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DOCKETS

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149-14-BZ

3173 Bedford Avenue, East side of Bedford Avenue 400 feet North from Avenue K, Block 7607, Lot(s) 26, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to allow the enlargement of a single family residence located in an R2 zoning district. R2 district.

150-14-BZ

30 Broad Street, Westerly side of Broad Street between Exchange Place and Beaver Street, Block 24, Lot(s) 29, Borough of **Manhattan, Community Board: 1**. Special Permit (§73-36) to allow the operation of a physical culture establishment/ health club in portions of the second floor and second floor mezzanine with an entrance at the ground level. C5-5 zoning district. C5-5 district.

151-14-BZ

19 West 21st Street, Northerly side of West 21st Street, 309' 10" westerly of Fifth Avenue, Block 823, Lot(s) 24, Borough of **Manhattan, Community Board: 5**. Special Permit (§73-36) to allow the operation of a physical culture establishment / yoga studio on a portion of the ground floor of the subject 12-story commercial building, located within C6-4A zoning district. C6-4A district.

152-14-BZ

673 Driggs Avenue, , Block 2382, Lot(s) 3, Borough of **Brooklyn, Community Board: 1**. Variance (§72-21) to permit the construction of a new community facility building at the premises which would contain a for-profit school, the school at Fillmore Place for children ages two through six. R6B zoning district.. R6B district.

153-14-A

200 Cambridge Avenue, 114.71 feet north of intersection on of Auburn Avenue and Cambridge Avenue, Block 1511, Lot(s) 210, Borough of **Staten Island, Community Board: 1**. Proposed construction of a community facility building school located partially within the bed of a unbuilt mapped street pursuant to Article 3 Section 35 of the General City Law and waive of bulk regulations under ZR Section 72-01-(g) . R3-2 Zoning distr R3-2+R3X district.

154-14-BZ

6934 5th Avenue, Located on the northwest corner of the intersection of Ovingtonl Avenue and 5th Avenue, Block 5873, Lot(s) 57, Borough of **Brooklyn, Community Board: 10**. Special Permit (§73-621) to allow an addition to the existing mixed commercial and residential building. C1-3/R6B zoning district. C103/R6B district.

155-14-BZ

95 + 105 Ridgeway Avenue, East side of Ridgeway Avenue, Block 2610, Lot(s) 150, Borough of **Staten Island, Community Board: 2**. Variance (§72-21) to permit two proposed self-storage warehouses (UG 16) in an M1-1 zoning district with access provided through an R3-2 zoning district. M1 district.

156-14-BZ

1245 East 32nd Street, East side of East 32nd Street 350 feet, Block 7650, Lot(s) 27, Borough of **Brooklyn, Community Board: 18**. Special Permit (§73-621) to allow the enlargement of a single family residence in an R4 zoning district. R4 district.

157-14-BZ

1151 East 29th Street, east side of East 29th St. 360 feet north from the corner of Avenue L, Block 7629, Lot(s) 24, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to allow the enlargement of a single family residence in an R2 zoning district. R2 district.

158-14-BZ

1178 East 27th Street, East side of east 27th Street 130 feet from the north side of Avenue L, Block 7627, Lot(s) 13, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to allow the enlargement of a single family resident in an R2 zoning district. R2 district.

159-14-A

468 Arthur Kill Road, 249.79 feet west of intersection of Arthur Kill Road and Gifford's Lane, Block 5450, Lot(s) 35, Borough of **Staten Island, Community Board: 3**. Proposed construction of a garage within the bed of an mapped street pursuant Article 3 Section 35 of the General City Law. R3-1 Zoning District R3-1 district.

DOCKETS

160-14-A

120 Pemberton Avenue, 249.79 feet west of intersection of Arthur Kill Road and Gifford's Lane, Block 5450, Lot(s) 36, Borough of **Staten Island, Community Board: 3**. Proposed construction of a garage within the bed of a mapped street, pursuant Article 3 Section 35 of the General City Law. R3-1 Zoning district . R3-1 district.

161-14-A

464 Arthur Kill road, 249.79 feet west of intersection of Arthur Kill Road and Gifford's Lane, Block 5450, Lot(s) 37, Borough of **Staten Island, Community Board: 3**. Proposed construction of a garage within the bed of a mapped street contrary to Article 3 , Section 35 of the General City Law. R3-1 Zoning District R3-1 district.

162-14-A

100 Giegerich Avenue, West side Giegerich Avenue 431 .10 feet to Minerva Avenue, Block 7796, Lot(s) 11(tent), Borough of **Staten Island, Community Board: 3**. Proposed construction of a single family detached home that does not front on a legally mapped street contrary to Article 3 , Section 36 of the General City Law . R1-2 zoning district . R1-2 district.

163-14-A

502 Canal Street, Greenwich Street and Canal Street, Block 595, Lot(s) 40, Borough of **Manhattan, Community Board: 1**. Appeal seeking waiver of Section G304.1.2 of the NYC Building Code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A district.

164-14-A

504 Canal Street, Greenwich Street and Canal Street, Block 595, Lot(s) 39, Borough of **Manhattan, Community Board: 1**. Appeal seeking waiver of Section G304.1.2 of the NYC Building Code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A district.

165-14-A

506 Canal Street, Greenwich Street and Canal Street, Block 595, Lot(s) 38, Borough of **Manhattan, Community Board: 1**. Appeals seeking a waiver of Section G304. 1,2 of the NY Building code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A district.

166-14-BZ

12 West 27th Street, Southside of West 27th Street, 60.5 feet west of Broadway, Block 828, Lot(s) 56, Borough of **Manhattan, Community Board: 5**. Special Permit (§73-36) to allow for a physical culture establishment within portion of an existing mixed use building, located within an M1-6 zoning district. M1-6 district.

167-14-A

250 Manhattan Avenue, Manhattan Avenue, between Powers Avenue and Grand Street, Block 2782, Lot(s) 1, Borough of **Brooklyn, Community Board: 1**. Appeal seeking a determination that the owner has obtained a vested right to complete construction commenced under the prior C4-3(R6) zoning district. R6B zoning district . R6B district.

168-14-BZ

419 Lafayette Street, located on the east side of Lafayette Street between East 4th Street and Astor Place, Block 544, Lot(s) 13, Borough of **Manhattan, Community Board: 2**. Special Permit (§73-36) to allow the operation of a physical culture establishment (fitness center) with the existing building located within a M1-5B zoning district. M1-5B district.

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

CALENARS

JULY 29, 2014, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, July 29, 2014, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

72-11-BZ

APPLICANT – Walter T. Gorman, P.E., for Tanner and Rothafel Partnership, owner; Lukoil, lessee.

SUBJECT – Application June 30, 2014 – to request an extension of time to get Certificate of Occupancy which expired October 25, 2012.

PREMISES AFFECTED – 101-06 Astoria Boulevard, southeast corner of 101st Street, Block 1688, Lot 30, Borough of Queens.

COMMUNITY BOARD #3Q

140-92-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Evangel Church, owner.

SUBJECT – Application June 12, 2014 – Extension of Time to Complete Construction of a previously granted Variance (ZR 72-21) for the enlargement of an existing school (UG3) which expired on January 26, 2014. M1-2/R5D zoning district.

PREMISES AFFECTED – 39-21 Crescent Street, southerly side of Crescent Street between 39th Avenue and 40th Avenue, Block 396, Lot(s) 10 and 36, Borough of Queens.

COMMUNITY BOARD #1Q

APPEALS CALENDAR

89-14-A

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for 215 East 64th St. Co. LLC c/o Deniham Hospitality, owner.

SUBJECT – Application April 30, 2014 – Extension of Time to obtain a Class B Certificate of Occupancy to legalize Affinia Gardens Hotel under MDL Section 120(b) (3), as provided under recent amendments under Chapters 225 and 566 of the Laws of New York 2010. R8B zoning district.

PREMISES AFFECTED – 215 East 64th Street, north side of East 64th Street between Second Avenue and Third Avenue, Block 1419, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #8M

145-14-A

APPLICANT – Yuk Lam, for XU M Hui, owner.

SUBJECT – Application June 23, 2014 – GCL 36 Waiver:

Proposed four story building on Carlton Place, which is facing an unmapped street pursuant Article 3 Section 36 of the General City Law.

PREMISES AFFECTED – 136-16 Carlton Place, between Linden Place and Leavitt Street, Block 4960, Lot 62, Borough of Queens.

COMMUNITY BOARD #4Q

ZONING CALENDAR

271-13-BZ

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

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

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

COMMUNITY BOARD #15BK

315-13-BZ

APPLICANT – Law office of Stuart Klein, for Flywheel 415 Greenwich, LLC., owner.

SUBJECT – Application December 6, 2013 – Special Permit (§73-36) to permit the legalization of a physical culture establishment (*Flywheel Sports*). C6-2A (TMU) zoning district.

PREMISES AFFECTED – 415-427 Greenwich Street, 12-18 Hubert Street & Laight Street, Block 215, Lot 7504, Borough of Manhattan.

COMMUNITY BOARD #1M

328-13-BZ

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

SUBJECT – Application December 26, 2013 – Special Permit (§73-36) to permit the operation of physical cultural establishment (*Brooklyn Athletic Club*) in a manufacturing zoning district. M1-1 zoning district.

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

COMMUNITY BOARD #1BK

CALENARS

5-14-BZ

APPLICANT - Law Office of Lyra J. Altman, for Israel Ashkenazi & Racquel Ashkenazi, owner.

SUBJECT – Application January 9, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (23-141); side yards (23-461) and less than the required rear yard (23-47). R3-2 zoning district.

PREMISES AFFECTED – 1807 East 22nd Street, east side of East 22nd Street between Quentin Road and Avenue R, Block 6805, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

40-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Bill Stathakos, owner; Blink Fulton Street, Ink., lessee.

SUBJECT – Application March 4, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Blink Fitness*) within an existing commercial building. C2-4 zoning district.

PREMISES AFFECTED – 1413/21 Fulton Street, north side of Fulton Street, 246 Ft. West of Tompkins Avenue, Block 1854, Lot 52, Borough of Brooklyn.

COMMUNITY BOARD #3BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JULY 15, 2014
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

280-01-BZ

APPLICANT – Akerman, LLP, for S&M Enterprises, owner.

SUBJECT – Application April 25, 2014 – Extension of Time to Complete Construction and obtain a Certificate of Occupancy of a previously granted Variance (§72-21) for construction of a mixed use building, which expires on May 7, 2014. C1-9 zoning district.

PREMISES AFFECTED – 663-673 2nd Avenue, west side of 2nd Avenue between East 36th and East 37th Streets, Block 917, Lot(s) 21, 24, 30, 32, 34, Borough of Manhattan.

COMMUNITY BOARD #6M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver, a reopening, and an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on June 10, 2014, after due notice by publication in *The City Record*, and then to decision on July 15, 2014; and

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

WHEREAS, Community Board 6, Manhattan, recommends approval of this application on condition that the site be designed so as not to negatively impact traffic flow; conditions include that curb cuts be on Second Avenue, the addition of any accessory parking spaces be within the building, and the location of the residential building service entrance be on East 37th Street, rather than Second Avenue; and

WHEREAS, the subject site is located on the west side of Second Avenue, between East 36th Street and East 37th Street, within a C1-9 zoning district; and

WHEREAS, on May 7, 2002, the Board granted a variance under the subject calendar number pursuant to ZR § 72-21, to permit the construction of a mixed-use building; and

WHEREAS, on September 24, 2002, the Board granted

an amendment to the resolution, under the subject calendar number; and

WHEREAS, on April 11, 2006, the Board granted an extension of time of four years to complete construction and obtain a certificate of occupancy; and

WHEREAS, on March 16, 2010, the Board granted an extension of time of four years to complete construction and obtain a certificate of occupancy;

WHEREAS, the applicant explains the need for additional time as being associated with financial concerns due to the economic climate from 2007 to 2011 led and new Metropolitan Transit Authority requirements for the disposition of development rights; and

WHEREAS, the applicant notes that the majority of the site is improved with a recessed roadway exit for the Queens-Midtown Tunnel; and

WHEREAS, the applicant represents that the conditions in the area have remained the same since the initial Board approval and thus the proposal, which provides a residential density that is within the as-of-right limits for C1-9 development, remains appropriate; and

WHEREAS, the applicant submitted photographs which reflect that the surrounding area today is consistent with the conditions at the time of the original grant; and

WHEREAS, the applicant has represented to the Community Board that its recommendations have all been incorporated into the proposal; and

WHEREAS, the Board inquired about whether the current parking lot use had all necessary licenses; and

WHEREAS, in response, the applicant submitted a copy of a license for a public parking lot issued by the Department of Consumer Affairs to expire on March 31, 2015; and

WHEREAS, the applicant noted that it must return to the Board for approval if it makes changes to the proposed tenancy or use of the building; and

WHEREAS, based upon the above, the Board finds it appropriate to grant the requested extension of time.

Therefore it is Resolved, that the Board of Standards and Appeals reopens and amends the resolution, said resolution having been adopted on May 7, 2002, so that as amended this portion of the resolution shall read: “to permit an extension of time to complete construction and obtain a certificate of occupancy, for an additional period of four years from the date of the prior grant’s expiration, to expire on May 7, 2018; *on condition*:

THAT construction will be completed and a new certificate of occupancy shall be obtained by May 7, 2018;

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

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

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

MINUTES

(DOB Application No. 102973926)

Adopted by the Board of Standards and Appeals July 15, 2014.

341-02-BZ

APPLICANT – Sheldon Lobel, P.C., for 231 East 58th Street Associates LLC, owner.

SUBJECT – Application March 25, 2014 – Amendment of previously approved Variance (§72-21) which permitted retail stores (UG 6) on the first floor of an existing five story building. The amendment seeks to eliminate the term, which expires in April 8, 2023. R8B zoning district.

PREMISES AFFECTED – 231 East 58th Street, north side of East 58th Street between Second and Third Avenues, Block 1332, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #6M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for an amendment to a variance to eliminate the term for Use Group 6 retail use at the site; and

WHEREAS, a public hearing was held on this application on June 10, 2014, after due notice by publication in *The City Record*, and then to decision on July 15, 2014; and

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

WHEREAS, Community Board 6, Manhattan, recommends disapproval of the request to eliminate the term; and

WHEREAS, the site is located on the north side of East 58th Street, between Second Avenue and Third Avenue, within an R8B zoning district; and

WHEREAS, the site is currently occupied by a five-story mixed residential and commercial building, with two retail stores on the first story, and residences on the second through fifth stories; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 4, 1967 when, under BSA Cal. No. 633-66-BZ, the Board granted a variance to permit the conversion of the first story from residential to Use Group 6 retail stores; the Board granted a 15-year term, to expire on January 4, 1982; and

WHEREAS, the grant expired on January 4, 1982, was reinstated under the subject calendar number on April 8, 2003, and the term extended on June 11, 2013 for ten years to expire on April 8, 2023; and

WHEREAS, the applicant now seeks to eliminate the term; and

WHEREAS, the applicant requests that the term be

eliminated for the following reasons: (1) there is an established commercial character in the area, (2) the commercial use is longstanding and functions well; and (3) there is a hardship in securing leases due to the limited term; and

WHEREAS, based upon its review of the record, the Board finds that the requested elimination of the term is appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens*, and *amends* the resolution, dated April 8, 2003, to eliminate a term and specifically the April 8, 2023 expiration; *on condition* that any and all work will substantially conform to drawings associated with prior approvals; and *on further condition*:

THAT all conditions from the prior resolutions not specifically waived by the Board remain in effect and will be noted on the Certificate of Occupancy;

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

THAT 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. 121570460)

Adopted by the Board of Standards and Appeals, July 15, 2014.

765-50-BZ

APPLICANT – Kenneth H. Koons, for R.G. Ortiz Funeral Home, Ink., owner.

SUBJECT – Application April 14, 2014 – Extension of Term (§11-411) of an approved variance permitting an existing one-story funeral parlor, which expired on November 20, 2013. C1-2 zoning district.

PREMISES AFFECTED – 1430-36 Unionport Road, eastside 43 feet South of Olmstead Avenue, Block 3933, Lot 51, Borough of Bronx.

COMMUNITY BOARD #9BX

ACTION OF THE BOARD – Laid over August 19, 2014, at 10 A.M., for continued hearing.

427-70-BZ

APPLICANT – Carl A. Sulfaro, Esq. for Beach Channel, LLC, owner; Masti, Inc. lessee.

SUBJECT – Application May 21, 2012 – Amendment of a previously approved Variance (§72-21) which permitted the operation of an Automotive Service Station (UG 16B). Amendment seeks to legalize a one-story accessory convenience store. C2-2/R4 zoning district.

PREMISES AFFECTED – 38-01 Beach Channel Drive, southwest corner of Beach 38th Street and Beach Channel Drive. Block 15828, Lot 30. Borough of Queens.

COMMUNITY BOARD #14Q

MINUTES

ACTION OF THE BOARD – Laid over to July 29, 2014, at 10 A.M., for adjourned hearing.

88-92-BZ

APPLICANT – Kenneth H. Koons, for 3007 Enterprise Ink., owner.

SUBJECT – Application March 12, 2014 – Extension of Term (§11-411) of an approved variance for an existing diner, which will expire on June 28, 2014. R4-1 zoning district.

PREMISES AFFECTED – 3007 East Tremont Avenue, northeast corner of Ericson Place, Block 5381, Lot 38, Borough of Bronx.

COMMUNITY BOARD #10BX

ACTION OF THE BOARD – Laid over August 19, 2014, at 10 A.M., for continued hearing.

24-96-BZ

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

SUBJECT – Application December 31, 2013 – Extension of Time to obtain a Certificate of Occupancy of a previously granted variance for the continued operation of a UG6 eating and drinking establishment (*McDonald's*), which expired on May 18, 2009; Waiver of the Rules. R7-2 zoning district.

PREMISES AFFECTED – 213 Madison Street, north side of Madison Street 184' east of the intersection of Madison Street and Rutgers Street, Block 271, Lot 40, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to July 22, 2014, at 10 A.M., for deferred decision.

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.

COMMUNITY BOARD #12Q

THE VOTE TO CLOSE HEARING –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 29, 2014, at 10 A.M., for decision, hearing closed.

47-97-BZ

APPLICANT – Sheldon Lobel, P.C., for Flatlands 78, L.L.C., owner.

SUBJECT – Application December 13, 2013 – Amendment of a previously approved Variance (§72-21) which permitted construction of a one-story and cellar retail drug store and five smaller stores with accessory parking. The amendment is seeking to remove the twenty-year term restriction imposed by the Board. C2-3/R5D & R5B zoning district.

PREMISES AFFECTED – 7802 Flatlands Avenue, corner and through lot located on the east side of Flatlands Avenue between East 78th Street and East 79th Street, Block 8015, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #18BK

THE VOTE TO CLOSE HEARING –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 29, 2014, at 10 A.M., for decision, hearing closed.

160-00-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for 243-02 So. Conduit Avenue, LLC, owner.

SUBJECT – Application April 2, 2013 – ZR 11-411 Extension of Term for the continued operation of an automotive service station (*Citgo*) which expired on November 21, 2010; Extension of Time to obtain a Certificate of Occupancy which expired on November 21, 2001; Waiver of the Rules. C1-3/R3-2 zoning district.

PREMISES AFFECTED – 244-04 Francis Lewis Boulevard, southwest corner of South Conduit and Francis Lewis Boulevard, Block 13599, Lot 25, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over August 19, 2014, at 10 A.M., for continued hearing.

24-03-BZ

APPLICANT – Warshaw Burstein, LLP, for Cumberland Farms, Ink, owner.

SUBJECT – Application February 26, 2014 – Extension of Term (§11-411) of a previously approved variance which permitted a gasoline service station and an automobile repair facility (UG 16) which expired on July 15, 2013; Waiver of the Rules. C1-2/R2A zoning district.

PREMISES AFFECTED – 178-02 Union turnpike, intersection formed by Union Turnpike and Surrey Parcel, Block 7227, Lot 29, Borough of Queens.

COMMUNITY BOARD #8Q

THE VOTE TO CLOSE HEARING –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 29, 2014, at 10 A.M., for decision, hearing closed.

MINUTES

152-07-BZ

APPLICANT – Eric Palatnik, P.C., for Joseph Dweck, owner.

SUBJECT – Application December 31, 2013 – Extension of Term of a previously granted Special Permit (§73-36) for the continued use of a physical culture establishment (*Dolphin*) on the second floor of a two-story commercial building which expired on January 1, 2013; Extension of Time to obtain a Certificate of Occupancy which expired on February 5, 2009; Waiver of the Rules. C4-2A zoning district.

PREMISES AFFECTED – 8701 4th Avenue, southwest corner of 4th Avenue and 87th Street, Block 6050, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #10BK

ACTION OF THE BOARD – Laid over August 19, 2014, at 10 A.M., for continued hearing.

APPEALS CALENDAR

45-07-A

APPLICANT – Eric Palatnik, P.C., for Nader Kohanter, owner.

SUBJECT – Application April 25, 2014 – Application to permit an extension of time to complete construction and obtain a certificate of occupancy under the Common Law vested rights doctrine for a mixed-used residential community facility approved under the previous R6 zoning district. R4-1 zoning district.

PREMISES AFFECTED – 1472 East 19th Street, between Avenue "O" and Avenue "N", Block 6756, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted.

THE VOTE TO GRANT –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

THE RESOLUTION –

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

WHEREAS, a public hearing was held on this application on June 10, 2014, after due notice by publication in *The City Record*, and then to decision on July 15, 2014; and

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

WHEREAS, the subject site is located on west side of East 19th Street, between Avenue N and Avenue O, within an R4-1 zoning district; and

WHEREAS, the site has 35 feet of frontage along East

19th Street and 3,500 sq. ft. of lot area; and

WHEREAS, the applicant proposes to develop the site with a two-story mixed residential (Use Group 2) and community facility (Use Group 4) building with 5,500 sq. ft. of floor area (1.49 FAR) and building height of 39'-2"; and

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

WHEREAS, the applicant states that New Building Permit No. 302041261-01-NB was issued on March 9, 2006 (the "New Building Permit"), authorizing construction of the building in accordance with the R6 zoning district regulations; and

WHEREAS, on April 5, 2006 (the "Enactment Date"), the City Council voted to adopt the Midwood Rezoning, which rezoned the site from R6 to R4-1; and

WHEREAS, the New Building Permit lapsed by operation of law on the Enactment Date because the plans did not comply with the new R4-1 zoning district regulations and foundations were not complete; and

WHEREAS, on July 10, 2007, under the subject calendar number, the Board adopted a resolution recognizing that a vested right to continue construction under the New Building Permit had accrued under the common law doctrine of vested rights, and the Board reinstated the New Building Permit for a term of four years, to expire on July 10, 2011; and

WHEREAS, the applicant states that, as of July 10, 2011, construction had not been completed and a certificate of occupancy had not been issued; accordingly, the applicant sought an extension of time to complete construction; at that time, the applicant represented that construction was delayed due to financing problems and its contractor going out of business; and

WHEREAS, on May 1, 2012, under the subject calendar number, the Board extended the time to complete construction and obtain a certificate of occupancy for a term of two years, to expire on May 1, 2014; and

WHEREAS, the applicant represents that as of May 1, 2014, construction had not been completed and a certificate of occupancy had not been issued; and

WHEREAS, the applicant notes that, since the Board's 2012 grant, no work has been performed and a new owner has taken control of the site; and

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

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

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

Therefore it is Resolved, that this application to renew New Building Permit No. 302041261-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete construction and obtain a certificate of occupancy for two years from the expiration date

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of the prior grant, to expire on May 1, 2016.

Adopted by the Board of Standards and Appeals, July 15, 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 – Application granted.

THE VOTE TO GRANT –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

THE RESOLUTION –

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

WHEREAS, a public hearing was held on this application on March 25, 2014, after due notice by publication in *The City Record*, with continued hearings on May 13, 2014 and June 10, 2014, and then to decision on July 15, 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 15, Brooklyn recommends disapproval of this application, citing concerns about the lack of maintenance of the site and its effect on nearby residents; and

WHEREAS, Assemblyman Steven Cymbrowitz provided testimony in opposition to this application; and

WHEREAS, the Madison-Marine-Homecrest Civic Association provided testimony in opposition to this application; and

WHEREAS, certain members of the surrounding community provided testimony in opposition to this application; and

WHEREAS, collectively, the parties who provided testimony in opposition to the proposal are the “Opposition”; and

WHEREAS, the Opposition raised the following concerns with respect to the instant application: (1) that a “For Sale” sign has been posted at the site recently; (2) that the owner does not have the financing to complete the project; (3) that there are open Department of Buildings (“DOB”) and Environmental Control Board (“ECB”) violations at the site; (4) that the sidewalk along the perimeter of the building is in

disrepair; (5) that the site is a dumping ground; and (6) that the site negatively affects the quality of life and property values of the surrounding neighborhood; and

WHEREAS, the subject site is located on the southeast corner of the intersection of Avenue S and East 16th Street, within an R4-1 zoning district; and

WHEREAS, the site has 85 feet of frontage along Avenue S, 95 feet of frontage along East 16th Street, and 8,075 sq. ft. of lot area; and

WHEREAS, the applicant proposes to develop the site with a six-story mixed residential (Use Group 2) and community facility (Use Group 4) building with 25 dwelling units; and

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

WHEREAS, the applicant states that New Building Permit No. 302054568-01-NB was issued on January 11, 2006 (the “New Building Permit”), authorizing construction of the building in accordance with the R6 zoning district regulations; and

WHEREAS, on February 15, 2006 (the “Enactment Date”), the City Council voted to adopt the Homecrest Rezoning, which rezoned the site from R6 to R4-1; and

WHEREAS, the New Building Permit lapsed by operation of law on the Enactment Date because the plans did not comply with the new R4-1 zoning district regulations and foundations were not complete; and

WHEREAS, the applicant notes that by letter dated November 18, 2008, DOB acknowledged that the New Building Permit was lawfully issued; and

WHEREAS, on December 9, 2008, under the subject calendar number, the Board adopted a resolution recognizing that a vested right to continue construction under the New Building Permit had accrued under the common law doctrine of vested rights, and the Board reinstated the New Building Permit for a term of four years, to expire on December 9, 2012; and

WHEREAS, the applicant represents that, subsequent to the 2008 grant, construction did not proceed due to insufficient financing; thus, as of December 9, 2012, construction had not been completed and a certificate of occupancy had not been issued for the building; and

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

WHEREAS, at hearing, the Board directed the applicant to: (1) demonstrate that financing has been secured to complete the project; (2) clarify the status of open violations; and (3) respond to the concerns of the Opposition regarding the disrepair of the sidewalk and the lack of maintenance at the site; and

WHEREAS, as to the financing, the applicant provided an affidavit from an owner of the site, which indicates that Besyata Investment Group has committed up to \$6,000,000 to complete construction of the building; and

WHEREAS, as to the open violations, the applicant represents that although the violating conditions have been

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eliminated, the fines have yet to be paid; as such, the violations remain open; and

WHEREAS, the applicant states that it will resolve all outstanding violations upon the renewal of the New Building Permit by the Board; and

WHEREAS, as to the disrepair of the sidewalk, the applicant states that because construction machinery must access the site by traversing the sidewalk, the sidewalk will not be repaired until the building is nearing completion; however, in the meantime, the broken concrete will be removed and hard gravel will be installed in order to provide a level walkway; and

WHEREAS, as to the maintenance of the site, the applicant provided an invoice and photographs of the site, which demonstrate that the site has been cleared of all debris and garbage; and

WHEREAS, as to the Opposition's concern regarding the "For Sale" at the site; in sum and substance, the Opposition is concerned that the applicant seeks renewal of the New Building Permit for the sole purpose of conveying the site to another developer, which the Opposition characterizes is inconsistent with the owner's statement that it has obtained financing to complete the building; and

WHEREAS, the Board notes, however, that under the common law doctrine of vested rights, such rights accrue not to a specific owner but rather to the real property itself; as such, a change in ownership—let alone an anticipated change in ownership or control—is not a basis for the Board to deny a request for an extension of time to complete construction; and

WHEREAS, likewise, the Board acknowledges the limitations on its authority to deny a request for an extension of time to complete construction where it has already recognized that the right to continue construction has vested, as set forth in Lefrak Forest Hills Corp. v Galvin, 40 AD2d 211, 217 [2d Dept 1972] affd, 32 NY2d 796, 298 NE2d 685 [1973]; and

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

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

Therefore it is Resolved, that this application to renew New Building Permit No. 302054568-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete construction and obtain a certificate of occupancy for two years from the date of this resolution, to expire on July 15, 2016.

Adopted by the Board of Standards and Appeals, July 15, 2014.

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

THE VOTE TO CLOSE HEARING –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 29, 2014, at 10 A.M., for decision, hearing closed.

92-14-A

APPLICANT – Greenberg Traurig, LLP, for MTS Propco. LPC/Rockpoint Group, LLC, owner.

SUBJECT – Application May 2, 2014 – Variance pursuant to Multiple Dwelling Law Section 310(2)(c) to waive court requirements and legally required windows under MDL Sections 26 and 30 for the construction of a residential addition to an existing hotel . C6-7/C6-6(MID) zoning district.

PREMISES AFFECTED – 790 7th Avenue, West 51st Street, Broadway, West 52nd Street and 7th Avenue, Block 1023, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #10M

THE VOTE TO CLOSE HEARING –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

ACTION OF THE BOARD – Laid over to August 19, 2014, at 10 A.M., for decision, hearing closed.

103-14-A

APPLICANT – Akerman LLP, for 55 Eckford Lots LLC, owner.

SUBJECT – Application May 9, 2014 – Appeal seeking a determination that the owner has obtained a common law vested right to complete construction under the prior R6/M1-1 zoning district regulations. M1-2/R6B zoning district.

PREMISES AFFECTED – 55 Eckford Street, west side of Eckford bounded by Driggs Avenue to its north and Engert Avenue to its south, Block 2698, Lot 32, Borough of Brooklyn.

COMMUNITY BOARD #1BK

THE VOTE TO CLOSE HEARING –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 22, 2014, at 10 A.M., for decision, hearing closed.

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ZONING CALENDAR

15-14-BZ

CEQR #14-BSA-103Q

APPLICANT – Davidoff Hutcher & Citron LLP, for Greek Orthodox Community of Whitestone Holy Cross Inc., owner.

SUBJECT – Application January 24, 2014 – Variance (§72-21) to permit the enlargement of an existing school building (*Holy Cross Greek Orthodox Church*), contrary to floor area (§24-111), sky exposure plane (§24-54), and accessory parking spaces (§25-31). R2 zoning district.

PREMISES AFFECTED – 12-03 150th Street, southeast corner of 150th Street and 12th Avenue, Block 4517, Lot 9, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 27, 2014, acting on DOB Application No. 420927475, reads, in pertinent part:

1. Community facility floor area ratio contrary to ZR Section 24-111;
2. Sky-exposure plane contrary to ZR Section 24-54;
3. Number of parking spaces contrary to ZR Section 25-31;
4. Side yard contrary to ZR Section 24-35(a);
5. Lot coverage contrary to ZR Section 24-11;
6. Front yard contrary to ZR Section 24-34; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R2 zoning district, the enlargement of a one-story community facility building to be occupied as a religious school (Use Group 3), which does not comply with regulations regarding floor area ratio (“FAR”), sky-exposure plane, parking, side and front yards, and lot coverage, contrary to ZR §§ 24-11, 24-34, 24-35, 24-54, 25-31, and 24-111; and

WHEREAS, the application is brought on behalf of Greek Orthodox Community of Whitestone Holy Cross, Inc. (“Holy Cross”), a not-for-profit corporation, which owns and operates Valiotis Greek-American School (“Valiotis”), the existing school at the subject site; and

WHEREAS, a public hearing was held on this application on June 10, 2014, after due notice by publication in the *City Record*, and then to decision on July 15, 2014; and

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

Commissioner Ottley-Brown; and

WHEREAS, Community Board 7, Queens, recommends approval of the application, subject to the following conditions: (1) “One Way” signs are installed at the 12th Avenue entrance to the church parking lot for the hours of 7:30 a.m. to 6:00 p.m. on school days; (2) “One Way” signs are installed indicating “Exit Only” on at the 150th Street exit of the church parking lot for the hours of 7:30 a.m. to 6:00 p.m. on school days; (3) staff will be required to park only in the church parking lot and not on the local streets; (4) all staff cars will be required to park in a predetermined area and stacked next to each other; (5) kindergarteners and first graders will be dismissed 15 minutes early; (6) Valiotis will pursue the installation of a Stop sign at the intersection of 150th Street and 12th Avenue; and (7) Valiotis, Community Board 7, and Councilman Vallone will continue to pursue a request for a crossing guard at the intersection of 150th Street and 12th Avenue; and

WHEREAS, Councilman Paul A. Vallone, submitted testimony in support of the application; and

WHEREAS, the subject site is located on the southeast corner of the intersection of 12th Avenue and 150th Street, within an R2 zoning district; and

WHEREAS, the site has 125 feet of frontage along 12th Avenue, 100 feet of frontage along 150th Street, and 12,500 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story school (Use Group 3) with 5,870 sq. ft. of floor area (0.47 FAR) and a building height of 31'-11"; the building was completed in 2004, and, according to Certificate of Occupancy No. 400676559, includes: in the sub-cellar, a gymnasium, assembly space, a mechanical room, a kitchen, and accessory storage; on the cellar level, a child care center for up to 36 children; on the first story, classrooms, offices, and accessory storage; and at the attic level, accessory storage; the four required accessory off-street parking spaces for the building are provided across 12th Avenue in the Holy Cross church parking lot (Block 4516, Lot 1; formerly Block 4516, Lot 50), per restrictive declaration; and

WHEREAS, the applicant notes that an as-built survey revealed that the building was constructed with the following non-compliances: (1) a front yard depth of 14'-0" (a minimum front yard depth of 15'-0" is required, per ZR § 24-34); (2) two side yards with widths of 8'-0" (two side yards with minimum widths of 8'-0" and 10'-2" are required, per ZR § 24-35); and (3) a lot coverage of 66 percent (a maximum lot coverage of 60 percent is permitted, per ZR § 24-11); and

WHEREAS, the applicant now proposes to vertically and horizontally enlarge the building, resulting in a two-story building with 13,967 sq. ft. of floor area (1.11 FAR) and building height of 35'-0"; and

WHEREAS, the applicant states that the variance is requested to legalize the above-noted non-compliances, which are maintained in the enlarged portion of the building; in addition, the following new non-compliances are

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proposed: (1) an FAR of 1.11 is proposed (the maximum permitted FAR is 0.5 FAR, per ZR § 24-111); (2) a sky-exposure plane of less than 1-to-1 is proposed (a 1-to-1 sky-exposure plane is required, per ZR § 24-54); and (3) four accessory off-street parking spaces (a minimum of ten accessory parking spaces are required, per ZR § 25-31); and

WHEREAS, the applicant states that Valiotis began as an afternoon Greek School Afternoon Program with three students in 1977 and currently enrolls 180 students in nursery through third grade; the applicant notes that demand for Valiotis has increased sharply since 2008, when enrollment was approximately 30 students; and

WHEREAS, the applicant represents that 35 prospective students were turned away in the 2013-2014 school year because the existing facility is too small to accommodate them; further, approximately 50 students must occupy classroom space in temporary trailers in a nearby site; and

WHEREAS, the applicant states that the proposal would allow Holy Cross to institute a comprehensive elementary school curriculum, consisting of nursery through fifth grade, with a total enrollment of 250 students; and

WHEREAS, the applicant states that the proposed 7,937 sq-ft. enlargement includes the following: on the first story, a new library, a new science lab, a new classroom, and new boys' and girls' restrooms; and on the second story, a new classroom, a new computer room, a new art room, additional storage, and new boys' and girls' restrooms; and

WHEREAS, the applicant states that the following are the primary programmatic needs of Holy Cross, which necessitate the requested variances: (1) to accommodate the needs of its growing congregation of approximately 650 members, many of whom have children enrolled at Valiotis and would like to send them to the school for fourth and fifth grade; (2) to provide interdisciplinary teaching spaces (arts, information technology, and science) in order to prepare its students for modern intermediate and high school curricula; and (3) to provide sufficient space for Holy Cross' Greek School Afternoon and Sunday School programs; and

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

WHEREAS, in particular, the applicant asserts that a complying building could not provide adequate classroom and program space for Holy Cross; as noted above, Valiotis was built and received a certificate of occupancy despite several as-built non-compliances; thus, constructing a complying building would require costly demolition of substantial portions of the existing building, resulting in further reductions of program space; and

WHEREAS, as to the new non-compliances associated with the proposed enlargement (FAR, sky-exposure-plane, and parking), the applicant asserts that each is essential to constructing a space that will accommodate Holy Cross's needs; the FAR is necessary, as noted above, because the existing school is too small to accommodate even its existing student body (50 students must learn in temporary trailers); the

sky-exposure-plane waiver is necessary to provide sufficient headroom in a new classroom on the second story; the parking waiver is necessary because the existing building was constructed without parking and providing parking would require complete renovation and a substantial loss of program space; for example, if parking were to be located in the sub-cellar and/or cellar, Valiotis would be forced to give up portions of its gymnasium and child care center; and

WHEREAS, in addition, the applicant states, as noted above, that Valiotis has four designated parking spaces in the Holy Cross church parking lot across 12th Avenue; under the proposal, the number of designated spaces will be increased to ten; and

WHEREAS, accordingly, the applicant asserts that only the proposal will provide the necessary space for Holy Cross to achieve its programmatic needs at Valiotis; and

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

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

WHEREAS, accordingly, based upon the above, the Board finds that the limitations and inefficiencies of the existing building and the site, when considered in conjunction with the programmatic needs of Holy Cross, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, impair the appropriate use or development of adjacent property, or be detrimental to the public welfare, consistent with ZR § 72-21(c); and

WHEREAS, the applicant represents that the surrounding neighborhood is characterized by one- and two-story residential and community facility uses; south of the site along 150th Street between 12th Road and the Cross Island Parkway, the built character reflects the area's zoning designations (C1-2 and C2-2), in that one- and two-story mixed residential and commercial buildings predominate; and

WHEREAS, the applicant notes that the proposed use exists and is permitted as-of-right in the subject R2 zoning district; and

WHEREAS, as such, the applicant contends that the proposed enlargement is entirely consistent with the use and bulk of the area; and

WHEREAS, the applicant states that the proposal was

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designed to be sensitive to the scale of the streetscapes along both 150th Street and 12th Avenue, in that it maintains the existing yards and provides complying wall and building heights; and

WHEREAS, as to adjacent uses, the applicant states that directly south of the site is a two-story community facility building, directly east of the site is an undeveloped lot with a width of 50 feet, directly north of the site (across 12th Avenue) is the parking lot for the Holy Cross church, and directly west of the site (across 150th Street) is a school; the applicant also notes that there is a two-story church north and west of the site, on the northwest corner of the intersection of 12th Avenue and 150th Street; and

WHEREAS, the applicant also notes that the site abuts an R3-2 zoning district, where the maximum permitted FAR for a community facility is 1.0 FAR, which is consistent with the proposed 1.11 FAR; and

WHEREAS, at hearing, the Board directed the applicant to: (1) provide a site plan of the parking lot at Block 4516, Lot 1, which shows the proposed number of parking spaces, site circulation, and signage; and (2) clarify the proposed traffic mitigation and safety measures; and

WHEREAS, in response, the applicant provided the requested plan, which reflects the proposed parking lot circulation and signage, which includes a single entrance point (the 12th Avenue curb cut) and exit point (the 150th Street curb cut) for the lot; and

WHEREAS, as traffic mitigation and safety, the applicant states that security personnel will be assigned to the site during pickup and drop-off times, dismissal times for pre-kindergarten and kindergarten students will be staggered, and bus queuing and parking will be relocated from 150th Street to 12th Avenue; and

WHEREAS, accordingly, the Board finds that, in accordance with ZR § 72-21(c), this action will neither alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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

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

WHEREAS, the applicant states and the Board agrees that the requested waivers are the minimum necessary to afford relief to satisfy the Holy Cross' programmatic needs, in accordance with ZR § 72-21(e); and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State

Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R2 zoning district, the enlargement of a one-story community facility building to be occupied as a religious school (Use Group 3), which does not comply with regulations regarding FAR, sky-exposure plane, parking, side and front yards, and lot coverage, contrary to ZR §§ 24-11, 24-34, 24-35, 24-54, 25-31, and 24-111; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 21, 2014" – Nine (9) sheets; and "Received July 14, 2014" – One (1) sheet; and *on further condition*:

THAT the building parameters will be: two stories; a maximum building height of 35'-0"; a maximum of 13,967 sq. ft. of floor area (1.11 FAR); a minimum front yard depth of 14'-0"; two side yards with minimum widths of 8'-0"; and a maximum lot coverage of 66 percent, as illustrated on the BSA-approved plans;

THAT a deed restriction will be recorded against Block 4516, Lot 1 designating minimum of ten parking spaces for the school's use;

THAT "One Way" signs will be installed and maintained at the 12th Avenue entrance to the church parking lot for the hours of 7:30 a.m. to 6:00 p.m. on school days;

THAT "One Way" signs will be installed and maintained at the 150th Street exit of the church parking lot for the hours of 7:30 a.m. to 6:00 p.m. on school days;

THAT the 12th Avenue curb cut will only be used for entering the parking lot and the 150th Street curb cut will only be used for exiting the parking lot, and signs reflecting these restrictions will be installed and maintained;

THAT Valiotis teachers and staff will be required to park only in the church parking lot and not on the local streets;

THAT the above conditions will be listed on the Certificate of Occupancy;

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

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

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

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

Adopted by the Board of Standards and Appeals, July 15, 2014.

57-14-BZ

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APPLICANT – The Law Office of Jay Goldstein, PLLC, for One NY Plaza Co. LLC, owner; Gear Fitness LLC d/b/a Retro Fitness, lessee.

SUBJECT – Application April 10, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Retro Fitness*) in the sub-cellar and concourse level of a 50-story commercial building. C5-5(LM) zoning district.

PREMISES AFFECTED – 1 New York Plaza, 114-142 13 Broad Street, 13 South Street, 1-21 Water Street, 49-63 & 54-64 Whitehall Street, Block 4, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated April 9, 2014, acting on DOB Application No. 12809052, reads, in pertinent part:

Proposed use as a physical culture establishment, as defined by ZR 12-10, is not permitted as of right in C5-5 district according to ZR 32-10 and must be referred to the Board of Standards and Appeals for approval pursuant to ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-5 zoning district, within the Special Lower Manhattan District (LM), the operation of a physical culture establishment (“PCE”) in portions of the sub-cellar and cellar levels of a 50-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on June 17, 2014, after due notice by publication in the *City Record*, and then to decision on July 15, 2014; and

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

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

WHEREAS, the subject site is located within the entire block bounded by Broad Street, South Street, Whitehall Street, and Water Street and is known as One New York Plaza; it is within a C5-5 (LM) zoning district; and

WHEREAS, the lot has an area of 111,382 sq. ft., with approximately 342 feet of frontage on Water Street, approximately 291 feet of frontage on Whitehall Street, approximately 334 feet of frontage on South Street, and approximately 362 feet of frontage on Broad Street; and

WHEREAS, the applicant states that the site is occupied by a 50-story commercial building with 1,941, 436 sq. ft. of floor area (17.4 FAR); and

WHEREAS, the proposed PCE will occupy 16, 987 sq.

ft. of floor space with 6,677 sq. ft. on the sub-cellar and 10,310 sq. ft. on the cellar level; and

WHEREAS, the PCE will be operated as Retro Fitness; and

WHEREAS, the applicant represents that the services at the PCE include dance, aerobics, yoga, and Pilates in addition to cardiovascular exercise and weight training management equipment; and

WHEREAS, the hours of operation for the PCE will be Monday through Thursday 24 hours, Friday until 10:00 p.m., and Saturday and Sunday, from 6:00 a.m. to 7:00 p.m.; and

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

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

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

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

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

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

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

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist (CEQR No. 14BSA1138M) dated May 5, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issued a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site within a C5-5 zoning district, within the Special Lower Manhattan District, the operation of a PCE in portions of the sub-cellar and cellar level of a 50-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received May 5, 2014” Seven (7) – sheets; and *on further condition*:

THAT the term of the PCE grant will expire on July 15, 2024;

THAT there will be no change in ownership or

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operating control of the PCE without prior application to and approval from the Board;

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, July 15, 2014.

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

THE VOTE TO CLOSE HEARING –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

ACTION OF THE BOARD – Laid over to August 19, 2014, at 10 A.M., for decision, hearing closed.

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 29, 2014, at 10 A.M., for adjourned hearing.

185-13-BZ

APPLICANT – Eric Palatnik P.C., for 97 Franklin Avenue LLC, owner.

SUBJECT – Application June 20, 2013 – Variance (§72-21) to permit the development of a proposed three story, two-unit residential development, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 97 Franklin Avenue, Franklin Avenue, Between Park and Myrtle Avenue, Block 899, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to August 19, 2014, at 10 A.M., for continued hearing.

254-13-BZ

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

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

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

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Laid over to August 19, 2014, at 10 A.M., for continued hearing.

256-13-BZ thru 259-13-BZ

260-13-A thru 263-13-A

APPLICANT – Eric Palatnik PC, for Block 3162 LLC, owner.

SUBJECT – Application August 15, 2013 – Variance (§72-21) to permit four detached and semi-detached homes, contrary to side yard (§23-461) and open area (§23-891) regulations, and bulk non-compliances resulting from the location of a mapped street (§23-45). The proposed buildings are also located within the bed of a mapped street, contrary to General City Law Section 35. R3-2 zoning district.

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PREMISES AFFECTED – 25, 27, 31, 33, Sheridan Avenue aka 2080 Clove Road, between Giles Place and the Staten Island Rapid Transit right of way, Block 3162, Lot 22, 23, 24, 25, Borough of Staten Island.

COMMUNITY BOARD #2SI

THE VOTE TO CLOSE HEARING –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4

Negative:.....0

ACTION OF THE BOARD – Laid over to July 29, 2014, at 10 A.M., for decision, hearing closed.

264-13-BZ

APPLICANT – Francis R. Angelino, Esq., for David Lowenfeld, owner; BB Fitness dba Brick Crossfit NYC, lessee.

SUBJECT – Application September 6, 2013 – Special Permit (§73-36) to allow a physical culture (*Brick CrossFit*) on the ground floor and cellar of an existing 10-story building. C6-2A zoning district.

PREMISES AFFECTED – 257 West 17th Street, north side, West 17th Street, between 7th & 8th Avenues, Block 767, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to September 9, 2014, at 10 A.M., for continued hearing.

266-13-BZ

APPLICANT – Law Offices of Marvin B. Mitzner, LLC, for 515 East 5th Street LLC, owner.

SUBJECT – Application September 6, 2013 – Variance (§72-21) to legalize the enlargement of a six-story, multi-unit residential building, contrary to maximum floor area (§23-145). R7B zoning district.

PREMISES AFFECTED – 515 East 5th Street, north side of East 5th Street between Avenue A and B, Block 401, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4

Negative:.....0

ACTION OF THE BOARD – Laid over to August 19, 2014, at 10 A.M., for decision, hearing closed.

277-13-BZ

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

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

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

COMMUNITY BOARD #12M

THE VOTE TO CLOSE HEARING –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4

Negative:.....0

ACTION OF THE BOARD – Laid over to August 19, 2014, at 10 A.M., for decision, hearing closed.

297-13-BZ

APPLICANT – Sheldon Lobel, P.C., for 308 Cooper LLC, owner.

SUBJECT – Application October 25, 2013 – Variance (§72-21) to permit the development of a three-story, six-unit residential building, contrary to use regulations (§42-10). M1-1 zoning district.

PREMISES AFFECTED – 308 Cooper Street, east side of Cooper Street at the corner of Cooper Street and Irving Avenue, Block 3442, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #4BK

ACTION OF THE BOARD – Laid over to September 9, 2014, at 10 A.M., for deferred decision.

299-13-BZ

APPLICANT – Eric Palatnik, P.C., for David Gerstenfeld, owner; Michael Nejat, lessee.

SUBJECT – Application November 1, 2013 – Special Permit (§73-126) to allow the partial legalization and connection of two adjacent ambulatory diagnostic treatment health care facilities (UG4). R3-A zoning district.

PREMISES AFFECTED – 4299 Hylan Boulevard, between Thornycroft Avenue and Winchester Avenue, Block 5292, Lot(s) 37, 39 & 41, Borough of Staten Island.

COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4

Negative:.....0

ACTION OF THE BOARD – Laid over to August 19, 2014, at 10 A.M., for decision, hearing closed.

324-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Eli Rowe, owner.

SUBJECT – Application December 20, 2013 – Special Permit (§73-621) to allow the enlargement of a single-family residence, contrary to floor area and open space regulations (§23-141). R2 zoning district.

PREMISES AFFECTED – 78-32 138th Street, southwest corner of the intersection of 138th Street and 78th Road, Block 6588, Lot 25, Borough of Queens.

COMMUNITY BOARD #8Q

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THE VOTE TO CLOSE HEARING –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown,
Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 29,
2014, at 10 A.M., for decision, hearing closed.

327-13-BZ

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

SUBJECT – Application December 23, 2014 – Special
Permit (§73-44) to reduce the required number of accessory
parking spaces from 346 to 272 spaces for a mixed use
building containing UG4 health care and UG 6 office uses.
C8-2, C2-3/R5 zoning district.

PREMISES AFFECTED – 1504 Coney Island Avenue, aka
1498, 1526, 1528, 1532-1538 Coney Island Avenue,
property occupies the northwest corner of Coney Island
Avenue and Avenue L. Block 6536, Lot(s) 28, 30, 34, 40,
41, 42, 43, Borough of Brooklyn.

COMMUNITY BOARD # 12BK

ACTION OF THE BOARD – Laid over to July 22,
2014, at 10 A.M., for adjourned hearing.

36-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP., for
201 Pearl LLLC., owner; Soulcycle Maiden Lane, LLC.,
lessee.

SUBJECT – Application February 27, 2014 – Special
Permit (§73-36) to allow a physical culture establishment
(*Soulcycle*) within a mixed use. C5-5(LM) zoning district.

PREMISES AFFECTED – 101 Maiden Lane aka 201 Pearl
Street, northeast corner of Maiden Lane and Pearl Street,
Block 69, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #1M

THE VOTE TO CLOSE HEARING –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown,
Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 29,
2014, at 10 A.M., for decision, hearing closed.

47-14-BZ

APPLICANT – John M. Marmora, Esq., for RKR
Properties, Inc., owner; McDonald's USA, LLC., lessee.

SUBJECT – Application March 26, 2014 – Special Permit
(§73-243) to allow for an eating and drinking establishment
(UG 6) (*McDonald's*) with an accessory drive-through
facility. C1-2/R5D zoning district.

PREMISES AFFECTED – 122-21 Merrick Boulevard,
northwest corner of Merrick Boulevard and Sunbury Road,
Block 12480, Lot(s) 32, 39, Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Laid over to July 29,

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

55-14-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for
RK&G Associates LLC., owner; 388 Athletic Club, LLC,
c/o Stah Real Estate Com., lessee.

SUBJECT – Application April 8, 2014 – Special Permit
(§73-36) to allow a physical culture establishment (388
Athletic Club) to operate on the fifth and sixth floors of a
new 53 Story commercial and residential building. C6-45
zoning district.

PREMISES AFFECTED – 388 Bridge Street, aka 141
Lawrence Street, Block 152, Lot 1001/06, Borough of
Brooklyn.

COMMUNITY BOARD #2BK

THE VOTE TO CLOSE HEARING –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown,
Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

ACTION OF THE BOARD – Laid over to July 29,
2014, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director