allow the enlargement of an existing single family home for the cellar, 1st floor, 2nd floor and 3rd floor. Located in an R2 zoning district. R2 district.  
-----

**96-14-BZ**

290 Dyckman Street, Corner lot at the intersection of Dyckman Street and Henshaw Street, Block 2246, Lot(s) 28, Borough of **Manhattan, Community Board: 12**. Variance (§72-21) to allow the conversion of an existing two-story building that has historically been occupied by manufacturing and industrial/commercial uses to be converted to a self-storage facility. Located in an C8-3/R7-2 district. C8-3/R7-2 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

---

**MAY 20, 2014, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, May 20, 2014, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

-----

## SPECIAL ORDER CALENDAR

### **775-85-BZ**

APPLICANT – Sheldon Lobel, P.C., for Ivy Cross Island Plaza, owner.

SUBJECT – Application December 18, 2013 – Extension of Term of a previously approved Variance (§72-21) which permitted the construction of a three-story office building contrary to permitted height and use regulation, which expired on February 24, 2012; Amendment to modify the parking layout, eliminate buffering and eliminate the term of years of the variance; Waiver of the Rules. C1-3/R2 and R2 zoning district.

PREMISES AFFECTED – 133-33 Brookville Boulevard, triangular lot with frontages on Brookville Boulevard, Merrick Boulevard, 133rd Avenue and 243rd Street, Block 12980, Lot 1, Borough of Queens.

**COMMUNITY BOARD #13Q**

-----

### **245-03-BZ**

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for Allied Enterprises NY LLC, owner; McDonald's Real Estate Company, lessee.

SUBJECT – Application December 26, 2013 – Extension of Term of a previously granted special permit (§72-243) for an accessory drive-thru to an existing eating and drinking establishment (*McDonald's*), which expired on December 12, 2013. C1-2/R3-2 zoning district.

PREMISES AFFECTED – 160-11 Willets Point Boulevard, northeast corner of Francis Lewis Boulevard, Block 4758, Lot 100, Borough of Queens.

**COMMUNITY BOARD #7Q**

-----

### **326-09-BZ**

APPLICANT – Bryan Cave LLP, for Flushing Commons Property Owner LLC, owner.

SUBJECT – Application April 10, 2014 – Extension of Time to Complete Construction of a previously approved Special Permit (§73-66) permitting the development of four mixed use buildings (*Flushing Commons*) which exceed the height regulations around airports, contrary to ZR (§61-21) which expires on July 27th 2014. C4-4 zoning district.

PREMISES AFFECTED – 37-10 Union Street aka 38-15 138<sup>th</sup> Street, portion of the block bounded by 37th Avenue on the north, 39th Avenue on the South, Union Street on the east and 138th Street on west, Block 4978, Lot 25, Borough of Queens.

**COMMUNITY BOARD #7Q**

-----

### **49-11-BZ**

APPLICANT – Warshaw Burstein, LLP, for A&G Real Estate, LLC, owner; Barry's Boot camp NYC, LLC, lessee. SUBJECT – Application February 21, 2014 – Amendment of a previously approved Special Permit (§73-36) which permitted the extension of physical culture establishment. C6-3A zoning district.

PREMISES AFFECTED – 135 West 20th Street, north side of West 20th Street between Sixth Avenue and Seventh Avenue, Block 796, Lot 18, Borough of Manhattan.

**COMMUNITY BOARD #4M**

-----

## APPEALS CALENDAR

### **51-13-A**

APPLICANT – Carl A. Sulfaro, for Woodward Avenue Realty, Inc., owner.

SUBJECT – Application January 29, 2013 – Proposed construction of a one story warehouse lying partially within the bed of mapped street. (*Metropolitan Avenue*) contrary to General City Law Section 35. M3-1 zoning district.

PREMISES AFFECTED – 10 Woodward Avenue, southwest corner of Metropolitan Avenue and Woodward Avenue, Block 3393, Lot 49, Borough of Queens.

**COMMUNITY BOARD #5Q**

-----

### **59-13-A**

APPLICANT – Carl A. Sulfaro, Esq., for Onofrio and Josephine Papia, owners.

SUBJECT – Application February 5, 2013 – Proposed construction of a new one family residence located in the bed of a mapped street contrary to Section 35 of the General City Law. R1-2 zoning district.

PREMISES AFFECTED – 11-30 143rd Place, west side of 143rd Place, 258.57' south of 11th Avenue, Block 4434, Lot 147, Borough of Queens.

**COMMUNITY BOARD #7Q**

-----

---

# CALENDAR

---

## ZONING 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 now six story family dwelling contrary to §23-145 (maximum floor area). 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**

-----

### **326-13-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 5225, LLC, owner.

SUBJECT – Application December 23, 2013 – Special Permit (§73-44) to reduce required off-street parking accessory to office building (UG 6) B-1 parking category. M1-1 (CP) zoning district.

PREMISES AFFECTED – 16-16 Whitestone Expressway, West Side of Whitestone Expressway (service road), 920.47 ft. north of 20th Avenue. Block 4148, Lot 50, 65. Borough of Queens.

### **COMMUNITY BOARD #7Q**

-----

### **327-13-BZ**

APPLICANT – Goldman Harris LLC, for JCWH Coney Island LLC, owner.

SUBJECT – Application December 23, 2013 – Special Permit (§73-44) to reduce the required number of accessory parking spaces contrary to §36-21 for ambulatory diagnostic or treatment facility use and Use Group 6 uses with Parking Requirement Category B1. C8-2, C2-3/R5 zoning district.

PREMISES AFFECTED – 1504 Coney Island Avenue, property occupies the northwest corner of Coney Island Avenue and Avenue L. Block 6536, Lot 28, 30, 34, 40, 41, 42, 43. Borough of Brooklyn.

### **COMMUNITY BOARD #12BK**

-----

### **9-14-BZ**

APPLICANT – Warsaw Burstein, LLP, for 177th Upper Broadway Holdings LLC, owner; 4168 Broadway Fitness Group LLC, lessee.

SUBJECT – Application January 17, 2014 – Special Permit (§73-36) & (§73-52) to allow the operation of a physical culture establishment fitness center (*Planet Fitness*) within the existing building and to permit the fitness center use to extend 25 feet into the R7-2 zoning district, contrary to §§32-10 & 22-10. C8-3 and R7-2 zoning district.

PREMISES AFFECTED – 4168 Broadway, southeast corner of the intersection formed by West 177th Street and Broadway, Block 2145, Lot 15, Borough of Manhattan.

### **COMMUNITY BOARD #12M**

-----

### **17-14-BZ**

APPLICANT – Moshe M. Friedman, PE, for Cong Chasdei Belz Beth Malka, owner.

SUBJECT – Application January 28, 2014 – Variance (§72-21) proposed to add a third and fourth floor to an existing school building, contrary to §24-11 floor area and lot coverage, §24-521 maximum wall height, §24-35 side yard, §24-34 requires a 10' front yard and §24-361 rear yard of the zoning resolution. 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**

-----

### **18-14-BZ**

APPLICANT – Warsaw Burstein, LLP, for Infinity Fulton Street, LLC, owner; 1245 Fulton Fitness Group, LLC, lessee.

SUBJECT – Application January 29, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) within an existing building. C4-5 zoning district.

PREMISES AFFECTED – 1245 Fulton Street, north side of Fulton Street between Bedford Avenue and Arlington Place, Block 1842, Lot 47, Borough of Brooklyn.

### **COMMUNITY BOARD #3BK**

-----

*Jeff Mulligan, Executive Director*

---

# MINUTES

---

**REGULAR MEETING  
TUESDAY MORNING, MAY 6, 2014  
10:00 A.M.**

Present: Chair Srinivasan, Vice-Chair Collins,  
Commissioner Ottley-Brown, Commissioner Hinkson and  
Commissioner Montanez.

-----

**SPECIAL ORDER CALENDAR**

**823-19-BZ**

APPLICANT – Eric Palatnik, P.C., for Israel Minzer,  
owner.

SUBJECT – Application April 20, 2012 – Amendment (§§  
11-412 and 11-413) of a previously approved variance  
which permitted a one story warehouse (UG 16). The  
application seeks to construct an as-of-right two-story  
community facility (UG 4) atop the warehouse and reduce  
the warehouse space to accommodate 13 required  
accessory parking spaces for the proposed community  
facility use. R5 zoning district.

PREMISES AFFECTED – 1901 10th Avenue, southeast  
corner of East 19th Street and 10th Avenue, Block 890, Lot  
1, Borough of Brooklyn.

**COMMUNITY BOARD #7BK**

**ACTION OF THE BOARD** – Application granted on  
condition.

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collins,  
Commissioner Ottley-Brown, Commissioner Hinkson and  
Commissioner Montanez .....5

Negative:.....0

**THE RESOLUTION:**

WHEREAS, this is an application for a reopening, a  
change in use from a warehouse (Use Group 16) to accessory  
parking for a non-profit institution without sleeping  
accommodations (Use Group 4), and an amendment to  
permit a two-story enlargement of the building to  
accommodate a conforming use; and

WHEREAS, a public hearing was held on this  
application on February 4, 2014, after due notice by  
publication in the *City Record*, with continued hearings on  
March 25, 2014 and April 8, 2014, and then to decision on  
May 6, 2014; and

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

WHEREAS, Community Board 7, Brooklyn,  
recommends approval of the application; and

WHEREAS, the subject site is located at the southeast  
corner of the intersection of 19th Street and Tenth Avenue,

within an R5 zoning district; and

WHEREAS, the site has 100.17 feet of frontage along  
Tenth Avenue, 150 feet of frontage along 19th Street, and  
15,025.5 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story  
warehouse building (Use Group 16) with 15,025.5 sq. ft. of  
floor area (1.0 FAR), 100 percent lot coverage, and a wall  
and building height of 17'-5"; and

WHEREAS, the site has been subject to the Board's  
jurisdiction since April 6, 1920, when, under the subject  
calendar number, the Board permitted the construction of a  
garage for more than five motor vehicles located partially  
within a residence district and partially within a business  
district; and

WHEREAS, on October 17, 1933, the Board granted  
an amendment to permit the handling and sorting of parcels  
within the building and certain minor modifications to the  
layout of the building; and

WHEREAS, on November 18, 1958, the Board  
authorized a change in use from parking and parcel delivery  
station to a factory; in connection with the change of use, the  
Board also permitted vehicle entrance to the building within  
25 feet of an intersection and within 75 feet of a residence  
district; the applicant notes that this change of use did not  
occur; and

WHEREAS, most recently, on November 27, 1962, the  
Board authorized a change in use from parking and parcel  
delivery station to a warehouse with incidental manufacturing  
and accessory office; and

WHEREAS, the applicant now proposes  
redevelopment of the warehouse building as follows: (1) a  
change in use of a portion of the first story of the building  
from warehouse (Use Group 16) to 13 accessory parking  
spaces for a non-profit institution without sleeping  
accommodations (Use Group 4); and (2) construction of a  
two-story enlargement to be occupied by the non-profit  
institution; and

WHEREAS, the applicant states that the enlargement  
will comply in all respects with the subject R5 zoning district  
regulations and will increase the floor area of the building  
from 15,025.5 sq. ft. (1.0 FAR) to 23,614.42 sq. ft. (1.57  
FAR); the applicant notes that the floor area devoted to the  
non-conforming use within the building will be reduced from  
15,025.5 sq. ft. to 8,261.8 sq. ft.; thus, under the proposal,  
the applicant seeks to add 15,352.6 sq. ft. of community  
facility floor area to the site, which is well below the  
maximum permitted community facility floor area permitted  
at the site (30,051 sq. ft. (2.0 FAR)); 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; in addition, pursuant to ZR § 11-413, the

---

# MINUTES

---

Board may permit a change in use from a non-conforming use to a conforming use; and

WHEREAS, the applicant states, as noted above, that the proposal both reduces the amount of floor area devoted to a non-conforming use and complies in all respects with the applicable bulk regulations; and

WHEREAS, at hearing, the Board questioned the proposed configuration of the parking spaces within the building and the curb cuts at the site; and

WHEREAS, in response, the applicant submitted amended plans noting that the parking layout and curb cuts would be subject to Department of Buildings approval; 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 April 6, 1920, to permit the noted change in use and enlargement; *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 April 3, 2014'-(11) sheets; and *on further condition*:

THAT parking at the site will only be used in connection with the Use Group 4 uses at the site;

THAT a minimum of 13 parking spaces will be provided at the site;

THAT DOB will review and approve the proposed parking and curb cuts;

THAT all construction will be completed and a certificate of occupancy will be obtained by May 6, 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);

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, May 6, 2014.

-----

## 156-02-BZ

APPLICANT – Herrick Feinstein Lullaby Jennifer Dickson, for 8021 15th Avenue Corp., owner; JP Morgan Chase & Co., lessee.

SUBJECT – Application August 1, 2013 – Extension of Term (§11-411) of an approved variance which permitted a car sales lot with accessory office and parking, which expired on August 5, 2013: Amendment (§11-413) to permit change in use to an accessory parking lot to an existing bank. R5B zoning district.

PREMISES AFFECTED – 964 65th Street, between Fort Hamilton Parkway and Tenth Avenue. Block 5750, Lot 49 (Tent 51). Borough of Brooklyn.

## COMMUNITY BOARD #10BK

**ACTION OF THE BOARD** – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and a change in use from an automobile sales lot and accessory office (Use Group 16) to an accessory parking lot (Use Group 6); and

WHEREAS, a public hearing was held on this application on April 1, 2014, after due notice by publication in the *City Record*, with a continued hearing on March 25, 2014, and then to decision on May 6, 2014; and

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

WHEREAS, Community Board 10, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is an L-shaped lot located on 65th Street between Fort Hamilton Parkway and Tenth Avenue, within an R5B zoning district; and

WHEREAS, the site, which is vacant, has 80 feet of frontage along 65th Street and 8,400 sq. ft. of lot area; previously, the site was occupied by an accessory office building for an automobile sales business; and

WHEREAS, the site has been subject to the Board's jurisdiction since May 26, 1959, when under BSA Cal. No. 696-58-BZ, the Board legalized an existing automobile sales lot and accessory office, for a term of five years; the applicant notes that, historically, the site was operated in conjunction with an automobile sales business located on the adjacent site (Lot 49); and

WHEREAS, the grant was extended over the years, most recently on August 5, 2003, when, under the subject calendar number, the Board extended the term of the grant for ten years, to expire on August 5, 2013; and

WHEREAS, the applicant now proposes to extend the term of the variance for ten years and to construct a parking lot with 14 spaces on the site to be used in conjunction with the Use Group 6 office (Chase Bank) that now occupies Lot 49; and

WHEREAS, pursuant to ZR § 11-411, the Board may extend the term of a use variance and, where appropriate, include such conditions and safeguards as are necessary to minimize the adverse effects of the such use on the character of the neighborhood; and

---

# MINUTES

---

WHEREAS, pursuant to ZR § 11-413, the Board may permit a change in use from one non-conforming use to another non-conforming use which would be permitted under one of the provisions applicable to non-conforming uses as set forth in ZR §§ 52-31 to 52-36; and

WHEREAS, the applicant represents that its request for a change in use from a Use Group 16 use to a Use Group 6 use is consistent with ZR § 52-332(a) (*Change of Non-Conforming Use/Other buildings or structures in residence districts*), which allows for the conversion of non-conforming Use Group 16 to Use Group 6 use in residential zoning districts; and

WHEREAS, the applicant states that the proposed change in use will not impair the essential character or future use or development of the surrounding area, as a Use Group 16 use operated at the site (in conjunction with the adjacent site) for more than 50 years and an accessory parking lot for a bank represents a significantly less intense non-conforming use; and

WHEREAS, the applicant also states that while residences generally predominate in the surrounding area, directly across from the site along 65th Street is a large retail store (Rite Aid), and Fort Hamilton Parkway, which is approximately one hundred feet from the site, is a heavily-trafficked thoroughfare with many automobile-oriented businesses and a variety of commercial and community facility uses; and

WHEREAS, likewise, the applicant contends that the proposed parking lot reduces the impact of the bank (a conforming use) on neighboring residential uses by helping to ensure that bank customers do not circle the block or park along the residential streets; and

WHEREAS, finally, the applicant notes that extensive landscaping and fencing will screen the site from adjacent residential uses; and

WHEREAS, at hearing, the Board requested clarification regarding the following: (1) the material of the proposed fence; (2) the signage of the site; and (3) the use of the parking lot when the bank is closed; and

WHEREAS, in response, the applicant submitted an amended plan noting the material of the proposed fence (which is existing and will remain) and providing specific information regarding the proposed signage for the site, including signs stating that the parking lot is restricted to bank patrons; and

WHEREAS, as to the use of the parking lot when the bank is closed, the applicant states that four parking spaces will be available 24 hours (for ATM usage) and that a post-and-chain enclosure will restrict all other spaces; 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 §§ 11-411 and 11-413.

*Therefore it is Resolved*, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated August 5, 2003, so that as amended the resolution reads: “to a change in use from an automobile sales lot and accessory office (Use Group 16) to an accessory parking lot (Use Group 6); *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 April 21, 2014’- (1) sheet; and *on further condition*:

THAT the site will be restricted to accessory parking for the bank use on Lot 49;

THAT in the event that the use on Lot 49 changes, continued use of the site for accessory parking will be subject to the approval of the Board;

THAT parking at the site will be limited to patrons of the bank during bank hours, except for four parking spaces, which may remain open 24 hours per day, in accordance with the BSA-approved plans;

THAT lighting will be directed away from the adjoining residential buildings;

THAT the signage and landscaping will be in accordance with the BSA-approved plans;

THAT the above conditions will be listed on the certificate of occupancy;

THAT all construction will be completed and a certificate of occupancy will be obtained by May 6, 2015;

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 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 6, 2014.

-----

## **192-96-BZ**

APPLICANT – Sheldon Lobel, PC, for 1832 Realty LLC, owner.

SUBJECT – Application January 7, 2014 – Amendment of a previously approved variance (§72-21) which permitted a large retail store (UG 10) contrary to use regulations. The application seeks to eliminate the term, which expires on September 23, 2022. C1-2/R5 zoning district.

PREMISES AFFECTED – 1832 86th Street, aka 1854 86th Street; 1-29 Bay Street, 2-6 Bay 20th Street, located on the southwest side of 86th Street spanning the entire block frontage between Bay 19th St and Bay 20th Street. Block 6370, Lot 41, Borough of Brooklyn.

**COMMUNITY BOARD #11BK**

---

# MINUTES

---

## THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to June 10, 2014, at 10 A.M., for decision, hearing closed.

-----

## 174-07-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Bolla EM Realty, LLC, owner.

SUBJECT – Application November 12, 2013 – Extension of Time to complete construction of an approved Special Permit (§73-211) which permitted the reconstruction of an existing auto service station (UG 16B), which expired on June 17, 2012; Amendment to permit changes to the canopy structure, exterior yard and interior accessory convenience store layout. C2-3/R7-A zoning district.

PREMISES AFFECTED – 1935 Coney Island Avenue, northeast corner of Avenue P. Block 6758, Lot 51. Borough of Brooklyn.

## COMMUNITY BOARD #12BK

### THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to June 10, 2014, at 10 A.M., for decision, hearing closed.

-----

## 245-32-BZ

APPLICANT – Sion Hourizadeh, for Michael Raso, owner.

SUBJECT – Application June 20, 2012 – Extension of Term (§11-411) of a previously approved variance which permitted automotive repair (UG 16B) with a commercial office (UG 6) at the second story. C2-2/R5 zoning district.

PREMISES AFFECTED – 123-05 101 Avenue, Block 9464, Lot 30, Borough of Queens.

## COMMUNITY BOARD #9Q

**ACTION OF THE BOARD** – Laid over to June 10, 2014, at 10 A.M., for postponed hearing.

-----

## 611-52-BZ

APPLICANT – Gerald J. Caliendo, for John Blumenfield - HL Dalis, Inc., owner.

SUBJECT – Application October 15, 2013 – Extension of Term (§11-411) of a previously approved variance permitting a one story warehouse building, which expired on May 5, 2013. R5 zoning district.

PREMISES AFFECTED – 35-35 24th Street, east side of 24th Street, 130.63 feet south from the intersection of 35th Avenue and 24th Street, Block 338, Lot 8, Borough of Queens.

## COMMUNITY BOARD #1Q

**ACTION OF THE BOARD** – Laid over to June 17, 2014, at 10 A.M., for continued hearing.

-----

## 322-05-BZ

APPLICANT – Eric Palatnik P.C., for Queens Jewish Community Council, owner.

SUBJECT – Application March 7, 2014 – Extension of Time to Complete Construction for a previously granted variance (§72-21) for an enlargement of an existing two story home and the change in use to a community use facility (*Queens Jewish Community Council*), which expired on March 7, 2014. R4B zoning district.

PREMISES AFFECTED – 69-69 Main Street, Main Street and 70th Avenue, Block 6642, Lot 1, Borough of Queens.

## COMMUNITY BOARD #8Q

### THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to June 10, 2014, at 10 A.M., for decision, hearing closed.

-----

## 173-09-BZ

APPLICANT – Goldman Harris LLC, for 839-45 Realty LLC, owner; Ranco Capital LLC, lessee.

SUBJECT – Application March 25, 2014 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the construction of a four-story mixed use building, which expires on December 14, 2014. C8-2/M1-1 zoning district.

PREMISES AFFECTED – 839-845 Broadway aka 12-14 Park Street, southeast corner of Broadway and Park Street, Block 3134, Lots 5, 6, 10, 11, Borough of Brooklyn.

## COMMUNITY BOARD #4BK

### THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to June 10, 2014, at 10 A.M., for decision, hearing closed.

-----

---

# MINUTES

---

## APPEALS CALENDAR

### 140-11-A & 141-11-A

APPLICANT – Sheldon Lobel, P.C., for BQM Management, LLC, owner.

SUBJECT – Application December 18, 2013 – Extension of time and complete construction and secure Certificates of Occupancy. R5D zoning district.

PREMISES AFFECTED – 69-17 38th Avenue aka 69-19 38<sup>th</sup> Avenue, north side of 38th Avenue, between the BQE and 69th Street, Block 1282, Lot 64, Borough of Queens.

### COMMUNITY BOARD #2Q

**ACTION OF THE BOARD** – Application granted on condition.

### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5

Negative:.....0

### THE RESOLUTION –

WHEREAS, this is an application for an extension of time to complete construction and obtain a certificate of occupancy for a four-story residential building at the subject site; and

WHEREAS, a public hearing was held on this application on March 4, 2014, after due notice by publication in *The City Record*, with a continued hearing on April 1, 2014, and then to decision on May 6, 2014; and

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

WHEREAS, the subject site is located on the north side of 38th Avenue between the Brooklyn-Queens Expressway and 69th Street; and

WHEREAS, the site is a triangular-shaped parcel with 50 feet of frontage on 38th Avenue and a total lot area of 3,673.8 sq. ft.; and

WHEREAS, the applicant proposes to develop the site with one four-story residential building with eight dwelling units (the “Building”); and

WHEREAS, the applicant notes that it originally proposed two four-story buildings with four dwelling units in each building on separate tax lots (tentative lots 64 and 65); however, in 2011, the plans were revised to combine the buildings into a single building on a single tax lot (Lot 64) with the same envelope and the same number of dwelling units as originally proposed; and

WHEREAS, the site was formerly located within an R6 zoning district; and

WHEREAS, the applicant states that New Building Permit Nos. 420370217-01-NB and 420370208-01-NB were issued on July 26, 2011 (the “New Building Permits”), authorizing construction of the Building in accordance with

the R6 zoning district regulations; and

WHEREAS, on July 28, 2011 (the “Enactment Date”), the City Council voted to adopt the Sunnyside-Woodside Rezoning, which rezoned the site to R5D; and

WHEREAS, the New Building Permits lapsed by operation of law on the Enactment Date because the plans did not comply with the new R5D zoning district regulations and foundations were not complete; and

WHEREAS, on December 13, 2011, under the subject calendar numbers, the Board adopted a resolution recognizing that a vested right to continue construction under the New Building Permits had accrued under the common law doctrine of vested rights, and the Board reinstated the New Building Permits for a term of two years, to expire on December 13, 2013; and

WHEREAS, the applicant notes that, due to the redesign discussed above, only New Building Permit No. 420370217-01-NB will remain active and has been amended to reflect the combined four-story building; and

WHEREAS, by letter dated May 5, 2014, the Department of Buildings (“DOB”) states that New Building Permit No. 420370217 was lawfully issued; and

WHEREAS, the applicant represents that, as of December 13, 2013, construction has not been completed and a certificate of occupancy has not been issued for the Building; and

WHEREAS, thus, the applicant now seeks an additional two-year term in which to complete construction and obtain a certificate of occupancy; and

WHEREAS, the applicant notes that, subsequent to the 2011 grant and prior to the December 13, 2013 expiration of the permits, the following work was performed: completion of the foundation; installation of concrete block walls up to the second story; and installation of some steel beams and girders to the second story, and

WHEREAS, the applicant states that, including \$93,000 in soft costs, it has expended a total of \$424,000 since the Board’s 2011 grant; and

WHEREAS, at hearing, the Board directed the applicant to clarify the status of open DOB and Environmental Control Board violations at the site; and

WHEREAS, in response, the applicant represented that the violations related to a Stop Work Order, which has since been rescinded; and

WHEREAS, the Board has reviewed the evidence in the record and determined that the requested extension of time is warranted; and

WHEREAS, accordingly, the Board hereby grants the owner of the site a two-year extension of time to complete construction and obtain a certificate of occupancy.

*Therefore it is Resolved*, that this application to renew New Building Permit No. 420370217-01-NB, as well as all related permits for various work types, either already issued

---

# MINUTES

---

or necessary to complete construction, is granted, and the Board hereby extends the time to complete construction and obtain a certificate of occupancy for two years from the date of this resolution, to expire on May 6, 2016.

Adopted by the Board of Standards and Appeals, May 6, 2014.

-----

## **123-13-A**

APPLICANT – Bryan Cave, for Speakeasy 86 LLC c/o Newcastle Realty Services, owner; TSI West 41 LLC dba New York Sports Club, lessee.

SUBJECT – Application April 29, 2013 – Appeal challenging the determination of the Department of Buildings’ to revoke a permit on the basis that (1) a lawful commercial use was not established and (2) even assuming lawful establishment, the commercial use discontinued in 2007. 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 #2M**

**ACTION OF THE BOARD** – Application withdrawn.

Adopted by the Board of Standards and Appeals, May 6, 2014.

-----

## **110-13-A**

APPLICANT – Abrams Fensterman, LLP, for Laurence Helmarth and Mary Ann Fazio, owners.

SUBJECT – Application April 24, 2013 – Appeal challenging Department of Buildings’ interpretation of the Building Code regarding required walkway around a below-grade pool. R6B zoning district.

PREMISES AFFECTED – 120 President Street, between Hicks Street and Columbia Street, Block 348, Lot 22, Borough of Brooklyn.

## **COMMUNITY BOARD #6BK**

**ACTION OF THE BOARD** – Laid over to June 17, 2014, at 10 A.M., for adjourned hearing.

-----

## **304-13-A**

APPLICANT – Simons & Wright, for 517 West 19th Street LLC, owner; David Zwirner, lessee.

SUBJECT – Application November 19, 2013 – Appeals challenging Department of Building's determination that subject premises is considered an art gallery and therefore a Certificate of Operation for place of assembly shall be required. C6-2/WCH special district.

PREMISES AFFECTED – 517-519 West 19th Street, north side of West 19th Street between 10th and 11th Avenues, Block 691, Lot 22, Borough of Manhattan.

## **COMMUNITY BOARD #4M**

**ACTION OF THE BOARD** – Laid over to June 24, 2014, at 10 A.M., for continued hearing.

-----

## **312-13-A**

APPLICANT – Simons & Wright, for Lan Chen Corp. 36-36 Prince Street, owner; David Zwirner, lessee.

SUBJECT – Application November 19, 2013 – Appeals challenging Department of Building's determination that subject premises is considered an art gallery and therefore a Certificate of Operation for place of assembly shall be required. C6-2/WCH special district.

PREMISES AFFECTED – 521-525 West 19th Street, north side of West 19th Street between 10th and 11th Avenues, Block 691, Lot 19, Borough of Manhattan.

## **COMMUNITY BOARD #4M**

**ACTION OF THE BOARD** – Laid over to June 24, 2014, at 10 A.M., for continued hearing.

-----

## **313-13-A**

APPLICANT – Simons & Wright, for 531 West 19th Street LLC, owner; David Zwirner, lessee.

SUBJECT – Application November 19, 2013 – Appeals challenging Department of Building's determination that subject premises is considered an art gallery and therefore a Certificate of Operation for place of assembly shall be required. C6-2/WCH special district.

PREMISES AFFECTED – 531 West 19th Street, north side of West 19th Street between 10th and 11th Avenues, Block 691, Lot 15, Borough of Manhattan.

## **COMMUNITY BOARD #4M**

**ACTION OF THE BOARD** – Laid over to June 24, 2014, at 10 A.M., for continued hearing.

-----

*Jeff Mulligan, Executive Director*

---

# MINUTES

---

## ZONING CALENDAR

### 303-12-BZ

#### CEQR #13-BSA-037K

APPLICANT – Eric Palatnik, P.C., for Tabernacle of Praise, Inc., owner.

SUBJECT – Application October 25, 2013 – Variance (§72-21) to permit the development of a sub-cellar, cellar and three story church, with accessory educational and social facilities (*Tabernacle of Praise*), contrary to rear yard setback (§33-292), sky exposure plane and wall height (§34-432), and parking (§36-21) regulations. C8-1 zoning district.

PREMISES AFFECTED – 1106-1108 Utica Avenue, between Beverly Road and Clarendon Road, Block 4760, Lot 15, Borough of Brooklyn.

#### COMMUNITY BOARD #17BK

**ACTION OF THE BOARD** – Application granted on condition.

#### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5

Negative:.....0

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated September 28, 2011, acting on Department of Buildings Application No. 220137233, reads, in pertinent part:

1. District boundary in rear lot line R Zone: 30' shall be provided within C Zone, contrary to ZR Section 33-292;
2. Height and setback and sky exposure plane (slope) is contrary to ZR Section 33-432;
3. Parking is contrary to ZR Section 36-21; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within a C8-1 zoning district, a three-story community facility building to be occupied as a house of worship (Use Group 4), which does not comply with distance from a district boundary, height and setback, sky-exposure plane, and parking regulations, and is contrary to ZR §§ 33-292, 33-432, and 36-21; and

WHEREAS, the application is brought on behalf of Tabernacle of Praise, Inc., the owner of the site and the occupant of the proposed house of worship (the “Church”); and

WHEREAS, a public hearing was held on this application on September 10, 2013, after due notice by publication in the *City Record*, with a continued hearing on October 29, 2013, and then to decision on May 6, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Montanez, and Commissioner Ottley-

Brown; and

WHEREAS, Community Board 17, Brooklyn, recommends approval of the application; and

WHEREAS, Senator Kevin S. Parker, Assemblyman N. Nick Perry, and Councilman Jumaane Williams testified in support of the application; and

WHEREAS, the subject site is a rectangular interior lot located on the west side of Utica Avenue between Beverly Road and Clarendon Road, within a C8-1 zoning district; and

WHEREAS, the site, which is vacant, has 160 feet of frontage along Utica Avenue and 16,000 sq. ft. of lot area; and

WHEREAS, the applicant notes that, on May 2, 2006, the Board, under BSA Cal. No. 289-05-BZ, granted a special permit to develop the site with a house of worship pursuant to ZR §§ 73-50 and 73-431; and

WHEREAS, the applicant represents that construction pursuant to the special permit did not proceed due to financial constraints; however, the Church’s current facility, located at 1274 Utica Avenue cannot accommodate its growing congregation and diverse programming, which includes substantial religious education and community outreach; and

WHEREAS, the applicant now proposes to construct a three-story house of worship (Use Group 4) with building height of 59’-11” and 36,535 sq. ft. of floor area (2.28 FAR); and

WHEREAS, the applicant states that the variance is requested due to the following non-compliances: (1) no setback from the district boundary at the rear lot line (an open space with a minimum depth of 30’-0” is required beginning at curb level because the rear lot line coincides with a boundary between the subject C8-1 district and an R4 district, per ZR § 33-292); (2) the maximum front wall height proposed is 55’-8” (a maximum wall height of 35’-0” is permitted, with a 1-to-1 sky-exposure plane, per ZR § 33-432); and (3) 34 accessory off-street parking spaces (a minimum of 40 accessory parking spaces are required, per ZR § 36-21); and

WHEREAS, the proposal would allow for a main sanctuary, a chapel, a community center, and certain accessory spaces, including an underground parking facility, a banquet hall, a Christian book store and retail shop, a dance studio, offices, a safe room, and a terrace garden; and

WHEREAS, specifically, the applicant states that the house of worship would provide the following: at the sub-cellar level, 34 off-street parking spaces, a storage room, a garbage collection room, and a restroom; at the cellar level, a 1,456 sq.-ft. dance studio, a 2,052 sq.-ft. multi-purpose room, two classrooms, a security office, separate changing rooms for men and women, storage space, and a media room; at the

---

# MINUTES

---

first story, a main lobby, two auxiliary lobbies, a 1,188 sq.-ft. chapel, a 4,290 sq.-ft. banquet hall with kitchen, restrooms, and coat check areas, a 792 sq.-ft. bookstore, and a 594 sq.-ft. retail shop; at the second story and mezzanine level, the 6,300 sq.-ft. main sanctuary and 2,625 sq.-ft. mezzanine seating area, which can accommodate a total of 854 worshipers, the safe room, offices, a waiting room, a nursery, and restrooms; and, at the third story, the 1,580 sq.-ft. terrace garden, and three offices; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Church, which necessitate the requested variances: (1) to accommodate its membership, which currently consists of approximately 1,500 members but is expected to increase to approximately 1,700 by the time the proposed building is completed; (2) to provide for regular adult religious education classes and community and youth group activity space; (3) to hold special events such as weddings, funerals, and baptisms; (4) to provide the necessary sanctuary and worship space for the members; and (5) to provide space for a Christian bookstore to further the Church's publishing work; and

WHEREAS, the applicant notes that the main sanctuary will be used for two Sunday services and for holidays, and that when the main sanctuary is filled to capacity, the chapel and the banquet space will be opened for simultaneous worship via telecast; and

WHEREAS, the applicant states that the accessory spaces are necessary as follows: (1) the banquet hall will allow members of the Church to celebrate life events in the same space in which they regularly worship; (2) the bookstore will enable the Church to provide education and dissemination of its messages to the wider community; (3) the dance studio will provide space for Church members to practice song and dance, which the applicant states are essential components of members' religious activity; (4) the offices are necessary to provide space for Church administrators and staff; (5) the community center will provide meeting and program space for community youth groups and the elderly; (6) the safe room will house the Church's vault and provide a private meeting space for Church administrators to conduct sensitive business; and (7) the terrace garden provides an intimate outdoor space for quiet reflection and worship; and

WHEREAS, the applicant states that there is a direct nexus between the requested waivers and the programmatic needs of the Church; and

WHEREAS, in particular, the applicant asserts that a complying building could not provide adequate worship and program space for the Church, in that if the open space at the rear is provided and height, setback, and sky exposure plane requirements are met, only 692 worshipers would be able to gather in the main sanctuary space, which is 252 fewer than the 854 that can be accommodated under the proposal; since

two prayer services are held on a typical Sunday, the loss of 252 seats amounts to a loss of worship space for as many as 504 worshipers, which represents 34 percent of the 1,500-member congregation; and

WHEREAS, accordingly, the applicant states that the Church would have to hold a third worship service on Sundays in order to accommodate its current and projected membership, which would be costly and interfere with other Church programs and activities; and

WHEREAS, the applicant also studied the feasibility of a lesser variance scenario, in which a complying perimeter wall with a height of 30'-0" is provided and a 10'-0" setback is provided at the third story in the rear; and

WHEREAS, the applicant asserts that the lesser scenario also fails to provide sufficient space to accommodate the Church's programmatic needs, in that it results in a loss of 198 seats in the main sanctuary and 22 seats in the chapel; and

WHEREAS, to further support the relationship between the requested waivers and the Church's programmatic needs, the applicant submitted an analysis of how each program space would be affected by constructing the building without the requested waivers; based on this analysis, in addition to the reductions in the main sanctuary and the chapel discussed above, the community center, classrooms, the dance studio, the banquet hall, several offices, the safe room, the terrace garden, storage space, restrooms, and the nursery would have to be reduced in size; and

WHEREAS, accordingly, the applicant asserts that only the proposal will provide the necessary space for the Church to carry out its mission; and

WHEREAS, at hearing, the Board directed the applicant to explore a third design, in which the terrace garden was shifted to the rear of the building; and

WHEREAS, in response, the applicant demonstrated that such a configuration failed to properly address the programmatic need to be satisfied by the terrace, in that facing the rear of the site resulted in the terrace being within view of the nearby residences, which served to diminish its privacy and utility as an intimate space, and, as discussed below, increased the proposal's impact on surrounding residential uses; and

WHEREAS, turning to parking, the applicant states that providing complying parking (40 spaces instead of the proposed 34) in the cellar would require the storage and garbage collection rooms to be moved to the cellar, which would require displacement, elimination or significant reduction in the size of the dance studios, multi-purpose room, classrooms, security office, changing rooms, and media room; and

WHEREAS, the applicant represents that 50 percent of the Church's members live within walking distance (1/4

---

# MINUTES

---

mile) of the site, and that 85 percent live within one mile, and thus are unlikely to rely on an automobile to visit the site; and

WHEREAS in addition, the applicant states that there is adequate mass transit in the surrounding area, including four city busses, two subway lines, and three local car services; and

WHEREAS, finally, the applicant states that the Church leases a nearby parking lot at 1124 Utica Avenue (Block 4760, Lot 24) to provide an additional 40 parking spaces during Sunday and holiday services; and

WHEREAS, the Board acknowledges that the Church, 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 N.Y.2d 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 Church 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 Church is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; and

WHEREAS, 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, consistent with ZR § 72-21(c); and

WHEREAS, the applicant notes that the proposed use is permitted as-of-right in the subject C8-1 zoning district, as is the proposed FAR; and

WHEREAS, the applicant represents that the surrounding neighborhood is characterized by low- to medium-density residential, commercial and community facility uses; and

WHEREAS, in addition, the applicant states that where community facilities are found within the subject C8-1 district, they are typically three stories or more in height; in support of this statement, the applicant provided a height study, which reflects that of the 22 sites within 1/3 mile and with comparable lot area to the site, seven sites contain community facility buildings that are three stories or more in height, including: (1) 407 East 53rd Street (three-story former synagogue); (2) 5566 Kings Highway (four-story

elementary school); (3) 5402 Tilden Avenue (four-story elementary school); (4) 1244 Utica Avenue (three-story house of worship); (5) 810 East 49th Street (three-story house of worship); (6) 4801 Avenue D (three-story elementary school); and (7) 4402 Avenue D (three-story house of worship); and

WHEREAS, as such, the applicant asserts that the proposal is consistent with the bulk of community facilities on similar-sized sites in the surrounding area; and

WHEREAS, as to adjacent uses, the applicant states that one-story commercial buildings are immediately north, east, and south of the site, and that immediately west of the site are a series of two-story residential buildings, a vacant lot, and a large driveway; and

WHEREAS, the applicant notes that the proposed FAR is less than the maximum permitted as-of-right for a community facility in the C8-1 district; and

WHEREAS, in addition, the applicant asserts that with its dramatic swooping roof, modern streetwall, and "Living Green Wall" at the rear, the building has been designed to both beautify and enhance the commercial streetscape of Utica Avenue and maintain the residential character of the R4 district directly west of the site; and

WHEREAS, finally, the applicant represents that the building will be used predominantly by members of the surrounding community, including students at the nearby elementary schools, and that the application has received letters of support from many surrounding neighbors, including the adjacent business owners and three owners of the residential lots immediately west of the site; and

WHEREAS, at hearing, the Board directed the applicant to: (1) explore the feasibility of providing the terrace garden at the rear instead of at the front of the building on the third story; and (2) provide a schedule of events; and

WHEREAS, in response, the applicant provided the requested plan, but stated that a rear terrace garden would increase the building's impact on its residential neighbors, while diminishing the utility of the space for its users; as to the schedule of events, it was provided along with an analysis of how parking would be affected during large events; 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 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 Church 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

---

# MINUTES

---

WHEREAS, the applicant states and the Board agrees that the requested waivers are the minimum necessary to afford relief to satisfy the Church's programmatic needs, 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 Unlisted 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. 13BSA037K, dated April 21, 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 Department of Environmental Protection's ("DEP") Bureau of Environmental Planning and Analysis reviewed the project for potential hazardous materials impacts; and

WHEREAS, DEP reviewed and accepted the March 2014 Remedial Action Plan and 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, the applicant conducted an air quality impact assessment and proposed an alternate means of ventilation to maintain a closed window condition, ensuring that acceptable interior air quality levels will be maintained in the building and that no significant air quality impacts to the proposed project are anticipated to occur; 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, on a site within a C8-1 zoning district, a three-story community facility building to be occupied as a house of worship (Use Group 4), which does not comply with distance from a district boundary, height and setback, sky-exposure plane, and parking regulations, and is contrary to ZR §§ 33-292, 33-432, and 36-21; *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 25, 2014" –(17) sheets; and *on further condition*:

THAT the building parameters will be: three stories; a maximum building height of 59'-11"; a maximum wall height of 55'-8"; a maximum floor area of 36,535 sq. ft. (2.28 FAR); and a minimum of 34 parking spaces, as illustrated on the BSA-approved plans;

THAT the use will be limited to a house of worship (Use Group 4A), and accessory uses;

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 acceptable interior air quality levels will be maintained in accordance with the alternates means of ventilation design measures noted on the BSA-approved plans;

THAT no commercial catering or retail will occur on the site;

THAT any change in the 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);

THAT the approved plans are considered approved only for the portions related to the specific relief granted;

THAT construction will proceed in accordance with 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, May 6, 2014.

-----

---

# MINUTES

---

**269-13-BZ**

**CEQR #14-BSA-040M**

APPLICANT – Law Office of Marvin B. Mitzner, LLC, for Robert Malta, owner.

SUBJECT – Application September 13, 2013 – Special Permit (§73-42) to permit the expansion of UG6 restaurant (*Arte Café*) across zoning district boundary lines. R8B zoning district.

PREMISES AFFECTED – 110 West 73rd Street, south side of 73rd Street between Columbus Avenue and Amsterdam Avenue, Block 1144, Lot 37, Borough of Manhattan.

**COMMUNITY BOARD #7M**

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5  
Negative:.....0

**THE RESOLUTION** –

WHEREAS, the decision of the Department of Buildings, dated August 22, 2013, acting on Department of Buildings Application No. 121689707, reads in pertinent part:

ZR 22-10, 22-20; Proposed Commercial Use/Dining area (Use Group 6) at Basement/Cellar in Zoning District R8B is not permitted as per ZR 22-10 “Uses Permitted As-of-Right;” and

WHEREAS, this is an application under ZR §§ 73-42 and 73-03, to permit the extension of an existing Use Group 6 use within a C1-8A zoning district into the adjacent R8B zoning district within the Upper West Side-Central Park West Historic District, contrary to ZR § 22-10; and

WHEREAS, a public hearing was held on this application on February 2, 2014 after due notice by publication in *The City Record*, with continued hearings on March 11, 2014 and April 8, 2014, and then to decision on May 6, 2014; and

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

WHEREAS, Community Board 7, Manhattan, recommends approval of this application; and

WHEREAS, certain community members provided testimony in opposition to the proposal, citing concerns about traffic and late night refuse collection; and

WHEREAS, the subject site is located on the south side of West 73<sup>rd</sup> Street, between Columbus Avenue and Amsterdam Avenue; 110 West 73<sup>rd</sup> Street is located within

an R8B zoning district within the Upper West Side-Central Park West Historic District, with approximately 19 feet of frontage on West 73<sup>rd</sup> Street, and a total lot area of 1,941 sq. ft.; and

WHEREAS, 110 West 73<sup>rd</sup> Street is currently occupied by a four-story and basement townhouse building occupied by residential use; the building has 5,960 sq. ft. of floor area (3.12 FAR); and

WHEREAS, 110 West 73<sup>rd</sup> Street is adjacent to 106-108 West 73<sup>rd</sup> Street (Block 1144, Lot 35), which is fully within a C1-8A zoning district and occupied by a Use Group 6 restaurant, *Arte Café*; and

WHEREAS, the applicant proposes to extend the restaurant use across the zoning district boundary line between the R8B zoning district and the C1-8A zoning district, 18’-6” within the basement level with 1,298 sq. ft. of floor area; and

WHEREAS, the applicant requests a special permit pursuant to ZR § 73-42 to allow the use to extend across the zoning district boundary into the R8B zoning district; and

WHEREAS, the applicant states that the extension of the restaurant use would allow for additional space for the existing restaurant; and

WHEREAS, the applicant states that the proposed extension would accommodate 12 dining tables and 69 restaurant patrons; and

WHEREAS, the applicant notes that the restaurant within the C1-8A zoning district occupies 2,384 sq. ft. of space in the cellar and 3,667 sq. ft. of floor area in the basement for a total of 6,051 sq. ft. of restaurant space; the remaining portions of 106-108 West 73<sup>rd</sup> Street are occupied by residential use and 10,480 sq. ft. of floor area; and

WHEREAS, the applicant does not propose any changes to 106-108 West 73<sup>rd</sup> Street and that no other changes than the conversion of the basement are proposed to 110 West 73<sup>rd</sup> Street; and

WHEREAS, the applicant states that 106-108 West 73<sup>rd</sup> Street and 110 West 73<sup>rd</sup> Street are under common ownership and the two lots (Lot 35 and Lot 37) will be merged; the merger will result in 20,053 sq. ft. of commercial floor area and 15,088 sq. ft. of residential floor area across the site; and

WHEREAS, ZR § 73-42 provides that 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

---

# MINUTES

---

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 notes that the existing Arte Café located at 106-108 West 73<sup>rd</sup> Street is adjacent to and on the same block, Block 1144, as 110 West 73<sup>rd</sup> Street; and

WHEREAS, the applicant notes that the lot occupied by the existing conforming restaurant is 39 feet wide by 102 feet deep, with a lot area of 3,978 sq. ft., and the expansion with a width of 18'-6" and 1,298 sq. ft. of floor area, is less than 50 percent of the width and lot area within the C1-8A zoning district; and

WHEREAS, accordingly, the Board notes that the use and proposed expansion site are located within the same block; that the expansion does not exceed size restrictions; and the applicant has provided sufficient evidence showing that the restaurant use was in existence on Lot 35 prior to January 6, 1965; 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 C1-8A zoning district because such use is not allowed above the first floor of the building; and

WHEREAS, further, the applicant notes that the adjacent building to the west is occupied by another business and therefore is not available to accommodate the expansion of the restaurant; and

WHEREAS, as to the finding under ZR § 73-42(b), the applicant represents that the use at 106-108 West 73<sup>rd</sup> Street was in existence prior to January 6, 1965; and

WHEREAS, in support of this assertion, the applicant submitted a Certificate of Occupancy from 1941, which reflects that the basement floor was occupied by restaurant use; 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 expansion of the dining area across the basement adds only 12 dining tables for a maximum occupancy of 69 people; and

WHEREAS, the applicant notes that the use is compatible with the character of the neighborhood and is

located only 100 feet from the commercial thoroughfare of Columbus Avenue; and

WHEREAS, the applicant notes that there are several commercial and mixed-use buildings adjacent and across from the subject site, including a nine-story mixed-use building at the rear on West 72<sup>nd</sup> Street, which is within a C4-6A zoning district; and

WHEREAS, the applicant notes that the building owner also owns 112 West 73<sup>rd</sup> Street and it is in his interest to maintain conditions that are compatible with residential use; and

WHEREAS, the applicant states that the use will be limited to a restaurant and no bar is proposed and that the proposed hours of operation are 12:00 p.m. to 11:00 p.m. Sunday through Thursday and 12:00 p.m. to 12:00 a.m. Friday and Saturday; and

WHEREAS, the applicant states that the expansion of the restaurant is necessary to accommodate the dinner rush from 6:00 to 9:00 p.m. and that it does not anticipate using the 110 West 73<sup>rd</sup> Street space during later hours; and

WHEREAS, the Landmarks Preservation Commission issued a Certificate of No Effect, dated March 26, 2014, to approve interior alterations to the basement; and

WHEREAS, the Board directed the applicant to provide additional information on the proposed use of the rear yard, sound attenuation, refuse storage and collection, and outstanding DOB violations; and

WHEREAS, the applicant states that the rear yard will not be used for restaurant use; the applicant submitted photographs of the rear yard of 110 West 73<sup>rd</sup> Street that show it without restaurant use; and

WHEREAS, the applicant states that it will install and maintain sound board between 110 West 73<sup>rd</sup> Street and 112 West 73<sup>rd</sup> Street to attenuate any noise from the restaurant, that there will not be any speakers in the portion of the restaurant within the R8B zoning district, and that it will not use the portion of the restaurant within the R8B zoning district after 9:00 p.m.; and

WHEREAS, the applicant revised the plans to reflect sound board to be installed at the ground floor wall between 112 West 73<sup>rd</sup> Street and the subject building; and

WHEREAS, the applicant states that it will store refuse in its cellar space until ready for pick up and provided a letter from its refuse carting company stating that pick up will be scheduled for 7:00 a.m., Monday through Saturday; and

WHEREAS, the applicant states that it will resolve all outstanding DOB violations in the course of completing the proposed construction; and

WHEREAS, the applicant also notes that the front entrance at 110 West 73<sup>rd</sup> Street will only be used for emergency egress and not ingress or egress from the

---

# MINUTES

---

restaurant; and the two dwelling units currently occupying the basement will be eliminated to accommodate the restaurant, but that the remainder of the building within the R8B zoning district will remain occupied by residential use; and

WHEREAS, accordingly, the Board finds that the proposed expansion of the Use Group 6 use from the C1-8A zoning district into the R8B zoning district portion of the pending merged lots 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 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 Type 1 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. 14BSA040M, dated August 22, 2013; 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 Type 1 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 Use Group 6 use within a C1-8A zoning district into the adjacent R8B zoning district within the Upper West Side-Central Park West Historic District, contrary to ZR § 22-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received April 22, 2014" – seven (7) sheets; and *on further condition*:

THAT the term of the grant is limited to five years, to expire on May 6, 2019;

THAT the restaurant use within the R8B portion of the site will be restricted to the basement level, as reflected on the BSA-approved plans;

THAT the occupancy of the basement level will be as reviewed and approved by DOB but will not exceed 69 patrons;

THAT there will not be any Use Group 6 use within the rear yard of 110 West 73<sup>rd</sup> Street;

THAT there will not be any entrance or egress of the restaurant through the 110 West 73<sup>rd</sup> Street frontage, which will be reserved for emergency use;

THAT refuse will be stored within the building until collection, which is scheduled for 7:00 a.m., Monday through Saturday;

THAT sound attenuation measures between 110 West 73<sup>rd</sup> Street and 112 West 73<sup>rd</sup> Street will be installed and maintained, as reflected on the BSA-approved plans;

THAT all lighting will be directed down and away from adjacent residential uses;

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

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 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 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 6, 2014.

-----

---

# MINUTES

---

## 305-13-BZ

### CEQR #14-BSA-070Q

APPLICANT – Akerman LLP, for Whitestone Plaza, LLC, owner; Whitestone Fitness D/B/A Dolphin Fitness, lessee.  
SUBJECT – Application November 20, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Dolphin Fitness*). M1-1 zoning district.

PREMISES AFFECTED – 30-50 Whitestone Expressway, Bounded by Ulmer Street to the north, Whitestone Expressway to the East and 31st Avenue to the south. Block 4363, Lot 100. Borough of Queens.

### COMMUNITY BOARD #7Q

**ACTION OF THE BOARD** – Application granted on condition.

#### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5  
Negative:.....0

#### THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner of the Department of Buildings (“DOB”), dated October 31, 2013, acting on DOB Application No. 401034180, reads, in pertinent part:

Physical culture establishment requires BSA special permit; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site partially within an M1-1 zoning district and partially within an M1-2 zoning district, within the Special College Point District, the legalization of an existing physical culture establishment (“PCE”) on portions of the first and second stories of a four-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application April 8, 2014, after due notice by publication in the *City Record*, and then to decision on May 6, 2014; and

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

WHEREAS, Community Board 5, Queens, recommends approval of the application; and

WHEREAS, the subject site is located on the northwest corner of the intersection of the Whitestone Expressway service road and Ulmer Street, partially within an M1-1 zoning district and partially within an M1-2 zoning district, within the Special College Point District; and

WHEREAS, the site has approximately 209 feet of frontage along the Whitestone Expressway service road, approximately 494 feet of frontage along Ulmer Street, and 157,472 sq. ft. of lot area; and

WHEREAS, the site is occupied by a four-story commercial building with approximately 104,577 sq. ft. of floor area (0.66 FAR); and

WHEREAS, the PCE occupies 6,465 sq. ft. of floor area on the first story and 9,712 sq. ft. of floor area on the second story, for a total PCE floor area of 16,177 sq. ft.; and

WHEREAS, the PCE is currently operated as Dolphin Fitness and, according to the applicant, has been operating since 2003; and

WHEREAS, the applicant represents that the services at the PCE include facilities for classes, instruction and programs for physical improvement, body building, weight reduction, and aerobics; and

WHEREAS, the hours of operation for the PCE are Monday through Thursday, from 6:00 a.m. to 12:00 a.m., Friday, from 6:00 a.m. to 11:00 p.m., Saturday, from 7:00 a.m. to 7:00 p.m., and Sunday, from 8:00 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, at hearing, the Board expressed concerns regarding: (1) the accessibility of the PCE; and (2) open DOB violations at the property; and

WHEREAS, in response, the applicant provided: (1) amended plans clarifying the accessibility of the PCE, including an illustration of the path of egress; and (2) a letter from the owner’s architect, which stated that the open violations would be resolved after the issuance of 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, the Board notes that the term of this 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 an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in the

---

# MINUTES

---

Environmental Assessment Statement, CEQR No. 14BSA070Q dated November 4, 2013; 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 issued 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 partially within an M1-1 zoning district and partially within an M1-2 zoning district, within the Special College Point District, the legalization of an existing physical culture establishment (“PCE”) on portions of the first and second stories of a four-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received March 11, 2014” – Two (2) sheets and “Received April 16, 2014” – One (1) sheet; and *on further condition*:

THAT the term of the PCE grant will expire on May 6, 2019;

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

THAT any massages will be performed only by New York State licensed massage professionals;

THAT Local Law 58/87 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 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 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 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 6, 2014.

-----

## **318-13-BZ CEQR #14-BSA-080M**

APPLICANT – Bryan Cave LLP, for TJD 21 LLC, owners.

SUBJECT – Application December 13, 2013 – Variance (§72-21) to permit a five-story building containing retail and residential use, contrary to use regulations (§44-00). M1-5B zoning district.

PREMISES AFFECTED – 74 Grand Street, North side of Grand Street, 25 feet east of Wooster Street. Block 425, Lot 60, Borough of Manhattan.

### **COMMUNITY BOARD # 2M**

**ACTION OF THE BOARD** – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5  
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner of the Department of Buildings (“DOB”), dated December 2, 2013, acting on DOB Application No. 121784701, reads, in pertinent part:

Use Group 2 is not permitted in M1-5B zoning district pursuant to ZR 42-10;

Use Group 6 is not permitted below the floor level of the 2nd story in M1-5B districts pursuant to ZR 42-14(D)(2)(b); and

WHEREAS, this is an application under ZR § 72-21, to permit, within an M1-5B zoning district within the SoHo Cast Iron Historic District, the construction of a six-story mixed residential and commercial building (Use Groups 2 and 6) with ground floor and cellar retail, contrary to ZR §§ 42-10 and 42-14; and

WHEREAS, a public hearing was held on this application on March 25, 2014, after due notice by publication in the *City Record*, with a continued hearing on April 8, 2014, and then to decision on May 6, 2014; and

WHEREAS, the premises and surrounding area had

---

# MINUTES

---

site and neighborhood examinations by Chair Srinivasan, Vice-Chair Collins, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 2, Manhattan, recommends approval of the application; and

WHEREAS, the subject site is located on the north side of Grand Street between Wooster Street and Greene Street, within an M1-5B zoning district within the SoHo Cast Iron Historic District; and

WHEREAS, the site has 25 feet of frontage along Grand Street, a lot depth of 100 feet, and 2,500 sq. ft. of lot area; and

WHEREAS, the site is currently vacant but was previously occupied by a five-story, Neo-Grec-style, cast-iron loft building (the “Historic Building”) that was constructed in 1886 and was described by the Landmarks Preservation Commission (“LPC”) as contributing to the special architectural and historic character of the SoHo Cast Iron Historic District; and

WHEREAS, the applicant represents that the Historic Building was demolished following an emergency declaration issued by DOB in 2009; LPC assented to the demolition on condition that the façade and other architecturally-distinct components be preserved and incorporated (in their original configuration) into any new building at the site; and

WHEREAS, the applicant represents that the proposed mixed residential (Use Group 2) and commercial (Use Group 6) building, which will incorporate the Historic Building façade, will have a total floor area of 12,493 sq. ft. (4.98 FAR), a residential floor area of 10,807.3 sq. ft. (4.3 FAR), a commercial floor area of 1,686 sq. ft. (0.68 FAR), a street wall height of 78’-7”, a building height of 90’-9”, and a rear yard depth of 20 feet beginning at the second story; the applicant notes that the cellar will include retail space, mechanical rooms, and accessory storage for the residences; the first story will be occupied by retail space and the residential lobby; and the second through sixth stories will be occupied by a total of four dwelling units; and

WHEREAS, because Use Group 2 is not permitted and Use Group 6 is not permitted below the floor level of the second story within the subject M1-5B zoning district, the applicant seeks use variances; and

WHEREAS, the applicant states that, per ZR § 72-21(a), the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the history of development at the site, namely its Historic Building and the LPC requirement that the façade of the Historic Building be restored and incorporated into any redevelopment of the site; (2); the narrow lot width and small lot area of the site; and (3) the condition of the site’s soil; and

WHEREAS, the applicant contends that the Historic

Building at the site and the LPC requirement to restore the building’s façade are unique conditions that create an unnecessary hardship in development the site with a conforming use; and

WHEREAS, as noted above, the applicant states that from 1886 until 2009, the site was occupied by the Historic Building; in 2009, DOB determined that—due in part to excavation at an adjacent site (72 Grand Street)—the building was approximately 25 inches out of alignment and in danger of collapse; accordingly, DOB ordered the owner to demolish the building; and

WHEREAS, the applicant states that subsequent to DOB’s order, on November 23, 2009, the owner entered into an agreement with LPC whereby it was permitted to demolish the Historic Building provided that the cast-iron façade was “fully surveyed and catalogued, disassembled and stored in a secure and safe manner for future reconstruction”; and

WHEREAS, in particular, the applicant states that LPC mandated that the following Historic Building elements be preserved “for use in conjunction with future construction at the site”: the cast-iron on the Grand Street façade; window shutters on the third floor at the rear of the building; the barrel vault cast-iron skylight at the rear of the first floor; and sidewalk cast iron vault lites; and

WHEREAS, the applicant represents that the preservation and incorporation of these elements into a modern building significantly increased the construction costs for the proposed building; and

WHEREAS, further, the applicant states that because the floors were required to line up with the windows of the Historic Building’s façade, unusually high floor-to-floor heights are required (18’-8” at the first story and between 13’-7” and 12’-6” on the second through fifth stories), which reduces the number of stories in the building, which in turn reduces the amount of marketable space; the applicant notes that the sixth story is above the historic façade and set back; therefore, it was not constrained by the façade; and

WHEREAS, the applicant contends that the site’s lot area of 2,500 sq. ft. and lot width of 25 feet are unique among vacant lots in the surrounding area; and

WHEREAS, in support of this statement, the applicant submitted its study of the sites within the M1-5A and M1-5B zoning districts spanning from the south side of Houston Street at the northern boundary, by Broadway to the east, Avenue of the Americas to the west, and Canal Street to the south; based on the study, there are only eight vacant sites, three of which are surface parking lots, four of which have a lot width of less than 30 feet, and three of which have a lot area of 2,500 sq. ft. or less; of the latter three, two are corner lots; if only a 400-foot radius is considered, there are only four vacant sites (other than the subject site), only two of which have lot widths of less than 30 feet; thus, the applicant

---

# MINUTES

---

asserts that its site has a unique width and size when compared to other vacant sites; and

WHEREAS, the applicant asserts that the site's narrow width and small size create a practical difficulty in developing the site for a conforming use; specifically, the applicant states that such characteristics result in an inherently inefficient and unmarketable floorplate because a disproportionate share (33 percent) of a conforming building at the site would be devoted to building core; and

WHEREAS, to support this assertion, the applicant examined the feasibility of a conforming hotel (Use Group 5) at the site; according to the hotel plans, the stairs, elevator, and public corridor required under the Building Code would be sufficient for a hotel with nearly twice as much floorplate as is possible at this narrow, small site; such floorplates would yield no more than three rooms per story; and

WHEREAS, likewise, the applicant states that other conforming commercial and manufacturing uses—those listed in Use Group 7, 9, 11, 16, and 17 (which include business schools, gymnasias, printing establishments, and carpentry workshops)—are likely to locate in such a small, inefficient space; and

WHEREAS, accordingly, the applicant concludes that conforming uses are infeasible at the site, due to the inefficient building that results from its narrow width and small size; and

WHEREAS, the applicant also contends that its soil conditions impose an additional unique hardship; and

WHEREAS, in support of this contention, the applicant provided a geotechnical report, which concluded that a deep foundation system would be necessary rather than a less-expensive spread footing due to the presence of soil with weak and unstable bearing capacity; likewise, the site's soil requires more expensive structural components to resist seismic loads, all at premium costs; and

WHEREAS, finally, the applicant asserts that, in the aggregate, the site's unique conditions make a conforming development at the site infeasible; and

WHEREAS, the Board agrees that the aforementioned unique physical conditions, when considered individually and 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, in particular, in addition to the proposal, the applicant examined the economic feasibility of an as-of-right 4.68 FAR hotel scenario (11 hotel rooms); and

WHEREAS, the applicant concluded that the as-of-right scenario resulted in a negative rate of return after capitalization; in contrast, the applicant represents that the

proposal results in a positive rate of return, making it economically viable; 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 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 immediate area is characterized by a mix of medium-density residential and commercial uses, with some remaining manufacturing/industrial uses; and

WHEREAS, the applicant represents that more than 50 percent of the buildings within 400 feet of the site are either residential, mixed residential and commercial, or Joint Living-Work Quarters for Artists; thus, the applicant asserts that the existing context includes a significant amount of residential use; and

WHEREAS, the applicant also states that the ground floor Use Group 6 use will be consistent with nearby ground floor uses, which are overwhelmingly retail, including clothing stores, art galleries, and home furnishings stores; and

WHEREAS, the applicant also notes that the proposal will be a natural complement to developments on the corner of Wooster Street and Grand Street and on West Broadway, which were recently approved by CPC; and

WHEREAS, the Board agrees that the character of the area is mixed-use, and finds that the introduction of six dwelling units and ground floor retail will not impact nearby conforming uses; and

WHEREAS, further, the Board notes that the compatibility of residences in the subject M1-5B zoning district within the SoHo Cast Iron Historic District is acknowledged in ZR § 74-712(a) (*Developments in Historic Districts*), a City Planning Commission special permit that would allow a residence of a similar size but for the fact that the site became vacant too recently; a precondition for that special permit is that the site must have been vacant as of December 15, 2003, and, as noted above, the subject site became vacant upon the demolition of the Historic Building in 2010; and

WHEREAS, as to bulk, the applicant states that the building's street wall height of 78'-7" and building height of 90'-9" are both comparable to buildings in the immediate vicinity, and similar to the Historic Building, which occupied the site for more than 100 years; and

---

# MINUTES

---

WHEREAS, at hearing, the Board expressed concern regarding the proposed rear yard depth of 20'-0"; the Board noted that although there are no bulk regulations for residential buildings in manufacturing districts, the Board has historically required a rear yard depth of 30'-0", which is consistent with the requirement in zoning districts where residential use is permitted as-of-right; and

WHEREAS, in response, the applicant contends that a rear yard depth of 20'-0" is necessary and appropriate in this case because the development is not viable with a rear yard depth of 30'-0"; the applicant asserts that the stair and elevator cores and mechanical rooms would have to be reconfigured to accommodate a rear yard depth of 30'-0", resulting in a reduction of the size of the dwelling units and the retail space; and

WHEREAS, the applicant also notes that the building cannot be redesigned to capture more floor area; due to the unusually high floor-to-floor heights, constraints owing to the requirement to incorporate the Historic Building façade, and the LPC requirement to set back at the sixth story in order to reveal the cornice, a substantial amount of floor area is lost even with a rear yard depth of 20'-0" and it cannot be recouped; likewise, the mezzanine level cannot be extended to provide more usable floor area without being reclassified as a story, triggering the Building Code requirement to provide a second fire stair; and

WHEREAS, in support of the applicant's contention that the building cannot provide a rear yard depth of greater than 20'-0", the applicant submitted a feasibility study of a building with a rear yard depth of 30'-0"; based on the study, the building with the rear yard depth of 30'-0" is not a viable alternative to the proposal; and

WHEREAS, the applicant asserts that a rear yard depth of 20'-0" is typical for buildings in the area and submitted an Open Space Study, which reflects that of the sites occupied by residential uses on the block, portions of only four building out of ten have back-to-back rear yard depths in excess of 20'-0" and those within 100'-0" of the corner (which the subject site is) have rear yard depths ranging from 15'-0" to 21'-6"; and

WHEREAS, the applicant also notes that a rear yard depth of 20'-0" is an improvement over the Historic Building, which also had dwelling units but had a rear yard depth of only 15'-0", and the proposed windows, both within the historic façade and at the rear, are well in excess of the sizes required under the Multiple Dwelling Law; therefore, the applicant contends that with regard to light and ventilation, the proposal is both a substantial improvement over a historic condition and more than adequate by modern standards; further, the initial proposal included rear balconies, which would have further reduced the depth of the rear yard—and light and ventilation—to the extent of their projection; at the Board's direction, the balconies were

eliminated; and

WHEREAS, finally, the applicant states that none of the dwelling units will rely solely on the rear yard for light and ventilation since the units are floor-through and thus also have windows opening upon on Grand Street; and

WHEREAS, the Board is persuaded that a rear yard depth of 20'-0" is appropriate given the site's unique physical conditions; and

WHEREAS, LPC has approved the proposal by Certificate of Appropriateness, dated August 13, 2013; 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 history of development, size and narrowness, and the limited economic potential of conforming uses on the lot; 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 Type 1 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. 14-BSA-080M, dated May 1, 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 Department of Environmental Protection's ("DEP") Bureau of Environmental Planning and Analysis reviewed the project for potential hazardous materials impacts; and

WHEREAS, DEP reviewed the applicant's February 2013 Phase I report and that, due to site specific circumstances, DEP recommends that the applicant implement a DEP-approved Phase II Investigative Protocol prior to the issuance of permits by DOB relating to the issuance of soil disturbance; and

---

# MINUTES

---

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 1 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, within an M1-5B zoning district within the SoHo Cast Iron Historic District, the construction of a six-story mixed residential and commercial building (Use Groups 2 and 6) with ground floor and cellar retail, contrary to ZR §§ 42-10 and 42-14, *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 17, 2014"- Sixteen (16) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: a maximum total floor area of 12,493 sq. ft. (4.98 FAR), a residential floor area of 10,807.3 sq. ft. (4.3 FAR), four dwelling units, a commercial floor area of 1,686 sq. ft. (0.68 FAR), a maximum street wall height of 78'-7", a maximum building height of 90'-9", and a minimum rear yard depth of 20 feet beginning at the second story;

THAT the applicant will implement a DEP-approved Phase II Investigation Protocol and, should the test reveal the need for hazardous materials remediation, the applicant will submit a remedial action plan and health and safety plan to be approved by DEP prior to the issuance of any permit by DOB that allows soil disturbance, and that the remedial action plan and health and safety plan shall be implemented as part of construction;

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 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, May 6, 2014.

-----

## **103-13-BZ**

APPLICANT – Rothkrug Routhkrug & Spector LLP, for Blackstone New York LLC, owner.

SUBJECT – Application April 16, 2013 – Variance (§72-21) to permit the development of a cellar and four-story, eight-family residential building, contrary to §42-10 zoning resolution. M1-1 zoning district.

PREMISES AFFECTED – 81 Jefferson Street, north side of Jefferson Street, 256' west of intersection of Evergreen Avenue and Jefferson Street, Block 3162, Lot 42, Borough of Brooklyn.

## **COMMUNITY BOARD #3BK**

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to June 17, 2014, at 10 A.M., for decision, hearing closed.

-----

## **124-13-BZ**

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 95 Grattan Street, LLC, owner.

SUBJECT – Application April 29, 2013 – Variance (§72-21) to allow for a new seven-family residential development, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 95 Grattan Street, north side of Grattan Street, 200' west of intersection of Grattan Street and Porter Avenue, Block 3004, Lot 39, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

**ACTION OF THE BOARD** – Laid over to May 20, 2014, at 10 A.M., for adjourned hearing.

-----

## **125-13-BZ**

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 97 Grattan Street, LLC, owner.

SUBJECT – Application April 29, 2013 – Variance (§72-21) to allow for a new seven-family residential development, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 97 Grattan Street, north side of Grattan Street, 200' west of intersection of Grattan Street and Porter Avenue, Block 3004, Lot 38, Borough of Brooklyn.

## **COMMUNITY BOARD #1BK**

**ACTION OF THE BOARD** – Laid over to May 20, 2014, at 10 A.M., for adjourned hearing.

-----

---

# MINUTES

---

## 178-13-BZ

APPLICANT – Jeffery A. Chester, Esq./GSHLLP for Peter Procops, owner; McDonald's Corporation, lessee.

SUBJECT – Application June 9, 2013 – Special Permit (§73-243) to allow an eating and drinking establishment with an existing accessory drive-through facility. C1-2 zoning district.

PREMISES AFFECTED – 21-41 Mott Avenue, Southeast corner of intersection with Beach Channel Drive, Block 15709, Lot 101. Borough of Queens.

### COMMUNITY BOARD #14Q

**ACTION OF THE BOARD** – Laid over to May 6, 2014, at 10 A.M., for continued hearing.

-----

## 250-13-BZ

APPLICANT – Warsaw Burstein, LLP, for 3555 White Plains Road Corp., owner; 3555 White Plains Road Fitness Group, LLC., lessee.

SUBJECT – Application August 28, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Fitness Center*). R7A/C2-4 zoning district.

PREMISES AFFECTED – 3555 White Plains Road, west side of White Plains Road approximately 100' south of the intersection formed by East 213 Street and White Plains Road, Block 4643, Lot 43, Borough of Bronx.

### COMMUNITY BOARD #12BX

**ACTION OF THE BOARD** – Laid over to June 10, 2014, at 10 A.M., for adjourned 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 June 10, 2014, at 10 A.M., for adjourned hearing.

-----

## 273-13-BZ

APPLICANT – Akerman Senterfitt, LLP, for 321-23 East 60th Street LLC, owner.

SUBJECT – Application September 26, 2013 – Variance (§72-21) to permit the development of an eight-story

residential building containing 28 dwelling units, contrary to use regulations (§32-10). C8-4 zoning district.

PREMISES AFFECTED – 321 East 60th Street, Northeast corner of East 60th Street and the Ed Koch Queensboro Bridge Exit. Block 1435, Lot 15, Borough of Manhattan.

### COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to June 17, 2014, at 10 A.M., for decision, hearing closed.

-----

## 277-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for SoBro Development Corporation, owner.

SUBJECT – Application September 27, 2013 – Variance (§72-21) to permit a proposed development of a 12-story, 125 unit residential building with two floors of community facility/church space, contrary to floor area (§23-145), lot coverage (§23-145), base and building height (§23-633), and parking (§25-23). R7-2 zoning district.

PREMISES AFFECTED – 1769 Fort George Hill, bounded by Fort George Hill to the east an NYCTA No.1 train tracks to the west, Block 2170, Lots 180 & 190, Borough of Manhattan.

### COMMUNITY BOARD #12M

**ACTION OF THE BOARD** – Laid over to June 17, 2014, at 10 A.M., for continued hearing.

-----

## 279-13-BZ

APPLICANT – Warsaw Burnstein, LLP, for 34th Street Penn Association LLC, owner; 215 West 34th Street Fitness Group, LLC., lessee.

SUBJECT – Application October 2, 2013 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) on the cellar, first through third floors of a new building to be constructed. M1-6 zoning district.

PREMISES AFFECTED – 218-222 West 35th Street, south side of West 35th Street, approximately 150' West of Seventh Avenue, Block 784, Lot 54, Borough of Manhattan.

### COMMUNITY BOARD #5M

**ACTION OF THE BOARD** – Laid over to June 10, 2014, at 10 A.M., for continued hearing.

-----

---

# MINUTES

---

## **286-13-BZ**

APPLICANT – Eric Palatnik, P.C., for Michael Trebinski, owner.

SUBJECT – Application October 11, 2013 – Variance (§72-21) for the proposed enlargement of an existing one-story residential home, contrary to front yard (§23-45); side yard (§23-161); floor area and lot coverage (§23-141) and off street parking requirements (§25-621(B)). R4 zoning district.

PREMISES AFFECTED – 2904 Voorhies Avenue, Voorhies Avenue, between Nostrand Avenue and a dead end portion of East 29th Street, Block 8791, Lot 201, Borough of Brooklyn.

### **COMMUNITY BOARD #15BK**

**ACTION OF THE BOARD** – Laid over to June 10, 2014, at 10 A.M., for continued hearing.  
-----

## **294-13-BZ**

APPLICANT – Law Offices of Marvin B. Mitzner, Esq., for Susan Go Lick, owner.

SUBJECT – Application October 23, 2013 – Variance (§72-21) to allow for the enlargement and conversion of a commercial building for residential use (UG 2) with ground floor commercial UG6), contrary to use regulations (§43-17, 42-141). M1-5B zoning district.

PREMISES AFFECTED – 220 Lafayette Street, west side of Lafayette Street between Spring Street and Broome Street, Block 482, Lot 26, Borough of Manhattan.

### **COMMUNITY BOARD #2M**

**ACTION OF THE BOARD** – Laid over to June 24, 2014, at 10 A.M., for continued hearing.  
-----

## **310-13-BZ**

APPLICANT – Eric Palatnik, P.C., for Triangle Plaza Hub, LLC., owner; Metropolitan College of New York, lessee.

SUBJECT – Application November 22, 2013 – Variance (§72-21) to allow a UG3 college (*Metropolitan College of New York*) within a proposed mixed use building, contrary to use regulations (§44-00). M1-1/C4-4 zoning district.

PREMISES AFFECTED – 459 East 149th Street, northwest corner of Brook Avenue and East 149th Street, Block 2294, Lot 60, Borough of Bronx.

### **COMMUNITY BOARD #1BX**

**ACTION OF THE BOARD** – Laid over to May 20, 2014, at 10 A.M., for continued hearing.  
-----

## **331-13-BZ**

APPLICANT – Warshaw Burstein, LLP, for Isaac Chera, owner; 2007 86th Street Fitness Group, LLP, lessee.

SUBJECT – Application December 31, 2013 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) within the existing building at the Premises. C4-2 zoning district.

PREMISES AFFECTED – 2005 86th Street aka 2007 86<sup>th</sup> Street, north side of 86th street, west of its intersection with 20th Avenue, Block 6346, Lot 5, Borough of Brooklyn.

### **COMMUNITY BOARD #11BK**

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to June 10, 2014, at 10 A.M., for decision, hearing closed.  
-----

## **3-14-BZ**

APPLICANT – Friedman & Gotbaum LLP by Shelly Friedman, for Saint David School, owner.

SUBJECT – Application January 8, 2014 – Variance (§72-21) to permit the enlargement of a school (*Saint David's School*), contrary to lot coverage (§24-11, 24-12), floor area (§24-11), rear yard (§24-36), rear wall setback (§24-552b), base height (§24-522, 24-633), streetwall (§23-692c, 99-051b), maximum height (§99-054b), and enlargement to a non-complying building (§54-31) regulations. R8B/R10/C1-5MP zoning district.

PREMISES AFFECTED – 12-22 East 89th Street aka 1238 Madison Avenue, south side of East 89th St, west of the corner formed by the intersection of Madison Avenue and East 89th Street, Block 1500, Lot 62, Borough of Manhattan.

### **COMMUNITY BOARD # 8M**

**ACTION OF THE BOARD** – Laid over to June 17, 2014, at 10 A.M., for continued hearing.  
-----

## **7-14-BZ**

APPLICANT – Greenberg Traurig, LLP, for Rockaway Realty LLC, owner; 1380 Rockaway Parkway Fitness Group, LLC, lessee.

SUBJECT – Application January 16, 2014 – Special Permit (§73-36) to permit the conversion of the existing on-story, plus cellar to a physical culture establishment (*Planet Fitness*) in connection with an application to rezone the property from an R5D/C1-3(Z) to an R5D/C2-3(ZD).

PREMISES AFFECTED – 1380 Rockaway Parkway, west side of Rockaway Parkway, midblock between Farragut

---

# MINUTES

---

Road and Glenwood Road, 204.85' south of Farragut Road,  
Block 8165, Lot 48, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

**THE VOTE TO CLOSE HEARING –**

Affirmative: Chair Srinivasan, Vice Chair Collin,  
Commissioner Ottley-Brown, Commissioner Hinkson and  
Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD –** Laid over to June 10,  
2014, at 10 A.M., for decision, hearing closed.

-----  
*Jeff Mulligan, Executive Director*

*Adjourned: P.M*