
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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May 8, 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*

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

TELEPHONE - (212) 386-0009
FAX - (646) 500-6271

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DOCKETS

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56-14-BZ

161-51/6 Bailey Boulevard, North West Corner of Guy Brewer Boulevard, Block 12256, Lot(s) 36, Borough of **Queens, Community Board: 12**. Re-Instatement (§11-411) of a variance which permitted an auto service station (UG16B), with accessory uses; Amendment to permit the erection of a canopy; Waiver of the Rules C1-3/R3-A zoning district. C1-3,R3-A district.

57-14-BZ

1 New York Plaza 114-142, Entire City block bounded by Broad St., South St., Whitehall St. and Water St., Block 4, Lot(s) 7501, Borough of **Manhattan, Community Board: 1**. Special Permit (§73-36) to allow a physical culture establishment in the sub-cellar of a fifty story building. C5-5(LM) zoning district. C5-5(LM) district.

58-14-BZ

737 61st Street, Located on the north side of 61st Street between 7th Avenue and 8th Avenue, Block 5785, Lot(s) 52, Borough of **Brooklyn, Community Board: 07**. Special Permit (§73-44) to permit the reduction of required accessory off-street parking spaces for a Use Group 4 ambulatory diagnostic and treatment health care facility use located in a proposed 6-story and cellar building also containing a Use Group 5 commercial hotel. M1-1 zoning district. M1-1 district.

59-14-BZ

114-122 Jackson Street, Located on the SW corner of the Intersection of Jackson Street and Manhattan Avenue, Block 2748, Lot(s) 21, Borough of **Brooklyn, Community Board: 1**. VARIANCE 72-21 to permit the construction of a four-story plus penthouse community facility (Use Group 4) on the premises contrary to (ZR24-11). R6B zoning district R6B district.

60-14-BZ

141-41 72nd Avenue, 72nd Avenue between Main Street and 141st Street, Block 6620, Lot(s) 41, Borough of **Queens, Community Board: 8**. Variance (§72-21) to enlarge a community facility (Sephardic Congregation), contrary to floor lot coverage rear yard, height and setback (24-00). R4-1 zoning district. R4-1 district.

61-14-A

11 Massachusetts Street South, Southeast corner of intersection of Hylan Boulevard and Massachusetts Street, Block 7936, Lot(s) 3 tent), Borough of **Staten Island, Community Board: 3**. Proposed construction of a two-story two family dwelling located within the bed of unmapped street, contrary to Article 3 Section 36 of the General City law. R3X(SRD) zoning district. R3X(SRD) district.

62-14-A

727 Fifth Avenue, Situated on the South Side of East 57th Street, 0.feet East of the corner formed by the intersection of East 57th Street and Fifth Avenue, Block 1292, Lot(s) 069, Borough of **Manhattan, Community Board: 5**. Appeal application challenging Department of Buildings determination that a proposed illuminated sign cannot be considered an advertising sign and also seeks to vary Building Code Section 3202.2.1.8 which prohibits signs projecting more than 10 feet beyond the streetline . C5-3 Fifth Aveue Subdistrict C5-3 district.

63-14-BZ

5500 Watermill Lane, Southeast corner of intersection of Broadway and W 230th Street, Block 3264, Lot(s) 109, Borough of **Bronx, Community Board: 8**. Special Permit (§73-36) to permit the legalization of an existing Physical Culture Establishment. M1-1 zoning district. M1-1 district.

64-14-BZ

1320 East 23rd Street, West side of Eat 23rd Street between Avenue M and Avenue, Block 7658, Lot(s) 58, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to allow the enlargement of a single family residence. R2 zoning district. R2 district.

65-14-A

12 Apricot Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 148, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

DOCKETS

66-14-A

14 Apricot Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 149, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

67-14-A

18 Apricot Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 150, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

68-14-A

20 Apricot Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 151, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

69-14-A

29 Apricot Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 152, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

70-14-A

11 Apricot Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 153, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

71-14-A

15 Apricot Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 154, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

72-14-A

19 Apricot Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 155, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

73-14-A

23 Apricot Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 156, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

74-14-A

27 Apricot Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 157, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

75-14-A

8 Lomondrop Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 158, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

76-14-A

10 Lomondrop Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 159, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

77-14-A

14 Lomondrop Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 160, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

78-14-A

16 Lomondrop Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 161, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

79-14-A

20 Lomondrop Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 162, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

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80-14-A

22 Lomondrop Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 163, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

81-14-A

26 Lomondrop Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 164, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

82-14-A

9 Lomondrop Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 165, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

83-14-A

11 Lomondrop Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 166, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

84-14-A

15 Lomondrop Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 167, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

85-14-A

17 Lomondrop Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 168, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

86-14-A

21 Lomondrop Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 169, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

87-14-A

23 Lomondrop Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 170, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

88-14-A

27 Lomondrop Court, Northwest of intersection of Turner Street and Crabtree Avenue, Block 7105, Lot(s) 171, Borough of **Staten Island, Community Board: 3**. GCL 36 of Article 3 of the General City Law proposed construction not on a legally mapped street. R3-1(SRD) district.

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

CALENDAR

MAY 13, 2014, 10:00 A.M.

ZONING CALENDAR

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, May 13, 2014, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

278-86-BZ

APPLICANT – Eric Palatnik P.C., for White Castle System, Inc., owner.

SUBJECT – Application October 29, 2013 – Extension of Term of a previously approved Special Permit (§73-243) which permitted the operation of an accessory drive-thru facility to an eating and drinking establishment. C1-2/R5 zoning district.

PREMISES AFFECTED – 1677 Bruckner Boulevard, Fteley Avenue thru to Metcalf Avenue, Block 3721, Lot 1, Borough of Bronx.

COMMUNITY BOARD #9BX

751-78-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Baron Properties III, Inc., owner.

SUBJECT – Application October 1, 2013 – Extension of Term and Time to get a Certificate of Occupancy previously granted under Variance (72-21) for the continued operation of a UG16 Automotive Repair Shop (*Genesis Auto Town*) which expired on January 23, 2009; Extension of Time to obtain a Certificate of Occupancy which expired on September 12, 2001; Waiver of the Rules. C2-2(R3-2) zoning district.

PREMISES AFFECTED – 200-15 Northern Boulevard, northwest corner of intersection of Northern Boulevard and 201st Street, Block 6261, Lot 30, Borough of Queens.

COMMUNITY BOARD #11Q

155-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Cong Kozover Zichron Chaim Shloime, owners.

SUBJECT – Application May 15, 2013 – Variance (§72-21) to permit the enlargement of an existing synagogue and Rabbi's residence (UG 4) and the legalization of a Mikvah contrary to zoning requirements. R3-2 zoning district.

PREMISES AFFECTED – 1782-1784 East 28th Street, west side of East 28th Street between Quentin road and Avenue R, Block 06810, Lots 40 & 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

225-13-BZ

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

SUBJECT – Application July 25, 2013 – Variance (§72-21) to permit residential development contrary to ZR 42-00. M1-2 zoning district.

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

COMMUNITY BOARD #3BK

284-13-BZ

APPLICANT – Warshaw Burstein, LLP, for 168-42 Jamaica LLC, owner; 168 Jamaica Avenue Fitness Group, LLC, lessee.

SUBJECT – Application October 9, 2013 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*fitness center*) on the cellar and the first floor of the building. R6-A/C2-4 (DJ) zoning district.

PREMISES AFFECTED – 168-42 Jamaica Avenue, south side of Jamaica Avenue approximately 180 feet east of the intersection formed by 168th Place and Jamaica Avenue, Block 10210, Lot 22, Borough of Queens.

COMMUNITY BOARD #12Q

316-13-BZ

APPLICANT – Slater & Beckerman, PC, for 210 Joralemon Street Condominium, owner; Yoga Works, Inc., lessee.

SUBJECT – Application December 9, 2013 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*fitness center*) in the cellar and first floor of the premises. C5-2A (Special Downtown Brooklyn) zoning district.

PREMISES AFFECTED – 210 Joralemon Street, southeast corner of Joralemon Street and Court Street, Block 266, Lot 7501 (30), Borough of Brooklyn.

COMMUNITY BOARD #3BK

CALENDAR

16-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Saul Greenberger & Rochelle Greenberger, owners.

SUBJECT – Application January 27, 2014 – Special Permit (§73-621) for the enlargement of an existing one family residence contrary to floor area, lot coverage and open space (ZR §23-141). R3-2 zoning district.

PREMISES AFFECTED – 1648 Madison Place, west side of Madison Place between Avenue P and Quentin Road, Block 7701, Lot 59, Borough of Brooklyn.

COMMUNITY BOARD #18BK

20-14-BZ

APPLICANT – Sandy Anagnostou, Assoc, AIA, for 310-312 Owners Corp. LLC, owner; John Vastistas, NHMME, lessee.

SUBJECT – Application February 3, 2014 – Special Permit (§73-36) to permit the operation of a physical culture (Spa) establishment on the first floor level of an existing mixed use building in a C1-9A district contrary to §32-31 zoning resolution.

PREMISES AFFECTED – 312 East 23rd Street, south side of East 23rd Street 171' east from the corner of 2nd Avenue and East 23rd Street, Block 928, Lot 7502, Borough of Manhattan.

COMMUNITY BOARD #10M

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, APRIL 29, 2014
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

5-28-BZ

APPLICANT – Eric Palatnik, P.C., for Steven Feldman,
owner; Anwar Ismael, lessee.

SUBJECT – Application August 20, 2013 – Amendment
(§11-413) of a previously approved variance which
permitted the operation of an automotive service station
(UG 16B). The amendment seeks to change the use to a car
rental establishment (UG 8). R6 zoning district.

PREMISES AFFECTED – 664 New York Avenue, west
side of New York Avenue, spanning the entire length of the
block between Hawthorne Street and Winthrop Street,
Block 4819, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #9BK

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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and
a change in use from an automobile repair station (Use
Group 16) to an automobile rental establishment (Use Group
8); 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 4, 2014 and April 1, 2014, and then to decision on
April 29, 2014; and

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

WHEREAS, Community Board 9, Brooklyn,
recommends approval of the application; and

WHEREAS, the subject site spans the west side of
New York Avenue between Hawthorne Street and Winthrop
Street, within an R6 zoning district; and

WHEREAS, the site has approximately 44 feet of
frontage along Hawthorne Street, 212 feet of frontage along
New York Avenue, approximately 35 feet of frontage along
Winthrop Street, and 8,440 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story
building with approximately 1,733 sq. ft. of floor area (0.21

FAR); and

WHEREAS, on June 12, 1928, under the subject
calendar number, the Board denied a variance to permit the
construction of an automotive service station in a residence
district; and

WHEREAS, on June 14, 1938, the Board granted an
application to reopen the previously-denied variance
application, and on September 27, 1938, the Board denied an
amended version of the original variance application, which
sought a variance to permit the construction of a gasoline
service station in a business use district; and

WHEREAS, on October 3, 1961, the Board reopened
the application again and granted a variance to permit
construction of a gasoline service station with lubricatorium,
minor auto repairs, non-automatic car wash, storage room,
office and sales, parking and storage of motor vehicles, on a
site partially within a retail use district and partially within a
manufacturing use district; in addition, the Board authorized
the construction of ground and wall signs within 75 feet of
the nearby residence use district; and

WHEREAS, on October 30, 1962, the Board granted
an extension of time to complete construction and obtain a
certificate of occupancy; and

WHEREAS, the applicant represents that in 1986—
when the current owner of the site purchased it from the City
of New York—the site was changed from a gasoline service
station to an automobile repair station and has operated
continuously as “B & S Diagnostic” ever since; and

WHEREAS, the applicant now proposes to renovate
the existing building to accommodate the proposed Use
Group 8 automobile rental establishment; the establishment
will be operated as an Enterprise Rent-a-Car and it will have
23 accessory parking spaces (18 storage spaces on the south
side of the site and five spaces on the north side dedicated to
returns); and

WHEREAS, the applicant states that the proposed
hours of operation for the establishment will be Monday
through Friday from 7:30 a.m. to 6:00 p.m., Saturday 9:00
a.m. to 12:00 p.m., and closed Sunday; and

WHEREAS, pursuant to ZR § 11-413, the Board may
grant a request for 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 8
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 8 use in residential zoning
districts; and

WHEREAS, the applicant states that the change in
use will not alter the essential character of the
neighborhood, as a Use Group 16 use operated at the site
for more than 50 years; as such, a non-conforming use at

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the site is well-established; and

WHEREAS, the applicant contends that the proposed Use Group 8 use will be less intense than the Use Group 16 automobile repair station and offer a much-needed service to an underserved neighborhood; and

WHEREAS, the applicant also states that while residences predominate in the surrounding community, large community facility buildings are located nearby, including Kings County Hospital, the NYC Office of the Chief Medical Examiner, the Kingsborough Psychiatric Center, and SUNY Downstate Medical Center; in addition, there are other automotive-related uses nearby, including a service station and a parking garage on adjacent blocks; and

WHEREAS, at hearing, the Board expressed concerns regarding: (1) the impact of the proposed use on traffic; (2) the lack of landscaping; (3) the excessive curb cuts; and (4) the proposed circulation of vehicles within the site; and

WHEREAS, in response, the applicant provided a traffic study, which reflects that the proposal will reduce the traffic from its current 48 trips-per-day to Enterprise Rent-A-Car's anticipated 37 trips-per-day, and an amended plan sheet depicting additional landscaped areas; and

WHEREAS, as to the landscaping, the applicant added plantings along Winthrop Street; and

WHEREAS, as to the excessive curb cuts, the applicant stated that the application seeks to legalize four existing curb cuts and eliminate the other two curb cuts; and

WHEREAS, as to vehicle circulation within the site, the applicant submitted a plan sheet, which reflects the traffic flow designed to allow maneuverability; and

WHEREAS, based on the foregoing, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 11-413.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated December 15, 1970, so that as amended this portion of the resolution shall read: "to permit a change in use from automobile service station (Use Group 16) to an automobile rental establishment (Use Group 8); *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 4, 2014'-(6) sheets; and *on further condition*:

THAT the hours of operation will be limited to Monday through Friday from 7:30 a.m. to 6:00 p.m., Saturday 9:00 a.m. to 12:00 p.m., and closed Sunday;

THAT there will be no street parking of rental automobiles;

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 April 29, 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, April 29, 2014.

197-05-BZ

APPLICANT – Law Offices of Marvin B. Mitzner LLC, for Broadway Realty LLC, owner.

SUBJECT – Application February 11, 2014 – Extension of Time to Complete Construction of a previously approved variance (§72-21) permitting an 11-story residential building with commercial on the ground floor, contrary to bulk regulations, which expired on January 12, 2014. C6-1 district.

PREMISES AFFECTED – 813-815 Broadway, west side of Broadway, 42' south of East 12th Street, 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

Negative:.....5

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening and an extension of time to complete construction pursuant to a variance, which permitted the construction of an 11-story mixed residential and commercial building that does not comply with residential FAR, open space ratio, height, setback, and dwelling count, contrary to ZR §§ 23-142, 33-432, and 23-22; and

WHEREAS, a public hearing was held on this application on March 25, 2014, after due notice by publication in *The City Record*, and then to decision on April 29, 2014; and

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

WHEREAS, the site is located on the west side of Broadway, between East 11th Street and East 12th Street, within a C6-1 zoning district; and

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WHEREAS, the Board has exercised jurisdiction over the subject site since July 1, 2008 when, under the subject calendar number, the Board granted a variance pursuant to ZR § 72-21, which permitted the construction of an 11-story mixed-use building with ground floor commercial space and 40 dwelling units, which does not comply with residential FAR, open space ratio, height, setback, and dwelling count, contrary to ZR §§ 23-142, 33-432, and 23-22; and

WHEREAS, in addition, on January 12, 2010, the Board granted an amendment to the variance to permit the addition of a second elevator in the building and a sub-cellar; and

WHEREAS, by the terms of the original grant, construction was to be substantially completed by July 1, 2012; however, as of that date, due to the transfer of ownership of the site and difficulties relating to financing, construction was not completed; and

WHEREAS, accordingly, the applicant now seeks a waiver of the Rules of Practice and Procedure and an extension of time to substantially complete construction; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to complete construction is appropriate with certain conditions, as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated July 1, 2008, so that as amended this portion of the resolution shall read: “to grant an extension of time to complete construction to April 29, 2018; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT substantial construction will be completed by April 29, 2018;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 104072076)

Adopted by the Board of Standards and Appeals, April 29, 2014.

247-09-BZ

APPLICANT – Michael T. Sillerman, Esq. of Kramer Levin Naftalis & Frankel LLP, for Central Synagogue, owner.

SUBJECT – Application February 26, 2014 – Extension of Time to complete construction of a previously approved variance (§72-21) for the expansion of a UG4 community use facility (*Central Synagogue*), which expires on February 23, 2014. C5-2 & C5-2.5 (MiD) zoning district. PREMISES AFFECTED – 123 East 55th Street, North side of East 55th Street, between park and Lexington Avenue, Block 1310, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

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

142-92-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for New York Methodist Hospital, owner.

SUBJECT – Application March 20, 2014 – Amendment of a previously approved special permit (§73-48) for a community facility (*New York Methodist Hospital*). The application seeks to amend the approved plans to accommodate required accessory parking in a new ambulatory care facility (BSA Cal #142-92-BZ)

PREMISES AFFECTED – 473-541 6th Street aka 502-522 8th Avenue, 480-496 & 542-548 5th Street & 249-267 7th Avenue, Block 1084, Lot 36, 164, 1001/1002, Borough of Brooklyn.

COMMUNITY BOARD #6BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

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

186-96-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Edward Ivy, owner.

SUBJECT – Application November 27, 2012 – Extension of Term of a previously granted variance (§72-21) for the continued operation of a one story warehouse and office/retail store building (UG 16 & 6), which expired on May 19, 2003; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 145-21/25 Liberty Avenue, northeast corner of Liberty Avenue and Brisbin Street, Block 10022, Lot(s) 1, 20, 24, Borough of Queens.

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COMMUNITY BOARD #12Q

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

178-99-BZ

APPLICANT – Eric Palatnik, P.C., for Saltru Associates Joint Venture, owner.

SUBJECT – Application November 30, 2012 – Amendment (§§72-01 & 72-22) of a previously granted variance (§72-21) which permitted an enlargement of an existing non-conforming department store (UG 10A). The amendment seeks to replace an existing 7,502 sf ft. building on the zoning lot with a new 34,626 sq. ft. building to be occupied by a department store (UG 10A) contrary to §42-12. M3-1 zoning district.

PREMISES AFFECTED – 8973/95 Bay Parkway, 1684 Shore Parkway, south side of Shore Parkway, 47/22' west of Bay Parkway, Block 6491, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #11BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

2014, at 10 A.M., for decision, hearing closed.

177-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Dankov Corporation, owner.

SUBJECT – Application January 2, 2014 – Amendment of an approved Variance (§72-21) which permitted construction of a two-story and mezzanine, two-family residential building, contrary to front yard regulations (§23-45(a)); the amendment seeks to permit construction of a three-story, three-family residential building. R5 zoning district.

PREMISES AFFECTED – 886 Glenmore Avenue, southeast corner of the intersection of Glenmore Avenue and Milford Street. Block 4208, Lot 17. Borough of Brooklyn.

COMMUNITY BOARD #5BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

ACTION OF THE BOARD – Laid over to May 13, 2014, at 10 A.M., for decision, hearing closed.

371-03-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for 655 Fifth Avenue LLC, owner; Sator Realty, Ink, lessee.

SUBJECT – Application January 31, 2014 – Extension of Term of a previously approved Special Permit (§73-36) to allow the operation of a physical culture establishment (*The Facility*) which expire0s May 11, 2014. C5-3 (MID) zoning district.

PREMISES AFFECTED – 655 Fifth Avenue, northeast corner of Fifth Avenue and East 52nd Street, Block 1288, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

ACTION OF THE BOARD – Laid over to May 13, 2014, at 10 A.M., for decision, hearing closed.

372-03-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for Sator Realty, Ink, owner.

SUBJECT – Application January 31, 2014 – Extension of Term of a previously approved Special Permit (§73-36) to allow the operation of a physical culture establishment (*The Facility*) which expire0s May 11, 2014. C5-3 (MID) zoning district.

PREMISES AFFECTED – 663 Fifth Avenue, East side of Fifth Avenue, between East 52nd and 53rd Streets, Block 1288, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

ACTION OF THE BOARD – Laid over to May 13, 2014, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

143-11-A thru 146-11-A

APPLICANT – Philip L. Rampulla, for Joseph LiBassi, owner.

SUBJECT – Application September 16, 2011 – Appeal challenging the Fire Department’s determination that the grade of the fire apparatus road shall not exceed 10 percent, per NYC Fire Code Section FC 503.2.7. R2 zoning district.

PREMISES AFFECTED – 20, 25, 35, 40 Harborlights COURT, east side of Harborlights Court, east of Howard Avenue, Block 615, Lot 36, 25, 35, 40, Borough of Staten

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Island.

COMMUNITY BOARD #1SI

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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an appeal of a final determination, issued by the Chief of Operations of the New York City Fire Department (“Fire Department”) on August 18, 2011, in response to a request for a variance (the “Final Determination”), which states, in pertinent part that:

[t]he Fire Department, Bureau of Operations has reviewed the variance request and the revised site plan dated May 21, 2009 for the above site in the Borough of Staten Island and must reject your request . . .

The grade of the fire apparatus access road shall not exceed ten percent under New York City Fire Code Section FC 503.2.7. This requirement is necessary for Fire Department ladder companies to properly ladder the building. This is seen as a potentially dangerous obstruction to response for our fire operation units; and

WHEREAS, this appeal seeks to reverse a Fire Department determination denying a request for a variance of FC § 503.2.7, which, provides that “[t]he grade of the fire apparatus access road shall not exceed ten percent unless approved by the commissioner”; and

WHEREAS, a public hearing was held on this appeal on June 11, 2013, after due notice by publication in *The City Record*, with continued hearings on August 20, 2013, September 24, 2013, October 29, 2013, and February 25, 2014, and then to decision on April 29, 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 1, Staten Island, declined to make a recommendation regarding this application; and

WHEREAS, the Fire Department provided testimony in opposition to the application; and

WHEREAS, certain members of the surrounding community, including a neighborhood group known as the Serpentine Art and Nature Commons, Inc., provided testimony in opposition to the application (the “Opposition”), citing concerns about the Fire Department’s ability to access the proposed homes, the widening of the access road to 30 feet (and its effect on a nearby existing building), the safety of the proposed embankments along the access road, and the overall effect of the development on the neighboring topography, vegetation, soil, property values, sightlines, and

drainage; in addition, the Opposition expressed its preference for a ten-percent access road slope and three homes at the site instead of the proposed four; and

WHEREAS, the subject site is located east of Howard Avenue, within an R2 zoning district within the Special Hillside Preservation District; and

WHEREAS, the site has 75,357 sq. ft. of lot area and an average site slope of 19.5 percent, making it a Tier II site pursuant to ZR § 119-01; and

WHEREAS, the site is vacant, does not front on any mapped streets, and is accessible via easement agreement with the owner of the lot directly west of the site (Block 615, Lot 40); the easement also provides for the installation of underground utilities; and

WHEREAS, the site has been under the Board’s jurisdiction since September 22, 1992, when, under BSA Cal. Nos. 54-92-A through 58-92-A, the Board waived General City Law § 36 to permit the construction of five homes without frontage on a mapped street; instead, the homes fronted on Harborlights Court, an access road with a width of 30’-0” and an average slope of 14 percent; and

WHEREAS, the proposed site plan for BSA Cal. Nos. 54-92-A through 58-92-A was reviewed and approved by the Fire Department by letter dated September 4, 1992; and

WHEREAS, construction pursuant to the 1992 Board grants was also subject to City Planning Commission (“CPC”) authorization under ZR §§ 119-316 and 119-317, due to the sloping nature of the site itself and of Harborlights Court; on April 20, 1994, CPC issued the authorization, however, the development was never constructed and in 1999, CPC adopted amendments to the Special Hillside Preservation District, which invalidated the 1994 approval; and

WHEREAS, by letter dated April 17, 2006, the Board authorized a reduction in the number of homes permitted under BSA Cal. Nos. 54-92-A through 58-92-A from five to four and a change in the roadway terminus from a hammerhead to a cul-de-sac; the slope remained as originally at 14 percent; and

WHEREAS, on July 26, 2006, CPC authorized the revised plan pursuant to ZR §§ 119-316 and 119-317, and by letter dated August 17, 2007, the Fire Department approved the site plan as well; and

WHEREAS, subsequently, the site was redesigned to provide a slope of 17 percent, which the Fire Department disapproved by letter dated July 7, 2009, citing FC § 503.2.7; and

WHEREAS, on January 4, 2010, the Appellant filed a variance application with the Fire Department, which, on August 18, 2011 denied the request and issued the Final Determination that forms the basis for this appeal; and

WHEREAS, through the hearing process and in response to comments by the Board and recommendations from CPC, the Appellant reduced the proposed access road slope from 17 percent to 13.59 percent; and

WHEREAS, nevertheless, the Fire Department

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maintained its position that it would not approve an access road slope in excess of ten percent; and

WHEREAS, accordingly, the appellant requests that the Board grant the subject appeal waiving the ten percent slope required under FC § 503.2.7 and approving, in the alternative, a slope of 13.59 percent; and

WHEREAS, the Board notes that, pursuant to New York City Charter § 666(6)(b), it has the power to review an appeal of a Fire Department determination by reversing or affirming in whole or in part, or modifying the requirement set forth in the determination; and

WHEREAS, in addition, pursuant to Charter § 666(7), in reviewing an appeal of a Fire Department determination, the Board may vary the underlying requirement if it finds that: (1) there is a practical difficulty or unnecessary hardship in complying with the strict letter of the law; (2) the alternative is within the spirit of the law and secures public safety; and (3) substantial justice is done; and

WHEREAS, the Appellant asserts that there exists a practical difficulty in complying with a maximum access road slope of ten percent due to the existing slope of the site, which, from the west side of the access road abutting Howard Avenue to the easternmost portion of the site, has a grade change of 116 feet and, as noted above, an average site slope of 19.5 percent; and

WHEREAS, the Appellant also asserts that the alternative—a slope of 13.59 percent—is within the spirit of the law and secures public safety, in that: (1) the access road will provide access to only four, single-family homes; (2) the homes will be fully-sprinklered; (3) there will be no street parking along the roadway with “no parking” signs posted in accordance with FC § 503.7 and BSA Cal. Nos. 54-92-A through 58-92-A; (4) each home’s driveway will be oversized; and (5) two new fire hydrants will be installed along the roadway; and

WHEREAS, as to substantial justice, the Appellant states that it explored the feasibility of providing a complying (ten-percent slope) and determined that in order to achieve a complying slope, the length of the roadway would have to be increased to 497 linear feet, which is contrary to Fire Code § 503.2.5 (which limits the length of a private road to 400 linear feet); thus, a secondary road would be required, which is impossible given the location of the site with respect to adjacent sites and existing buildings; and

WHEREAS, the Appellant states that a ten-percent slope would also require larger retaining walls and more impervious surfaces than are desirable under the Special Hillside Preservation District regulations and require encroachment on a portion of the site that CPC previously declared to be a preservation area; further, constructing retaining walls to provide the ten-percent slope would be too costly to be offset by the construction of four homes; and

WHEREAS, therefore, the Appellant represents that complying with the Fire Department requirement would make construction on the site infeasible; and

WHEREAS, the Appellant states that prior to the

enactment of the 2008 Fire Code, a slope of 13 percent was permitted; in addition, as noted above, the Fire Department approved a slope of 14 percent for the site in 1992 and again in 2007; and

WHEREAS, finally, at the Board’s request, the Appellant identified numerous nearby access roads with slopes in excess of the proposed 13.59 percent, including: Highview Avenue between East Buchanan Street and Eadie Place (16 percent); Highview Avenue between Eadie Place and Fillmore Street (between 18.2 percent and 21.2 percent); York Terrace between East Buchanan Street and Fillmore Street (between 15.8 percent and 16.4 percent); Occident Avenue between St. Pauls Avenue and Marion Street (between 14.4 percent and 16.2 percent); Concord Place between Richmond Road and Longview Road (between 13.8 percent and 16.5 percent); and Howard Court (between 14 percent and 15.5 percent); and

WHEREAS, in response to the Appellant’s assertions, the Fire Department states that, due to the curving nature of the road, a slope in excess of ten percent would present a serious operational challenge to firefighting operations at the site due to the limitations of its equipment; and

WHEREAS, the Fire Department states that it is aware of the prior approvals at the site as well as nearby existing roads with similar or steeper grades; nevertheless, it states that because the ten-percent requirement is to ensure safe operation of and proper access for its firefighting apparatuses, waiver of such requirement is improper and poses a danger to homeowners and firefighters; and

WHEREAS, the Board acknowledges the Fire Department’s interest ensuring that its equipment may be operated in the most efficient manner and that as roads become steeper, such operation may be made more challenging; and

WHEREAS, nevertheless, the Board finds that slopes in excess of ten percent may be safe where accompanied by other safety measures; indeed, a slope exceeding ten percent was contemplated by FC § 503.2.7 by its terms (“the grade of the fire apparatus access road shall not exceed ten percent *unless* approved by the commissioner”); and

WHEREAS, further, the Board notes that when presented with evidence of nearby access roads, including many with steeper slopes and narrower widths than the proposed access road, the Fire Department provided no information regarding how its operations change with respect to such roads; and

WHEREAS, the Board also notes that the Fire Department did not articulate any conditions under which it would endorse an access road slope of greater than ten percent; and

WHEREAS, turning to the variance findings, the Board agrees with the Appellant that the existing slope of the site in combination with the Special Hillside Preservation District regulations present a practical difficulty complying with the strict letter of FC § 503.2.7; and

WHEREAS, in particular, the Board observes that FC

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§ 503.2.7 and the Special Hillside Preservation District regulations further different policy objectives and reflect different perspectives on the appropriate development of the site – due to the existing slope of the site, compliance with the Fire Code provision would require substantial fill, which is unlikely to be permitted under the Special Hillside Preservation District regulations; accordingly, a site plan that is satisfactory to the Fire Department is unlikely to be satisfactory to CPC, and this inherent incompatibility presents a significant practical difficulty in developing the site; and

WHEREAS, the Board also agrees that the proposal’s additional safety measures—namely, the limited density, the sprinklering, the no parking zones, and the additional fire hydrants—bring the proposal within the spirit of the law and secure public safety; and

WHEREAS, in addition, the Board requires that the roadway be constructed using asphalt porous pavement or a similar system, as recommended by the Department of Transportation (“DOT”), in order to maximize traction, and that DOT approve a Builders Pavement Plan for the intersection of Harborlights Court and Howard Avenue; and

WHEREAS, as to substantial justice, the Board agrees with the Appellant that development of the site is infeasible using a ten-percent slope for the road and that the proposal represents an alternative that is both technically and financially feasible and consistent with the objectives of the Special Hillside Preservation district regulations; and

WHEREAS, as to the Opposition’s concerns regarding the widening of the access road to a width of 30 feet, the Board notes that the Appellant submitted a copy of its easement agreement for access and utilities; the agreement indicates that the width of the easement is 30 feet; to the extent that the Appellant would seek to diminish the 30-foot width, an amendment to this grant would be required; and

WHEREAS, as to the Opposition’s concern regarding changes to the topography, vegetation, and drainage, the Board observes that the site plan is subject to CPC approval under the Special Hillside Preservation District regulations and that this grant is limited to a variance of FC § 503.2.7 and should not be construed as an endorsement of the project with respect to the Zoning Resolution or Building Code; and

WHEREAS, as to the Opposition’s preference for a ten-percent slope and the construction of three homes instead of four, the Board notes that although such a scenario would reduce the length of the access road, it would be inconsistent with the objectives of the Special Hillside Preservation District due to the extent of fill and the size of embankments that would be required; and

WHEREAS, finally, while the Board acknowledges the Opposition’s other concerns regarding the proposal’s potential impact on neighboring properties, the Board finds that such considerations are both beyond the scope of its review in this case, and governed by other laws and regulations; and

Therefore it is Resolved that the instant appeal, seeking

a reversal of the Fire Department decision dated August 18, 2011, is hereby *granted; on condition* that construction will substantially conform to the drawing filed with the application marked “Received April 25, 2014 (1) sheet; and *on further condition*:

THAT all required CPC approvals will be obtained prior to the issuance of a building permit by DOB;

THAT the slope of the access road will not exceed 13.59 percent at any point;

THAT the access road will have a minimum width of 30 feet;

THAT a maximum of four homes will be permitted at the site;

THAT all homes will be fully-sprinklered;

THAT no street parking will be permitted along the access road and “No Parking” signs will be installed in accordance with the Fire Code;

THAT a minimum of two fire hydrants will be provided along the access road;

THAT the access road will be constructed using asphalt porous pavement or a similar system, as recommended by DOT, in order to maximize traction;

THAT DOT and DOB will review and approve a Builders Pavement Plan for the intersection of Harborlights Court and Howard Avenue;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed objection; and

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

Adopted by the Board of Standards and Appeals, April 29, 2014.

266-07-A

APPLICANT – Law Office of Fredrick A. Becker, for 1610 Avenue S LLC, owner.

SUBJECT – Application January 9, 2013 – Extension of time to complete construction and obtain a certificate of occupancy of a previously granted common law vested rights application, which expired on December 9, 2012. R4-1 Zoning District.

PREMISES AFFECTED – 1602-1610 Avenue S, southeast corner of Avenue S and East 16th Street. Block 7295, Lot 3. Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to May 13, 2014, at 10 A.M., for adjourned hearing.

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80-11-A, 84-11-A & 85-11-A & 103-11-A

APPLICANT – Law Office of Marvin B. Mitzner LLC, for Kushner Companies, owners.

SUBJECT – Application November 29, 2013 – An amendment to the previously approved waivers to the Multiple Dwelling Law (MDL) to address MDL objections raised by the Department of Buildings. R8B zoning district.

PREMISES AFFECTED – 335, 333, 331, 329 East 9th Street, north side East 9th Street, 2nd and 1st Avenue, Block 451, Lot 47, 46, 45, 44 Borough of Manhattan.

COMMUNITY BOARD #3M

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

166-12-A

APPLICANT – NYC Department of Buildings.

OWNER – Sky East LLC c/o Magnum Real Estate Group, owner.

SUBJECT – Application June 4, 2012 – Application to revoke the Certificate of Occupancy. R8B zoning district.

PREMISES AFFECTED – 638 East 11th Street, south side of East 11th Street, between Avenue B and Avenue C, Block 393, Lot 26, Borough of Manhattan.

COMMUNITY BOARD #3M

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

107-13-A

APPLICANT – Law Office of Marvin B. Mitzner LLC, for Sky East LLC, owner.

SUBJECT – Application April 18, 2013 – An appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior R7- 2 zoning district. R7B zoning district.

PREMISES AFFECTED – 638 East 11th Street, south side of East 11th Street, between Avenue B and Avenue C, Block 393, Lot 25, 26 & 27, Borough of Manhattan.

COMMUNITY BOARD #3M

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

43-14-A

APPLICANT – Rosan & Rosan, P.C., for Milburn Hotel, owner.

SUBJECT – Application March 14, 2014 – Extension of Time to obtain a Class B Certificate of Occupancy to legalize 120 hotel units, as provided recent (2010) legislation under Chapters 225 and 566 of the Laws of New York. R8B zoning district.

PREMISES AFFECTED – 242 West 76th Street, south side of West 76th Street, 112' west of Broadway, between

Broadway and West End Avenue, Block 1167, Lot 55, Borough of Manhattan.

COMMUNITY BOARD #7M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

ACTION OF THE BOARD – Laid over to May 13, 2014, at 10 A.M., for decision, hearing closed.

ZONING CALENDAR

130-13-BZ

APPLICANT – Rothkrug Rothdrug & Spector, for Venetian Management LLC, owner.

SUBJECT – Application May 7, 2013 – Re-Instatement (§11-411) of a variance which permitted a one-story motor vehicle storage garage with repair (UG 16B), which expired on February 14, 1981; Amendment (§11-413) to change the use to retail (UG 6); Waiver of the Rules. R6 zoning district.

PREMISES AFFECTED – 1590 Nostrand Avenue, southwest corner of Nostrand Avenue and Albemarle Road. Block 5131, Lot 1. 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 Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 23, 2013, acting on Department of Buildings (“DOB”) Application No. 320698465, reads in pertinent part:

Proposed conversion to retail stores (UG 6) and alteration of existing one-story storage garage for more than five motor vehicles and motor vehicle repair shop limited to vehicles owned by tenant in an R6 zone previously approved by BSA under Cal. No. 863-50-BZ must be referred to BSA; and

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reinstatement of a prior Board approval, and an amendment to allow a change in use from a public garage for vehicle storage and motor vehicle repair (Use Group 16) to retail stores (Use Group 6) and a warehouse (Use Group 16); and

WHEREAS, a public hearing was held on this application on December 10, 2013, after due notice by publication in the *City Record*, with continued hearings on January 28, 2013, March 4, 2014 and April 1, 2014, and then

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to decision on April 29, 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, the subject site is an irregular through-lot located on the block bounded by Albemarle Road, Nostrand Avenue, East 29th Street, and Tilden Avenue, within an R6 zoning district; and

WHEREAS, the site has approximately 101 feet of frontage along Albemarle Road, approximately 271 feet of frontage along Nostrand Avenue, approximately 195 feet of frontage along East 29th Street, and 46,665 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story storage and repair garage (Use Group 16) with 31,613 sq. ft. of floor area (0.68 FAR); and

WHEREAS, on February 14, 1951, under BSA Cal. No. 863-50-BZ, the Board granted a variance to permit, in a business use district, the extension of an existing public garage using more than the permitted area, to be used as a storage garage and motor vehicle repair shop for New York Telephone Company vehicles, for a term of 30 years, to expire on February 14, 1981; and

WHEREAS, on April 24, 1951, the grant was amended to permit relocation of accessory gasoline pumps; and

WHEREAS, the applicant notes that in 1971, New York Telephone Company acquired the lot on the northwest corner of Block 5131, demolished the residential buildings that occupied by the lot, and began using the lot for additional parking for the uses at the site; and

WHEREAS, the applicant now proposes to reinstate the variance granted under BSA Cal. No. 836-50-BZ to allow for the change of use to a series of Use Group 6 retail stores along Nostrand Avenue and a Use Group 16 warehouse along East 29th Street; in addition, the applicant proposes an accessory parking lot for 20 automobiles adjacent to the warehouse, an accessory parking lot for 15 automobiles at the corner of Albemarle Road and Nostrand Avenue, five accessory parking spaces within the warehouse (for employees), and new landscaping and street trees along the three frontages of the site; and

WHEREAS, as to the nearby lot incorporated into the site in 1971, it will be reapportioned as a separate tax lot and the site will be restored to the dimensions approved by the Board under the original grant; and

WHEREAS, pursuant to ZR § 11-411 and the Board's Rules of Practice and Procedure, the Board may extend the term of a pre-1961 grant that has been expired for more than ten years, provided that: (1) the use of the premises has been continuous since the expiration of the term; (2) substantial prejudice would result from the refusal to allow the extension; and (3) the use permitted by the grant does not substantially impair the appropriate use and development of adjacent properties; and

WHEREAS, the applicant submitted written

testimony and supporting documentation indicating that New York Telephone Company and its successor, Verizon, occupied the site continuously from the expiration of the term of the grant on February 14, 1981 through 2012; and

WHEREAS, as to substantial prejudice, the applicant asserts that it is not feasible to adapt the one-story storage facility and garage for a conforming use, necessitating complete demolition of the building, at significant cost; and

WHEREAS, as to whether the use authorized by the grant would impair the appropriate use and development of adjacent properties, the applicant contends that it would not and notes that Use Group 16 has existed at the site for nearly 65 years with no negative effects on the surrounding conforming uses; further, because a portion of the building will be converted to Use Group 6, the intensity of the non-conforming use at the site will be diminished; and

WHEREAS, pursuant to ZR § 11-413, the Board may grant a request for 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 be permitted pursuant to ZR § 52-34 (*Commercial Uses in Residence Districts*), which allows for a change in use from Use Group 16 to Use Group 6; further, consistent with ZR § 11-413, the introduction of Use Group 6 will not alter the essential character of the neighborhood, in that it is a less intense use than the previously-approved Use Group 16 uses and it will be more compatible with the nearby conforming uses; further, there are commercial overlays on both sides of Nostrand Avenue less than one block south of the site; and

WHEREAS, at hearing, the Board directed the applicant to study the effects of the proposal on parking in the surrounding community; and

WHEREAS, in response, the applicant conducted a parking demand study, an on-street parking survey, and a trip generation and parking accumulation analysis; based on the parking demand study, the proposal requires 35 parking spaces per day during the week and 36 parking spaces per day on the weekend, which are less than the 40 parking spaces to be provided at the site; and

WHEREAS, as to the on-street parking survey and the trip generation and parking accumulation analysis, according to the applicant, these studies indicate that, in the immediate vicinity, there is a minimum of 35 and a maximum of 85 hourly available parking spaces at any given time between 8:00 a.m. and 5:00 p.m. on a typical weekday, which, in addition to the proposed accessory parking for the site, will be more than sufficient to accommodate the parking demand generated by the proposal; and

WHEREAS, accordingly, the Board finds that there is ample parking for the proposed uses at the site; and

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WHEREAS, the Board also directed the applicant to redesign the proposal to eliminate the initially proposed overhang for parking at the front of the site; and

WHEREAS, in response, the applicant revised the plans to reflect the elimination of the covered parking area; and

WHEREAS, based on the foregoing, the Board is persuaded that the proposal will neither alter the essential character of the neighborhood, nor impair the appropriate use and development of adjacent properties; and

WHEREAS, based upon its review of the record, the Board finds that the evidence in the record supports the findings required to be made under ZR §§ 11-411 and 11-413, and a reinstatement and change in use are appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedures, issues a Type II under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, as amended, and makes each and every one of the required findings under ZR §§ 11-411 and 11-413, for a reinstatement of a prior Board approval of a public garage for vehicle storage and repair (Use Group 16) to retail stores (Use Group 6) and a warehouse (Use Group 16); *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 January 16, 2014"- (2) sheets and "February 23, 2014"- (1) sheet; and *on further condition*:

THAT the term of the variance will expire on April 29, 2024;

THAT the signage will comply with C1 zoning district regulations;

THAT no fewer than 40 parking spaces (20 spaces adjacent to the warehouse, 15 spaces at the corner of Albemarle Road and Nostrand Avenue, and five spaces within the warehouse) will be provided at the site;

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 April 29, 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 shall be considered approved only for the portions related to the specific relief granted; and

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

Adopted by the Board of Standards and Appeals, April 29, 2014.

163-13-BZ

CEQR #13-BSA-146Q

APPLICANT – Eric Palatnik, P.C., for 39th Avenue Realty Management, LLC, owner.

SUBJECT – Application May 30, 2013 – Special Permit (§73-44) to allow the reduction of parking spaces for the enlargement of a building containing Use Group 6 professional offices. C4-2 zoning district.

PREMISES AFFECTED – 133-10 39th Avenue, 39th Avenue, east of College Pt. Boulevard, Block 4973, Lot 12, 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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated May 24, 2013, acting on Department of Buildings Application No. 420840914, reads in pertinent part:

Accessory parking spaces provided is less than required per ZR 36-21; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, on a site located within a C4-2 zoning district, a reduction in the required number of accessory parking spaces in connection with the enlargement of an existing office building (Use Group 6) from 28.75 spaces to 14.38 spaces, contrary to ZR § 36-21; 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 8, 2014, and then to decision on April 29, 2014; and

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

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

WHEREAS, Queens Borough President Helen M. Marshall recommends approval of this application; and

WHEREAS, the subject site is located on the south side of 39th Avenue between College Point Boulevard and Prince Street, within a C4-2 zoning district; and

WHEREAS, the site has 28 feet of frontage along 39th Avenue and 3,740.5 sq. ft. of lot area; and

WHEREAS, the site is occupied by two two-story office buildings (Use Group 6) with a combined floor area of 3,785 sq. ft. (1.01 FAR); and

WHEREAS, pursuant to ZR § 36-21, Use Group 6 is in parking requirement category B1, which requires that one accessory parking space be provided for every 300 sq. ft. of floor area; thus, the existing Use Group 6 floor area at

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the site generates 12.6 required accessory parking spaces; and

WHEREAS, pursuant to ZR § 36-231, within the subject C4-2 zoning district, because less than 15 parking spaces are required, they need not be provided (and were not, when the subject buildings were constructed in 1992); and

WHEREAS, the applicant now proposes to vertically and horizontally enlarge the buildings and combine them, which will result in an increase in floor area from 3,785 sq. ft. (1.0 FAR) to 8,627 sq. ft. (2.3 FAR) and an increase in the number of required accessory parking spaces from 12.6 parking spaces to 28.75 parking spaces; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject C4-2 zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable Zoning Resolution provision, for Use Group 6 office use in the parking category B1; in the subject zoning districts, the Board may reduce the required parking from one space per 300 sq. ft. of floor area to one space per 600 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 36-21 the total number of parking spaces that will be required in connection with the proposal is 28.75 spaces; thus, if the special permit is granted, only 14.38 parking spaces will be required; the applicant notes that because 14.38 is less than 15, it will seek approval from DOB to reduce the number of parking spaces provided at the site to zero, in accordance with ZR § 36-231; and

WHEREAS, the Board takes no position on whether the required parking may be waived entirely and relies on DOB to make such determination; and

WHEREAS, pursuant to ZR § 73-44, the Board must determine that the Use Group 6 use in the B1 parking category is contemplated in good faith; and

WHEREAS, as a demonstration of such good faith, the applicant submitted an affidavit from the owner of the site attesting to its intention to use the site as an office building; indeed, the contemplated renovations are being made to upgrade the facility in order to attract long-term Use Group 6 tenants; and

WHEREAS, the Board finds that the applicant has submitted sufficient evidence of good faith in maintaining the noted uses at the site; and

WHEREAS, in addition, the special permit under ZR § 73-44 requires and the applicant represents that any certificate of occupancy for the building will state that no subsequent certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius; and

WHEREAS, at hearing, the Board requested: (1) an analysis of the potential impact of the proposed reduction on the community in terms of available on-street parking;

and (2) clearer photographs of the site and the surrounding area; and

WHEREAS, in response, the applicant submitted a trip generation and parking accumulation analysis and on-street and off-street parking surveys, which together demonstrate that existing parking within one-quarter mile of the site is more than adequate to accommodate the anticipated increase in the demand for parking generated by the proposed enlargement (which the survey concluded would be ten spaces); and

WHEREAS, the applicant also notes that the site is well served by mass transit, in that it is one block from the entrance to the MTA 7 Subway Line, one block from the Flushing Main Street LIRR station, and within walking distance of City buses running along Roosevelt Avenue and Main Street; and

WHEREAS, based upon the above, the Board agrees that the accessory parking space needs of the site can be accommodated even with the parking reduction; and

WHEREAS, in addition, as requested, the applicant submitted photographs of the site and surrounding area; and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-44 and 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 13-BSA-146Q, dated May 30, 2013; and

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issued a Negative declaration prepared in accordance with Article 8 of the New York State

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Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR §§ 73-44 and 73-03 to permit, on a site located within a C4-2 zoning district, a reduction in the required number of accessory parking spaces in connection with the enlargement of an existing office building (Use Group 6) from 28.75 spaces to 14.38 spaces, contrary to ZR § 36-21; on condition that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received April 24, 2014" – (8) sheets, and on further condition:

THAT there will be no change in the use of the site without prior review and approval by the Board;

THAT no certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius;

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

THAT DOB will confirm that the 14.38 accessory parking spaces authorized under this grant may be waived, in accordance with ZR §§ 36-31 and 36-231;

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

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

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

Adopted by the Board of Standards and Appeals, April 29, 2014.

179-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for East 24 Realty LLC by Sarah Weiss, owner.

SUBJECT – Application June 19, 2013 – Special Permit (§73-622) for the enlargement of a single-family home contrary to floor area, open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 933-939 East 24th Street, East side of East 24th Street between Avenue I and Avenue J, Block 7588, Lot 29 & 31 (31 tentative), Borough of Brooklyn.

COMMUNITY BOARD #14BK

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 Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner of the New York City Department of Buildings ("DOB"), dated June 3, 2013, acting on DOB Application No. 320746234, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141 in that the proposed floor area ratio exceeds the maximum permitted;
2. Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required;
3. Proposed plans are contrary to ZR 23-461 in that the proposed side yard is less than the minimum required;
4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR § 73-622, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on February 4, 2014, after due notice by publication in *The City Record*, with continued hearings on March 11, 2014, and April 1, 2014, and then to decision on April 29, 2014; and

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

WHEREAS, Community Board 14, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of East 24th Street, between Avenue I and Avenue J, within an R2 zoning district; and

WHEREAS, the site has 80 feet of frontage along East 24th Street and 8,000 sq. ft. of lot area; and

WHEREAS, the site comprises two historically-separate lots (Lots 29 and 31), each with 40 feet of frontage along East 24th Street and 4,000 sq. ft. of lot area, which will be combined and be known as Lot 31; and

WHEREAS, the site is occupied by two single-family homes; the home on historic Lot 29 has 2,042 sq. ft. of floor area (0.51 FAR) and the home on historic Lot 31 has 2,029 sq. ft. of floor area (0.51 FAR); thus, the site has 4,071 sq. ft. of existing floor area (0.51); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to demolish the home on historic Lot 29 and increase the floor area of the

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home on historic Lot 31 from 2,042 sq. ft. (0.51 FAR) (as measured with respect to historic Lot 31) to 8,031 sq. ft. (1.0 FAR) (as measured with respect to the site); the maximum permitted floor area is 4,800 sq. ft. (0.6 FAR); and

WHEREAS, the applicant seeks to decrease the open space ratio from 142 percent (historic Lot 29) and 144 percent (historic Lot 31) to 47 percent (as measured with respect to the site); the minimum required open space ratio is 150 percent; and

WHEREAS, the applicant seeks to maintain and extend historic Lot 31's existing non-complying side yard width of 3'-11½" and reduce historic Lot 29's complying side yard width from 12'-0" to 8'-11½"; (the requirement is two side yards with a minimum total width of 13'-0" and a minimum width of 5'-0" each); and

WHEREAS, the applicant also seeks to decrease its non-complying rear yard depth to 20'-0"; historic Lot 29's rear yard depth was 27'-0" and historic Lot 31's rear yard depth was 26'-5½" (a rear yard with a minimum depth of 30'-0" is required); and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, the applicant asserts that the proposed lot width of 80 feet and 1.0 FAR are consistent with the bulk in the surrounding area; and

WHEREAS, as to the lot width, the applicant submitted a study, which reflects that, within the subject R2 zoning district, there are eleven lots that range in width from 60 to 100 feet; and

WHEREAS, as to the FAR, the applicant identified seven homes in the study area with FARs ranging from 1.0 to 1.63; the applicant notes that six of the seven homes were enlarged pursuant to a special permit from the Board; and

WHEREAS, at hearing, the Board expressed concerns regarding: (1) the compatibility of the height of the proposed home with the existing homes along East 24th Street; and (2) the compliance of the proposal with the landscaping requirements; and

WHEREAS, in response, the applicant amended its plans to: (1) remove decorative grillework from the top of the building; (2) reduce the proposed building height from 38'-0" to 36'-0" and the proposed perimeter wall height from 25'-0" to 24'-8"; and (3) decrease the size of the front porch in order to accommodate required landscaping; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received March 19, 2014"-(13) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 8,031 sq. ft. (1.0 FAR), a minimum open space ratio of 47 percent, side yards with minimum widths of 3'-11½" and 8'-11½", and a minimum rear yard depth of 20'-0", as illustrated on the BSA-approved plans;

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

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

THAT substantial construction be completed in accordance with ZR § 73-70; and

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

Adopted by the Board of Standards and Appeals, April 29, 2014.

246-13-BZ

CEQR #14-BSA-025K

APPLICANT – Rothkurg Rothkrug & Spector LLP, for Lutheran Medical Center, owner.

SUBJECT – Application August 21, 2013 – Variance (§72-21) to permit the enlargement of an existing ambulatory diagnostic treatment health facility (UG4), contrary to floor area (§24-11) and rear yard (§24-36) regulations. R6B/C4-3A zoning districts.

PREMISES AFFECTED – 514 55th Street, south side of 49th Street, 90' east of intersection of 5th Avenue and 49th Street, Block 784, Lot 10, 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 Montanez5

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Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Executive Zoning Specialist of the Department of Buildings (“DOB”), dated July 22, 2013, acting on DOB Application No. 320590339, reads in pertinent part:

1. Floor area in R6B lot portion exceeds the maximum permitted; contrary to ZR 24-11;
2. Enlargement in the required rear yard is not permitted; contrary to ZR 24-36; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site located partially within an R6B zoning district and partially within a C4-3A zoning district, the horizontal enlargement of the basement and first story of a four-story ambulatory diagnostic and treatment health care facility (Use Group 4) that exceeds the maximum permitted floor area ratio (“FAR”) and does not provide the minimum required rear yard in the R6B portion of the site, contrary to ZR §§ 24-11 and 24-36; and

WHEREAS, a public hearing was held on this application on March 11, 2014, after due notice by publication in the *City Record*, with a continued hearing on April 8, 2014, and then to decision on April 29, 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, this application is brought on behalf of Lutheran HealthCare, a not-for-profit institution; and

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

WHEREAS, the subject site is a rectangular interior lot located on the south side of 49th Street between Fifth Avenue and Sixth Avenue, partially within an R6B zoning district and partially within a C4-3A zoning district; and

WHEREAS, the site has 191 feet of frontage along 49th Street, a lot depth of 100.17 feet, and a lot area of 19,131 sq. ft.; and

WHEREAS, the site is divided by a zoning district boundary, with the westernmost ten feet of the site for its full depth is located within a C4-3 zoning district and the remainder of the lot located within an R6B zoning district; and

WHEREAS, the site is occupied by a four-story ambulatory diagnostic and treatment health care facility (Use Group 4) with 35,378 sq. ft. of floor area (1.8 FAR); the facility is operated by Lutheran HealthCare (“LHC”) and known as the Sunset Terrace Family Health Center (“STFHC”); and

WHEREAS, the applicant notes that the facility was completed in 1960 and underwent its only major renovation in 1977; and

WHEREAS, the applicant proposes to enlarge the basement and first story at the rear of the building, which will increase the floor area from 35,378 sq. ft. (1.8 FAR) to 40,912 sq. ft. (2.14 FAR); and

WHEREAS, the applicant states that the basement enlargement will comprise 2,637 sq. ft. of floor area and provide space for offices, staff room, storage and mechanical equipment; the first story enlargement will comprise 2,997 sq. ft. of floor area and will provide space for examination rooms, additional offices, work stations, and restrooms; and

WHEREAS, the applicant states that a variance is requested because the proposed enlargement will exceed the maximum permitted floor area for the site (39,263 sq. ft. (2.05 FAR)) and will extend the existing non-complying rear yard depth of 11 feet for the full width of the building; and

WHEREAS, the applicant notes that LHC, which operates STFHC, has served the ethnically diverse, medically underserved neighborhoods of central and southwest Brooklyn for more than 40 years, and that the official LHC service area includes approximately 700,000 residents (28 percent of the total Brooklyn population); and

WHEREAS, the applicant states that STFHC is facing a large influx of patients due to three factors: (1) the closure or threatened closure of nearby health systems and hospitals, such as Long Island Hospital, Brookdale Hospital, and Interfaith Medical Center; (2) the initiation of the New York Health Home system (under the requirements of the New York State Medicaid Redesign Team), which requires coordination of mental illness treatment with medical treatment; and (3) the implementation of family homeless services; and

WHEREAS, the applicant represents that the following are unique physical conditions inherent to the zoning lot, which, in accordance with ZR § 72-21(a), create practical difficulties and unnecessary hardship in developing the site in strict conformance with underlying zoning regulations: (1) the history of community facility use at the site and obsolescence of the building at the site for such use (including the outmoded configuration of its floorplates); and (2) the programmatic needs of LHC; and

WHEREAS, as noted above, the applicant states that LHC has been providing health services at the site for decades in a building that was constructed in 1960; as such, community facility use at the site is well-established; and

WHEREAS, the applicant notes that the building was constructed without a cellar; therefore, it must use above-grade spaces for common below-grade uses such a storage of materials and mechanical equipment; and

WHEREAS, in addition, the applicant states that the building was last renovated in 1977 and its layouts include redundancies and inefficiencies (such as a single entrance for all patients), which interfere with LHC’s ability to provide quality health care; and

WHEREAS, the applicant states that the building must expand to satisfy LHC’s programmatic needs, including providing: (1) proper separation of offices, storage space, and staff rooms from patient services; (2) expansion of the primary care areas; (3) establishment of dental care program space; (4) expansion of behavioral health patient areas; (5) separation of patients by health care need; and (6) for the

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elimination of the joint reception area, which is undesirable given the diversity of the services offered by LHC; and

WHEREAS, the applicant also states that remaining in the building is critical to the care STFHC provides to the surrounding community because many of its patients live nearby and cannot travel long distances for services; and

WHEREAS, the applicant contends that providing some services at the site and others offsite would substantially interfere with patient care, require duplication of non-patient spaces, services, and staff, and be inconsistent with the recommendations of the New York State Medicaid Redesign Team; and

WHEREAS, similarly, the applicant represents that relocating the facility entirely is not possible because there are no comparable buildings or sites within Sunset Park and that the vast majority of lots in the area (both vacant and occupied) have lot areas of approximately 2,000 sq. ft.—well below the size that would be needed to accommodate a suitable building for STFHC; and

WHEREAS, the applicant explored the feasibility of the following as-of-right development scenarios: (1) a three-story rear enlargement for a depth of 14 feet (“Scenario 1”); (2) a four-story enlargement to the west side of the building (“Scenario 2”); and (3) a complete renovation of the entire building, including significant demolition and reconstruction (“Scenario 3”); and

WHEREAS, the applicant states that Scenario 1 would not allow for the additional examination rooms and corridors due to its limited depth and it would not alleviate the entrance bottleneck caused by the single patient entrance; in addition, it would require the placement of medical examination and dental examination rooms on separate levels and would prevent the consolidation of staff spaces and instead separate such spaces by several stories with only one elevator connecting them; and

WHEREAS, the applicant states that Scenario 2 would result in approximately 60 percent less new program space than the proposal, resulting in a reduction and/or elimination of programs and funding; further, Scenario 2 would require reconfiguration of the boiler room, relocation of an egress stair, and the installation of a new sprinkler system, at significant cost; and

WHEREAS, as for Scenario 3, the applicant represents that it is not viable due to the costs involved and the significant disruptions in patient care; and

WHEREAS, accordingly, the applicant asserts that the building’s inefficiencies and LHC’s programmatic needs are best addressed with the proposed horizontal enlargement; and

WHEREAS, based upon the above, the Board finds that the history of community facility use at the site and the obsolescence of the building, when considered in conjunction with the programmatic needs of LHC, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since LHC is a non-profit institution and

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

WHEREAS, the applicant represents that, per ZR § 72-21(c), the variance, if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant represents that the neighborhood is characterized by a mix of low- to medium-density residential, community facility, and, where permitted, commercial uses; and

WHEREAS, the applicant states that the site has been occupied by a medical facility for more than 50 years, that Use Group 4 is permitted as-of-right in the subject zoning districts (R6B and C4-3A), and that the operator of the facility is an organization with significant ties to the community; and

WHEREAS, as to adjacent properties, the applicant states that there are mixed residential and commercial buildings along Fifth Avenue to the west of the site, and residential buildings to the north, east, and south of the site; and

WHEREAS, the applicant states that the proposed enlargement is a continuation of the building’s existing, non-complying rear yard depth of 11 feet and that its impact upon the residences to the south is mitigated by the fact that those buildings provide complying rear yards with depths of 30 feet and are separated from the site by a retaining wall and a fence; and

WHEREAS, as to the FAR waiver, the applicant asserts that while it is modest (the proposal seeks 0.09 FAR greater than is permitted at the site), a noted above, the additional floor area is essential to LHC’s ability to carry out its programmatic needs; further, the additional floor area will be located entirely within the rear of the site, will have no impact on the building’s overall height, number of stories or appearance from the street, and is within the ten-percent increase in floor area permitted by special permit under ZR § 73-63 (*Enlargement of Non-Residential Buildings*); and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of LHC could occur on the existing lot; and

WHEREAS, accordingly, the Board finds that, per ZR § 72-21(d) the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board also finds that the requested relief is the minimum necessary, in accordance with ZR § 72-21(e); and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 14-BSA-025K, dated August 14, 2013; and

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site located partially within an R6B zoning district and partially within a C4-3A zoning district, the horizontal enlargement of the basement and first story of a four-story ambulatory diagnostic and treatment health care facility (Use Group 4) that exceeds the maximum permitted floor area ratio ("FAR") and does not provide the minimum required rear yard in the R6B portion of the site, contrary to ZR §§ 24-11 and 24-36; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 26, 2013" –(5) sheets; and *on further condition;*

THAT the following shall be the bulk parameters of the building: a maximum of 40,912 sq. ft. (2.14 FAR) and a minimum rear yard depth of 11'-0", as indicated on the BSA-approved plans;

THAT substantial construction shall be completed pursuant to ZR § 72-23;

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

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

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

Adopted by the Board of Standards and Appeals, April 29, 2014.

270-13-BZ

APPLICANT – Eric Palatnik, P.C., for Margaret Angel, LLC, owner.

SUBJECT – Application September 13, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area (§23-141). R3-1 zoning district.

PREMISES AFFECTED – 288 Dover Street, Dover Street, south of Oriental Boulevard, Block 8417, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #15BK

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 Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner of the New York City Department of Buildings ("DOB"), dated November 15, 2013, acting on DOB Application No. 320846028, reads in pertinent part:

Proposed floor area ratio is contrary to Section 23-141(b) of the Zoning Resolution; and

WHEREAS, this is an application under ZR § 73-622, to permit, within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR") contrary to ZR § 23-141; 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 April 29, 2014; and

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

WHEREAS, Community Board 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the northwest corner of Dover Street and the Manhattan Beach Esplanade, within an R3-1 zoning district; and

WHEREAS, the site has 127 feet of frontage along Dover Street, 104 feet of frontage along the Manhattan Beach Esplanade, and 13,024 sq. ft. of lot area; and

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WHEREAS, the site is occupied by a single-family home with 3,839 sq. ft. of floor area (0.3 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks an increase in the floor area from 3,839 sq. ft. (0.3 FAR) to 10,570 sq. ft. (0.81 FAR); the maximum permitted floor area is 7,814.4 sq. ft. (0.6 FAR); and

WHEREAS, the applicant states that the building will comply in all other respects with the R3-1 zoning district regulations; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, the applicant asserts that the proposed 0.81 FAR is consistent with the bulk in the surrounding area; in support of this assertion, the applicant submitted a study of the 59 homes within 400 feet of the site, which reflects that 12 homes have an FAR between 0.75 and 1.0; and

WHEREAS, at hearing, the Board directed the applicant to: (1) clarify the landscaping requirements along the Manhattan Beach Esplanade; and (2) remove the stairs encroaching upon the Manhattan Beach Esplanade; and

WHEREAS, in response, the applicant submitted: (1) a letter from its architect stating that the Manhattan Beach Esplanade is treated as a "street" for the purposes of calculating the required landscaping and number of street trees; and (2) an amended plan omitting the stairs from the original proposal; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR contrary to ZR § 23-141; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received March 11, 2014" – (12) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: two stories, a maximum floor area of 10,570 sq. ft. (0.81 FAR), a maximum lot coverage of 33.4 percent, side yards with minimum widths of 26'-9" and 8'-

2", a maximum perimeter wall height of 21'-0", and a maximum building height of 34'-1", as illustrated on the BSA-approved plans;

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

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

THAT substantial construction be completed in accordance with ZR § 73-70; and

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

Adopted by the Board of Standards and Appeals, April 29, 2014.

**285-13-BZ
CEQR #14-BSA-055K**

APPLICANT – Warshaw Burstein, LLP, for 495 Flatbush Ave, LLC, owner; 495 Flatbush Fitness Group, LLC, lessee.

SUBJECT – Application October 9, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Fitness Center*). C8-6 zoning district.

PREMISES AFFECTED – 495 Flatbush Avenue, east side of Flatbush Avenue approximately 110 feet northwest of its intersection with Lefferts Avenue, Block 1197, Lot 6. Borough of Brooklyn.

COMMUNITY BOARD #9BK

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner of the Department of Buildings ("DOB"), dated September 12, 2013, acting on DOB Application No. 320787314, reads, in pertinent part:

ZR 32-10 - physical culture establishment is not permitted as-of-right in a C8 district; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C8-2 zoning district, the operation of a physical culture establishment ("PCE") on portions of the first and second stories of a three-story mixed commercial and community facility building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on April 1, 2014, after due notice by publication in the *City Record*, and then to decision on April 29, 2014;

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and

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

WHEREAS, Community Board 9, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of Flatbush Avenue, between Empire Boulevard and Lefferts Avenue, within a C8-2 zoning district; and

WHEREAS, the site has approximately 213 feet of frontage along Flatbush Avenue, approximately 234 feet of frontage along Washington Avenue, and 44,413 sq. ft. of lot area; and

WHEREAS, the site is occupied by a three-story mixed commercial and community facility building with approximately 78,795 sq. ft. of floor area (1.75 FAR); and

WHEREAS, the proposed PCE will occupy 2,000 sq. ft. of floor area on the first story and approximately 17,080 sq. ft. of floor area on the second story, for a total PCE floor area of approximately 19,080 sq. ft.; and

WHEREAS, the PCE will be operated as Planet Fitness; 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 will be seven days per week, 24 hours per day; and

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

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

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

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

WHEREAS, at hearing, the Board directed the applicant to confirm that the proposed signage is in accordance with the C8-2 district regulations; and

WHEREAS, in response, the applicant provided a zoning analysis confirming that the proposed signage complies; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in the Environmental Assessment Statement, CEQR No.14BSA055K dated October 8, 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 within a C8-2 zoning district, the operation of a physical culture establishment (“PCE”) on portions of the first and second stories of a three-story mixed commercial and community facility building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received February 12, 2014” – Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on April 29, 2024;

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

THAT 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);

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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, April 29, 2014.

302-13-BZ

CEQR #14-BSA-008M

APPLICANT – Francis R. Angelino, Esq., for Claret Commons Condominium, owner; Peloton, lessee.

SUBJECT – Application November 15, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Peloton Fitness*). C6-3X zoning district.

PREMISES AFFECTED – 140 West 23rd Street, S/S West 23rd Street between 6th and 7th Avenues. Block 798, Lot 7503. Borough of Manhattan.

COMMUNITY BOARD #4M

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 Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Executive Director of the Development HUB of the Department of Buildings (“DOB”), dated November 8, 2013, acting on DOB Application No. 121236996, reads, in pertinent part:

Proposed use as a physical culture establishment is contrary to ZR 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-3X zoning district, the operation of a physical culture establishment (“PCE”) in portions of the cellar and first story of a six-story mixed residential and commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on April 8, 2014, after due notice by publication in the *City Record*, and then to decision on April 29, 2014; and

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

WHEREAS, Community Board 4, Manhattan, recommends approval of the application; and

WHEREAS, a resident of the subject building testified in opposition to the application, citing concerns about noise emanating from air conditioning units that service the

commercial space; and

WHEREAS, the subject site is located on the east side of south side of West 23rd Street, between Avenue of the Americas and Seventh Avenue, within a C6-3X zoning district; and

WHEREAS, the site has approximately 63 feet of frontage along West 23rd Street and 6,169 sq. ft. of lot area; and

WHEREAS, the site is occupied by a six-story mixed residential and commercial building with 20 dwelling units; and

WHEREAS, the proposed PCE will occupy 3,142 sq. ft. of floor space in the cellar and approximately 4,899 sq. ft. of floor area on the first story, for a total PCE size of approximately 8,041 sq. ft.; and

WHEREAS, the PCE will be operated as Peloton Fitness; 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; no massage services will be provided at the PCE; and

WHEREAS, the hours of operation for the PCE will be Monday through Friday, from 5:30 a.m. to 10:00 p.m. and Saturday and Sunday, from 7:00 a.m. to 9:00 p.m.; and

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

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

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

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

WHEREAS, at hearing, the Board directed the applicant to include additional details on its plans regarding its proposed sound-attenuation measures for the external HVAC units and for the PCE (the “box within a box” construction); and

WHEREAS, in response, the applicant submitted amended plans that detail the proposed sound-attenuation measures; and

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

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

WHEREAS, the project is classified as an Unlisted

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action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in the Environmental Assessment Statement, CEQR No. 14BSA008M dated November 8, 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 within a C8-2 zoning district, the operation of a physical culture establishment (“PCE”) on portions of the first and second stories of a three-story mixed commercial and community facility building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received April 25, 2014” – Five (5) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on April 29, 2024;

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

THAT the hours of operation for the PCE will be limited to Monday through Friday, from 5:30 a.m. to 10:00 p.m. and Saturday and Sunday, from 7:00 a.m. to 9:00 p.m.;

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, April 29, 2014.

54-12-BZ

APPLICANT – Gerald J. Caliendo, R.A., AIA, for Llana Bangiyev, owner.

SUBJECT – Application March 9, 2012 – Variance (§72-21) to permit for the construction of a community facility and residential building, contrary to lot coverage (§23-141), lot area (§§23-32, 23-33), front yard (§§23-45, 24-34), side yard (§§23-46, 24-35) and side yard setback (§24-55) regulations. R5 zoning district.

PREMISES AFFECTED – 65-39 102nd Street, north side of 102nd Street, northeast corner of 66th Avenue, Block 2130, Lot 14, Borough of Queens.

COMMUNITY BOARD #6Q

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

211-12-BZ

APPLICANT – Rothkrug Rohkrug & Spector LLP, for Jessica and Matthew Sheehan, owners.

SUBJECT – Application July 27, 2012 – Variance (§72-21) to permit the proposed re-establishment of a residential building, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 164 Coffey Street, east side of Coffey Street, 100' northeast of intersection of Coffey Street and Conover Street, Block 585, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #6BK

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

214-12-BZ

APPLICANT – Phillips Nizer, LLP, for Shea Max Harris, LLC, owner.

SUBJECT – Application July 10, 2012 – Variance (§72-21) to permit the operation of an auto laundry (UG 16B), contrary to use regulations. C2-2/R5 zoning district.

PREMISES AFFECTED – 2784 Coney Island Avenue, between Gerald Court and Kathleen Court, Block 7224, Lot 70, Borough of Brooklyn.

COMMUNITY BOARD #13BK

ACTION OF THE BOARD – Laid over to June 24,

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2014, at 10 A.M., for continued hearing.

277-12-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 1776 Eastchester Realty LLC, owner.

SUBJECT – Application September 14, 2014 – Special Permit (§73-49) to allow 130 parking spaces on the roof of an accessory parking structure. M1-1 zoning district.

PREMISES AFFECTED – 1776 Eastchester Road, east of Basset Avenue, west of Marconi Street, 385' north of intersection of Basset Avenue and Eastchester Road, Block 4226, Lot 16, Borough of Bronx.

COMMUNITY BOARD #11BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

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

311-12-BZ

APPLICANT – Eric Palatnik, P.C., for 964 Dean Acquisition Group LLC, owner.

SUBJECT – Application November 19, 2013 – Variance (§72-21) to permit the residential conversion of an existing factory building, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 964 Dean Street, south side of Dean Street between Classon and Franklin Avenues, Block 1142, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #8BK

ACTION OF THE BOARD – Laid over to July 15, 2014, at 10 A.M., for continued hearing.

347-12-BZ

APPLICANT – Law Office of Vincent L. Petraro, PLLC, Mitchell S. Ross, Esq., for X & Y Development Group, LLC., owner.

SUBJECT – Application December 26, 2012 – Variance (§72-21) to permit a transient hotel and community facility use (*North Queens Medical Center*), contrary to use regulations (§22-10), and Special Permit (§73-66) to allow projection into flight obstruction area of La Guardia airport.. R7-1 (C1-2) zoning district.

PREMISES AFFECTED – 42-31 Union Street, east side of Union Street, 213' south of Sanford Avenue, Block 5181, Lot(s) 11, 14, 15, Borough of Queens.

COMMUNITY BOARD #7Q

THE VOTE TO CLOSE HEARING –

ACTION OF THE BOARD – Laid over to May 13, 2014, at 10 A.M., for adjourned hearing.

2-13-BZ

APPLICANT – Alfonso Duarte, for Humberto Arias, owner.

SUBJECT – Application January 8, 2013 – Variance (§72-21) to legalize the extension of a retail building, contrary to use regulations (§23-00). R3A zoning district.

PREMISES AFFECTED – 438 Targee Street, west side 10.42' south of Roff Street, Block 645, Lot 56, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to July 15, 2014, at 10 A.M., for continued hearing.

65-13-BZ

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

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

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

COMMUNITY BOARD #3BK

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

213-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Ridgeway Abstracts LLC, owner.

SUBJECT – Application July 12, 2013 – Special Permit (§73-126) to allow a medical office, contrary to bulk regulations (§22-14). R3A zoning district.

PREMISES AFFECTED – 3858-60 Victory Boulevard, east corner of intersection of Victory Boulevard and Ridgeway Avenue, Block 2610, Lot 22 & 24, Borough of Staten Island.

COMMUNITY BOARD #2SI

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

216-13-BZ & 217-13-A

APPLICANT – Rampulla Associates Architects, for 750 LAM Realty, LLC c/o Benjamin Mancuso, owners; Puglia By The Sea, Inc. c/o Benjamin Mancuso, lessees.

SUBJECT – Application July 17, 2013 – Variance (§72-21) to demolish an existing restaurant damaged by Hurricane Sandy and construct a new eating and drinking establishment with accessory parking for 25 cars, contrary to use (§23-00) regulations, and located in the bed of the mapped street, (*Boardwalk Avenue*), contrary to General City law Section 35. R3X (SRD) zoning district.

PREMISES AFFECTED – 750 Barclay Avenue, west side of Barclay Avenue, 0' north of the corner of Boardwalk

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Avenue, Block 6354, Lot 40, 7, 9 & 12, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Laid over to May 13, 2014, at 10 A.M., for adjourned hearing.

228-13-BZ

APPLICANT – Herrick, Feinstein LLP by Arthur Huh, for 45 W 67th Street Development Corporation, owner; CrossFit NYC, lessee.

SUBJECT – Application August 1, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Cross Fit*) located in the cellar level of an existing 31-story building. C4-7 zoning district.

PREMISES AFFECTED – 157 Columbus Avenue, northeast corner of West 67th Street and Columbus Avenue, Block 1120, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #7M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

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

251-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Hutch Realty Partners, owner.

SUBJECT – Application August 29, 2013 – Special Permit (§73-49) to allow 109 parking spaces on the roof of an accessory parking structure. M1-1 zoning.

PREMISES AFFECTED – 1240 Waters Place, east side of Marconi Street, approximately 1678 ft. north of intersection of Waters Place and Marconi Street, Block 4226, Lot 35, Borough of Bronx.

COMMUNITY BOARD #11BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

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

252-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Eli Schron, owner.

SUBJECT – Application August 29, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141) and less than the required rear yard (§23-47). R-2 zoning district.

PREMISES AFFECTED – 1221 East 22nd Street, east side of East 22nd Street between Avenue K and Avenue L, Block 7622, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

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

253-13-BZ

APPLICANT – Eric Palatnik, P.C., for Miyer Yusupov, owner.

SUBJECT – Application August 30, 2013 – Special Permit (§73-621) for the enlargement of an existing two-story, two-family home, contrary to floor area (§23-141B) regulations. R4B zoning district.

PREMISES AFFECTED – 66-31 Booth Street, north side of Booth Street between 66th and 67th Avenue, Block 3158, Lot 96, Borough of Queens.

COMMUNITY BOARD #6Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

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

275-13-BZ

APPLICANT – Warshaw Burstein, LLP, for Kedz Kidz Realty LLC., owner; Antonaccio-Crous, LLC, lessee.

SUBJECT – Application September 26, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Bikram Yoga Soho*). M1-5 zoning district.

PREMISES AFFECTED – 404-406 Broadway, east side of Broadway south of its intersection with Canal Street in TriBeCa, Block 196, Lot 3. Borough of Manhattan.

COMMUNITY BOARD #1M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

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

MINUTES

319-13-BZ

APPLICANT – Herrick, Feinstein LLP, for Harlem Park Acquisition, LLC, owner.

SUBJECT – Application December 17, 2013 – Variance (§72-21) to waive the minimum parking requirements (§25-23) to permit the construction of a new, 682 unit, 32-story mixed used building. 123 parking spaces are proposed. C4-7 zoning district.

PREMISES AFFECTED – 1800 Park Avenue, Park Avenue, East 124th street, East 125 Street, Block 1749, Lot 33 (air rights 24), Borough of Manhattan.

COMMUNITY BOARD #11M

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

325-13-BZ

APPLICANT – Eric Palatnik, P.C., for 3170 Webster Avenue LLC, owner; CT Norwood LLC, lessee.

SUBJECT – Application December 23, 2013 – Special Permit (§73-36) to permit the operation of Physical Cultural Establishment (*Crunch Fitness*) within a portions of a commercial building. C2-4/R7D zoning district.

PREMISES AFFECTED – 3170 Webster Avenue, East side of Webster Avenue at intersection with East 205th Street. Block 3357, Lot 37, Borough of Bronx.

COMMUNITY BOARD #7BX

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

1-14-BZ

APPLICANT – Law Office of Fredrick A Becker, for CPT 520 W 43 Owner LLC c/o Rose Associates, owner; Ewing Massage Entprise, LLC dba Massage Envoy, lessee.

SUBJECT – Application January 6, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Massage Envy*). C6-4 zoning district.

PREMISES AFFECTED – 525 West 42nd Street, Northerly side of West 42nd Street 325 feet easterly of Tenth Avenue. Block 1071, Lot 42. Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

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

2-14-BZ

APPLICANT – Law Office of Fredrick A.Becker, for SP101 W 15 LLC, owner; BFX West 15th Street LLC dba BFX Studio, lessee.

SUBJECT – Application January 8, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*BFX Studio*). C6-2A/R8B zoning district. PREMISES AFFECTED – 555 6th Avenue, Westerly side of 6th Avenue between West 15th Street and West 16th Street, Block 79, Lot 36, Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

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

4-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for TrizecHahn, 1065 Ave. of the Americas LLC, owner; Blink 1065 6th Ave., Ink., lessee.

SUBJECT – Application January 9, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Blink Fitness*) within portions of an existing commercial building. C5-3(mid)(T) zoning district.

PREMISES AFFECTED – 1065 Avenue of The Americas, aka 111 West 40th Street, 112 West 41st Street. NWC of Avenue of the Americas and West 40th Street. Block 993, Lot 29. Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

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

Jeff Mulligan, Executive Director

Adjourned: P.M.

MINUTES

*CORRECTION

The resolution adopted on November 27, 2012, under Calendar No. 5-11-BZ and printed in Volume 97, Bulletin No. 49, is hereby corrected to read as follows:

5-11-BZ

CEQR #11-BSA-052K

APPLICANT – Akerman Senterfitt, LLP, for Dumbo Development, LLC, owner.

SUBJECT – Application January 14, 2011 – Variance (§72-21) to allow for a new five-story residential development, contrary to use regulations (§42-00). M2-1 zoning district.

PREMISES AFFECTED – 9 Old Fulton Street, northeasterly side of Old Fulton Street, Block 35, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #2BK

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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 13, 2011, acting on Department of Buildings Application No. 320146445, reads, in pertinent part:

BSA Special Permit required for residential use in an M2-1 manufacturing district as per ZR 42-10;

and

WHEREAS, this is an application under ZR § 72-21, to permit, in an M2-1 zoning district within the Fulton Ferry Historic District, the construction of a five-story mixed-use residential/commercial building with ground floor retail use and residential use above, which is contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on August 21, 2012, after due notice by publication in the *City Record*, with a continued hearing on October 16, 2012, and then to decision on November 27, 2012; 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 2, Brooklyn, recommends approval of this application; and

WHEREAS, New York City Council Member Stephen T. Levin recommends approval of this application; and

WHEREAS, a member of the community provided testimony in opposition to the application (the “Opposition”), citing concerns with the proposed height of the building; and

WHEREAS, the site is located on the north side of Old Fulton Street, between Front Street and Water Street, in an M2-1 zoning district within the Fulton Ferry Historic District; and

WHEREAS, the site has 22’-8” of frontage along Old Fulton Street, a depth ranging between 60’-11” and 61’-10”, and a total lot area of 1,396 sq. ft.; and

WHEREAS, the site is currently vacant with the exception of an unoccupied one-story 660 sq. ft. building formerly utilized as an accessory kitchen for the adjacent building at 7 Old Fulton Street; and

WHEREAS, the applicant proposes to demolish the existing building and construct a five-story mixed-use residential/commercial building with ground floor retail and three dwelling units above; and

WHEREAS, the proposed building will have a total floor area of 4,575 sq. ft. (3.28 FAR), a residential floor area of 3,320 sq. ft. (2.38 FAR), a commercial floor area of 1,255 sq. ft. (0.90 FAR), a rear yard with a minimum depth of 16’-0”, and a total building height of 52’-0”; and

WHEREAS, the cellar level will be occupied by commercial storage and mechanicals; and

WHEREAS, the first floor will be occupied by retail use (UG 6) and a small residential entrance; and

WHEREAS, the second and third floors will be occupied by one residential unit each, and the fourth floor and fifth floor will be occupied by a single residential duplex unit with access to outdoor space on the fifth floor; and

WHEREAS, because residential use is not permitted in an M2-1 zoning district, the applicant seeks the subject use variance; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: the subject lot is undersized, with both a narrow width and shallow depth; and

WHEREAS, as to the depth, the applicant states that the site has an irregular and shallow depth ranging between 60’-11” deep on the westerly side and 61’-10” deep on the easterly side, and is considered a shallow interior lot pursuant to ZR § 23-52; and

WHEREAS, the applicant represents that the shallow depth of the site would result in a building with a depth of only approximately 40 feet if an M2-1 compliant rear yard were provided, which, in conjunction with the narrow width of the site of 22’-8”, would result in an inefficient floor plate for the building; and

WHEREAS, the applicant further represents that the size and configuration of the zoning lot is not appropriate for conforming manufacturing or industrial use; and

WHEREAS, specifically, the applicant states that the narrowness and shallowness of the lot precludes the provision of off-street loading docks, freight elevators, and other requirements of a modern manufacturing or industrial use; and

WHEREAS, as to the uniqueness of the site, the

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applicant submitted a 400-ft. radius diagram which reflects that the subject site is the smallest vacant lot in the surrounding area;

WHEREAS, the applicant represents that the two most similarly dimensioned zoning lots on the subject block are Lots 11 and 9, which are immediately adjacent to the subject site, and both of which are occupied by four-story mixed-use buildings almost identical in both appearance and bulk to the proposed building; and

WHEREAS, the applicant further represents that the only other interior zoning lots with comparable shallowness are located across Old Fulton Street on Block 200 (Lots 11, 15, and 17), all of which are occupied by one- or two-story dwellings, which are scaled appropriately to the very narrow side streets (Everit Street and Doughty Street) upon which they front; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study analyzing an as-of-right two-story commercial building with a total floor area of 2,782 sq. ft. (1.99 FAR), and the proposed five-story mixed-use residential/commercial building with ground floor retail use and residential use above; and

WHEREAS, the feasibility study concluded that the as-of-right commercial building would not result in a reasonable return, but that the proposed building would result in a reasonable return; and

WHEREAS, based upon its review of the applicant's submissions, the Board has determined that because of the subject site's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable 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; and

WHEREAS, the applicant represents that the immediate area is a mix of residential and commercial uses; and

WHEREAS, the applicant states that the proposed residential use, with ground floor retail, is consistent with the character of the area, which includes many other such uses; and

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

WHEREAS, further, the applicant represents that the area now known as the Fulton Ferry Historic District was characterized by residential use until the Brooklyn Bridge

was built; and

WHEREAS, specifically, the applicant represents that the row of buildings on Old Fulton Street, from numbers 7 through 23 were all designed for commercial use on the ground floor and residential use on the floors above at about the same time; the applicant represents that many of them have continually been used for those purposes; and

WHEREAS, additionally, across the street from the site is a large nine-story building occupied by residential use; and

WHEREAS, at hearing, the Board raised concerns about the appropriateness of the proposed rear yard depth of 16'-0" and the partial fifth floor; and

WHEREAS, in response, the applicant states that, although there are not zoning regulations pertaining to minimum rear yards for residential buildings in manufacturing districts, the rear yard depth was calculated starting with the standard 20'-0" rear yard for an M2-1 zoning district and deducting one-inch for every two inches for which the shallow interior lot is less than 70'-0" in depth, in accordance with ZR § 43-27, which results in the proposed rear yard depth of 16'-0"; thus, the proposed rear yard depth would be in compliance with the Zoning Resolution if the underlying M2-1 district regulations were applicable; and

WHEREAS, the applicant further states that the proposed rear yard depth of 16'-0" is more than the existing rear yards at the adjacent buildings located at 7 and 11 Old Fulton Street, which have rear yard depths of 12'-4" and 14'-5", respectively; and

WHEREAS, as to the appropriateness of the partial fifth floor, the applicant submitted a copy of the Landmarks Preservation Commission ("LPC") plans and Certificate of Appropriateness for the neighboring buildings to the east, at 11, 13, and 15 Old Fulton Street, each of which were approved with similar partial fifth floors and range in total height from 51'-7" to 52'-11", and were permitted pursuant to a previous variance granted by the Board under BSA Cal. No. 136-06-BZ; and

WHEREAS, the applicant states that the proposed building, with a total height of 50'-4", therefore fits within the character of the surrounding area; and

WHEREAS, as to the Opposition's concerns that the proposed building could have a negative effect on the light and air of their building at 4 Water Street and should be limited to four stories in height, the applicant notes that the certificate of occupancy for 4 Water Street, located to the northeast of the site, shows that it is a six-story building with a total height of 76'-0"; and

WHEREAS, additionally, the applicant represents that the partial-fifth floor will be setback above the fourth floor so as to minimize its visibility from the street; and

WHEREAS, the applicant represents that the proposal will not affect the historical integrity of the subject property; and

WHEREAS, the applicant submitted a Certificate of Appropriateness from LPC approving the work associated with the proposed construction, dated October 19, 2012; and

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WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board observes that the proposed building of three dwelling units is limited in scope and compatible with nearby development; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 11BSA052K dated November 26, 2012; and

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

WHEREAS, the New York City Department of Environmental Protection's (DEP) Bureau of Environmental Planning and Analysis reviewed the project for potential hazardous materials and air quality impacts; and

WHEREAS, DEP reviewed and accepted the February 2012 Remedial Action Plan and Construction Health and Safety Plan; and

WHEREAS, DEP requested that a Remedial Closure Report be submitted to DEP for review and approval upon completion of the proposed project; and

WHEREAS, DEP reviewed the applicant's stationary source air quality screening analysis and determined that the proposed project is not anticipated to result in significant stationary source air quality impacts; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration, with conditions as stipulated below, prepared in accordance with

Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, in an M2-1 zoning district within the Fulton Ferry Historic District, the construction of a five-story mixed-use residential/commercial building with ground floor retail use and residential use above, which is contrary to ZR § 42-10, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 26, 2012" – seven (7) sheet; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: five stories; a total floor area of 4,575 sq. ft. (3.28 FAR); a residential floor area of 3,320 sq. ft. (2.38 FAR); a commercial floor area of 1,255 sq. ft. (0.90 FAR); a rear yard with a minimum depth of 16'-0"; and a total building height of 52'-0", as illustrated on the BSA-approved plans;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT DOB shall not issue a Certificate of Occupancy until the applicant has provided it with DEP's approval of the Remedial Closure Report;

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

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

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

THAT this grant is contingent upon final approval from the Department of Environmental Protection before an issuance of construction permits other than permits needed for soil remediation; 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, November 27, 2012.

The resolution has been amended to correct the Building Height which read: "...height of 50'-4"...". Now reads: "...height of 52'-0"...". Corrected in Bulletin Nos. 16-18, Vol. 99, dated May 8, 2014.

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***CORRECTION**

The resolution adopted on April 1, 2014, under Calendar No. 94-13-BZ and printed in Volume 99, Bulletin No. 14, is hereby corrected to read as follows:

94-13-BZ

CEQR #13-BSA-115Q

APPLICANT – Vinod Tewari, for Peachy Enterprise, LLC, owner.

SUBJECT – Application March 25, 2013 – Special Permit (§73-19) to allow a school, contrary to use regulation (§42-00). M1-3 zoning district.

PREMISES AFFECTED – 11-11 40th Avenue aka 38-78 12th Street, Block 473, Lot 473, Borough of Queens.

COMMUNITY BOARD #1Q

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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated February 28, 2013, acting on Department of Buildings Application No. 420812632, reads in pertinent part:

Daycare is classified under UG 3 by Department’s Memo July 6, 1976 [and therefore] is not permitted in M1-3 district as per ZR 42-00; and

WHEREAS, this is an application under ZR §§ 73-19 and 73-03 to permit, on a site in an M1-3 zoning district, the conversion of the first story of an existing one-story and basement commercial building to a Use Group 3 daycare, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on July 9, 2013, after due notice by publication in the *City Record*, with continued hearings on September 10, 2013 and February 25, 2014, and then to decision on April 1, 2014; and

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

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

WHEREAS, the subject site is located on the northwest corner of the intersection of 40th Avenue and 12th Street, within an M1-3 zoning district; and

WHEREAS, the site is a single zoning lot comprising Tax Lots 548, 618, 619, and 621, has a lot area of approximately 16,139 sq. ft., 200 feet of frontage along 12th Street, and 74.34 feet of frontage along 40th Avenue; and

WHEREAS, the applicant represents that Lot 548 is currently occupied by a one-story and basement commercial

building with 14,947 sq. ft. of floor area (0.93 FAR); Lots 618, 619, and 621 are currently a parking lot; and

WHEREAS, the applicant proposes to renovate the first story of the building to allow a Use Group 3 daycare (“the School”) with approximately 7,473 sq. ft. of floor area (0.46 FAR), and utilize Lots 618, 619, and 621 for accessory off-street parking and a play area; the applicant notes that the basement will not be altered under the subject application and will remain Use Group 6 (offices); and

WHEREAS, the applicant states that the renovated building will serve an estimated 117 children ranging in age from two to five years and approximately 25 employees, and provide related sanitary facilities and administrative offices; and

WHEREAS, the applicant states that the School will be in compliance with the New York Health Code on Child Care Services and will operate from 7:00 a.m. to 7:00 p.m.; and

WHEREAS, the applicant states that the School requires a minimum of 7,500 sq. ft. in order to carry out its program (child care for 117 students) in accordance with the New York Health Code; and

WHEREAS, in addition, the applicant represents that its students are drawn from primarily within a half-mile radius of the site; and

WHEREAS, finally, the applicant notes that the owner will be directly involved in the management of the School, in order to minimize costs and to ensure ongoing compliance with the rules and regulations governing the operation of the School; and

WHEREAS, the applicant represents that the proposal meets the requirements of the special permit under ZR § 73-19 to permit a school in an M1-3 zoning district; and

WHEREAS, ZR § 73-19 (a) requires an applicant to demonstrate the inability to obtain a site for the development of a school within the neighborhood to be served and with a size sufficient to meet the programmatic needs of the school within a district where the school is permitted as-of-right; and

WHEREAS, the applicant represents that it conducted a search of nearby residence and commercial districts with the following site criteria: (1) a minimum of 7,500 sq. ft. of program space in order to accommodate the School’s 117 students in accordance with the New York Health Code; (2) parking and recreation space; (3) minimal construction costs; (4) proximity to the neighborhood surrounding the site; and (5) proximity to public transportation; and

WHEREAS, the applicant states that during its search, it evaluated the feasibility of five buildings within the area and on sites where Use Group 3 is permitted as-of-right: 34-19 Tenth Street; 34-51 Vernon Boulevard; 30-01 Northern Boulevard; 65-35 Queens Boulevard; and 45-02 Skillman Avenue; and

WHEREAS, the applicant represents that each building was unsuitable for the School, in that: 34-19

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Tenth Avenue was not in close proximity to public transportation and its space was not suitable for children and would have required extensive renovations, including the installation of an elevator; 34-51 Vernon Boulevard had only 6,500 sq. ft. of usable space and no on-site parking area; 30-01 Northern Boulevard had only 5,000 sq. ft. of usable space, would have required extensive renovations, had neither on-site recreation space, nor a nearby park; 65-35 Queens Boulevard had less than the required amount of usable space and is already occupied by a child care center on the second story; and 45-02 Skillman Avenue had only 3,000 sq. ft. of usable space; and

WHEREAS, the applicant maintains that the site search establishes that there is no practical possibility of obtaining a site of adequate size in a nearby zoning district where a school would be permitted as-of-right; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (a) are met; and

WHEREAS, ZR § 73-19 (b) requires an applicant to demonstrate that the proposed school is located no more than 400 feet from the boundary of a district in which such a school is permitted as-of-right; and

WHEREAS, the applicant submitted a radius diagram which reflects that the subject site is located approximately 200 feet from an R6 zoning district, where the proposed use would be permitted as-of-right; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (b) are met; and

WHEREAS, ZR § 73-19 (c) requires an applicant to demonstrate how it will achieve adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district; and

WHEREAS, the applicant states that an ambient noise survey was conducted at the site, which indicated that the predominant noise source in the area is vehicular traffic, which according to the survey conducted during peak, weekday travel periods, averaged 27 dB(A); and

WHEREAS, the applicant notes that 27 dB(A) is well below the 45 dB(A) that is considered acceptable according to the CEQR Technical Manual, and that such low noise level within the building is owing to the fact that it was built with sound-attenuating exterior wall and window construction; and

WHEREAS, the Board finds that the conditions surrounding the site and the building's use will adequately separate the proposed school from noise, traffic and other adverse effects of any of the uses within the surrounding M1-3 zoning district; thus, the Board finds that the requirements of ZR § 73-19 (c) are met; and

WHEREAS, ZR § 73-19 (d) requires an applicant to demonstrate how the movement of traffic through the street on which the school will be located can be controlled so as to protect children traveling to and from the school; and

WHEREAS, the applicant represents that the majority of students will be dropped off by parents commuting on the subway (F train), which is located less than two blocks from

the site; and

WHEREAS, as for vehicular traffic, the applicant states that, based on its assessment of existing traffic conditions in the vicinity, the School can operate safely without significant impacts; and

WHEREAS, in particular, the applicant states that students will enter and exit the building via an entrance on 12th Street, which the applicant notes is not a primary thoroughfare based on its study of traffic patterns; in addition, a four-way stop sign and pedestrian lanes have been installed at the intersection of 12th Street and 40th Avenue; and

WHEREAS, the Board referred the application to the School Safety Engineering Office of the Department of Transportation ("DOT"); and

WHEREAS, the applicant represents that, to the extent deemed appropriate by DOT, it will install additional signage, "School Crossing" pavement markings, and crossing guards in the vicinity; and

WHEREAS, by letter dated April 8, 2013, DOT states that it has no objection to the proposed construction and will, upon approval of the application, prepare a safe route to school map with signs and marking; and

WHEREAS, the Board finds that the above-mentioned measures will control traffic so as to protect children going to and from the proposed school; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (d) are met; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-19; and

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

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-03; and

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

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement ("EAS") CEQR No. No. 13BSA115Q, dated May 23, 2013; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services;

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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, air quality and noise impacts; and

WHEREAS, DEP reviewed and accepted the October 2013 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, DEP reviewed the applicant's March 2014 Air Quality Impact Assessment and determined that no significant air quality impacts to the proposed project are anticipated; and

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-19 and 73-03 and grants a special permit, to allow the conversion of the first story of an existing one-story and basement commercial building to a Use Group 3 daycare, on a site within an M1-3 zoning district; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 20, 2013" – (2) sheets and "May 24, 2013"-(4) sheets; and *on further condition*:

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

THAT DOB will not issue a Certificate of Occupancy until the applicant has provided it with DEP's approval of the Remedial Closure Report;

THAT any change in the operator of the school requires review and approval by the Board;

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

THAT substantial construction be completed in accordance with ZR § 73-70;

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

Adopted by the Board of Standards and Appeals, April 1, 2014.

The resolution has been amended. Corrected in Bulletin Nos. 16-18, Vol. 99, dated May 8, 2014.

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*CORRECTION

The resolution adopted on March 25, 2014, under Calendar No. 157-13-BZ and printed in Volume 99, Bulletin Nos. 12-13, is hereby corrected to read as follows:

157-13-BZ

APPLICANT – Sheldon Lobel, P.C., for 1368 23rd Street, LLC, owner.

SUBJECT – Application May 17, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141(a)); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1368 & 1374 East 23rd Street, west side of East 23rd Street, 180' north of Avenue N, Block 7658, Lot 78 & 80, Borough of Brooklyn.

COMMUNITY BOARD #14BK

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 Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner of the New York City Department of Buildings (“DOB”), dated April 18, 2013, acting on DOB Application No. 320729208, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141 in that the proposed floor area ratio exceeds the maximum permitted;
2. Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required;
3. Proposed plans are contrary to ZR 23-461 in that the proposed enlargement increases the degree of non-compliance with respect to minimum required side yards;
4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR § 73-622, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on January 28, 2014, after due notice by publication in *The City Record*, with a continued hearing on March 4, 2014, and then to decision on March 25, 2014; and

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

WHEREAS, Community Board 14, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the west side of East 23rd Street, between Avenue M and Avenue N, within an R2 zoning district; and

WHEREAS, the site comprises Lots 78 and 80, which have a total lot area of 8,000 sq. ft.; Lot 78 is occupied by a single-family home with 2,044 sq. ft. of floor area (0.51 FAR); Lot 80 is also occupied by a single-family home; however, that home will be demolished to allow for the enlargement of the home on Lot 78; and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks an increase in the floor area from 2,044 sq. ft. (0.51 FAR, as calculated using only the lot area of Lot 78) to 8,179 sq. ft. (1.02 FAR, as calculated using the combined lot area of Lots 78 and 80); the maximum permitted floor area is 4,000 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks an open space ratio for the enlarged home of 52; the minimum required open space ratio is 150; and

WHEREAS, the applicant seeks to maintain and extend the building’s existing non-complying side yard width of 3’-8” and reduce its complying side yard width from 13’-10” to 13’-4”; (the requirement is two side yards with a minimum total width of 13’-0” and a minimum width of 5’-0” each); and

WHEREAS, the applicant also seeks to decrease its complying rear yard depth from 30’-8½” to 20’-0”; a rear yard with a minimum depth of 30’-0” is required; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, in particular, the applicant represents that the proposed FAR is consistent with the bulk in the surrounding area and states that, based on its analysis of the lots within 400 feet of the site and with a minimum lot area of 8,000 sq. ft., there are 11 homes with an FAR in excess of 1.02; and

WHEREAS, at hearing, the Board directed the applicant to: (1) provide a streetscape of the site and the early homes; (2) provide revised plans showing the extent of the foundation removal; and (3) reduce the proposed building height to be more consistent with the surrounding context; and

WHEREAS, in response, the applicant submitted: (1) a streetscape showing that the building is consistent with the surrounding buildings; and (2) revised plans showing the extent of the foundation removal and reflecting a reduction in building height from 41’-9” to 36’-0”; and

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WHEREAS, based on its review of the streetscape and the revised drawings, the Board finds that the proposed bulk is compatible with the character of the neighborhood; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received February 19, 2014” – (13) sheets; and *on further condition:*

THAT the following will be the bulk parameters of the building: a maximum floor area of 8,179 sq. ft. (1.02 FAR), a building height of 36'-0"; a minimum open space ratio of 52, side yards with minimum widths of 13'-4" and 3'-8", and a minimum rear yard depth of 20'-0", as illustrated on the BSA-approved plans;

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

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

THAT substantial construction be completed in accordance with ZR § 73-70; and

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

Adopted by the Board of Standards and Appeals, March 25, 2014.

The resolution has been amended. Corrected in Bulletin Nos. 16-18, Vo. 99, dated May 8, 2014.

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*CORRECTION

The resolution adopted on January 28, 2014, under Calendar No. 255-13-BZ and printed in Volume 99, Bulletin Nos. 4-5, is hereby corrected to read as follows:

255-13-BZ

CEQR #14-BSA-033X

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 3560 WPR LLC & 3572 WPR LLC, owner; Blink Williamsbridge, Inc., lessee.

SUBJECT – Application September 5, 2013 – Special Permit (§73-36) to permit the operation of a physical culture (*Blink Fitness*) establishment within an existing commercial building. C2-4 (R7-A) zoning district.

PREMISES AFFECTED – 3560/84 White Plains Road, East side of White Plains Road at southeast corner of intersection of White Plains Road 213th Street. Block 4657, Lot(s) 94, 96. Borough of Queens.

COMMUNITY BOARD #12BX

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 Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough Commissioner, dated August 22, 2013, acting on Department of Buildings (“DOB”) Application No. 220324192, reads in pertinent part:

Proposed physical culture establishment in a C2-4 (R7A) district is contrary to ZR 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C2-4 (R7A) zoning district, the operation of a physical culture establishment (“PCE”) in portions of the first and second story of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on December 17, 2013, after due notice by publication in *The City Record*, and then to decision on January 28, 2014; and

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

WHEREAS, Community Board 12, Bronx, recommends approval of this application; and

WHEREAS, the subject site comprises adjacent tax lots (Lots 94 and 96) and spans the east side of White Plains Road between East 212th Street and East 213th

Street, within a C2-4 (R7A) zoning district; and

WHEREAS, the site has 71.34 feet of frontage along East 212th Street, 200.67 sq. ft. along White Plains Road, 55.19 feet of frontage along East 213th Street, and 12,350 sq. ft. of lot area; and

WHEREAS, the site is occupied by two two-story buildings, which are proposed to be combined into a single building; and

WHEREAS, the applicant states that the PCE is proposed to occupy a portion of the first story (3,962 sq. ft. of floor area) combined building and the entirety of the second story (11,942 sq. ft.), for a total PCE floor area of 15,904 sq. ft.; and

WHEREAS, the PCE will be operated as Blink Fitness; 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 will be Monday through Thursday, from 5:00 a.m. to 11:00 p.m., Friday, from 5:00 a.m. to 10:00 p.m., and Saturday and Sunday, from 7:00 a.m. to 7:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; 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 requested clarification regarding whether windows at the rear of the building would be maintained and whether the existing parking at the site was required; and

WHEREAS, in response, the applicant indicated that the windows would be sealed prior to the occupancy of the PCE and that the parking was provided prior to 1961 and that, as such, it was not required; and

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

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

WHEREAS, the project is classified as a Unlisted

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action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in the Environmental Assessment Statement, CEQR No. 14BSA033X, dated September 3, 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; and.

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 located in a C2-4 (R7A) zoning district, the operation of a PCE in portions of the first and second story of a two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received October 24, 2013” – Five (5) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on January 28, 2024;

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

THAT 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, January 28, 2014.

The resolution has been amended to correct the DOB Application No. which read: “103703789”. Now reads: “220324192”. Corrected in Bulletin Nos. 16-18, Vol. 99, dated May 8, 2014.