
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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April 22, 2015

DIRECTORY

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75-15-BZ

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76-15-BZ

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77-15-BZ

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78-15-BZ

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79-15-BZ

3094 Dare Place, Through lot from Dare Place to Casler Place, approximately 170 feet East of Pennyfield Avenue, Block 05529, Lot(s) 487, Borough of **Bronx, Community Board: 10**. Variance (§72-12) to propose construction of two semi-attached two family dwellings that are on separate tax lots which area proposing to be four detached family dwelling on a single zoning lot which is not permitted contrary to rear yard, rear wall, and parking spacing and unenclosed and driveways shall not permitted, located within an R3-1 zoning district. R3-1 district.

80-15-BZ

3093 Casler Place, Through lot from Dare Place to Casler Place, approximately 170 feet East of Pennyfield Avenue, Block 05529, Lot(s) 500, Borough of **Bronx, Community Board: 10**. Variance (§72-21) propose construction of two semi-attached two family dwellings that are on separate tax lots which are proposing to be four detached family dwelling on a single zoning lot which is not permitted contrary to rear yard, rear wall and parking spacing and unenclosed driveways, shall not be permitted, located within an R3-1 zoning district. R3-1 district.

81-15-BZ

3095 Casler Place, Through lot from Dare Place to Casler Place, approximately 170 feet East of Pennyfield Avenue, Block 05529, Lot(s) 488, Borough of **Bronx, Community Board: 10**. Variance (§72-12) proposed construction of two semi-attached two family dwellings that are on separate tax lots which area proposing to be four detached family dwelling on a single zoning lot which is not permitted contrary to rear yard, rear wall, and parking spacing and unenclosed and driveways shall not be permitted, located within an R3-1 zoning district. R3-1 district.

82-15-BZ

3098 Dare Place, Through lot from Dare Place to Casler Place, approximately 170 feet East of Pennyfield Avenue, Block 05529, Lot(s) 489, Borough of **Bronx, Community Board: 10**. Variance (72-12) to propose construction of two semi-attached two family dwellings that are on separate tax lots which are proposing to be four detached family dwelling on a single zoning lot which is not permitted contrary to rear yard, rear wall, and parking spacing and unenclosed driveways shall not be permitted, located within an R3-1 zoning district. R3-1 district.

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

CALENDAR

APRIL 28, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 28, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

584-55-BZ

APPLICANT – Nasir J. Khanzada, PE, for Gurnam Singh, owner.

SUBJECT – Application June 11, 2014 – Amendment (§11-412) of a previously approved variance which permitted the alteration of an existing Automotive Service Station (UG 16B). The amendment seeks to permit the conversion of the accessory auto repair shop to a convenience store and alter the existing building. C2-4/R7-2 zoning district.

PREMISES AFFECTED – 699 Morris Avenue, southwest corner of East 155th Street and Park Avenue, Block 2422, Lot 65, Borough of Bronx.

COMMUNITY BOARD #2BX

619-73-BZ

APPLICANT – Sheldon Lobel, P.C., for CI Gateway LL, owner.

SUBJECT – Application October 23, 2014 – Reinstatement of a variance (§72-21) which permitted the operation of an eating and drinking establishment (UG 6) with an accessory drive thru which expired on February 26, 2004; Amendment to permit the redevelopment of the site; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 2940 Cropsey Avenue, front of Bay 52nd Street, Cropsey Avenue and 53rd Street, Block 6949, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APRIL 28, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, April 28, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

237-14-BZ

APPLICANT – Jeffrey A. Chester/GSHLLP, for 162nd Street Realty, LLC, owner; SPE Jamaica Avenue, LLC, lessee.

SUBJECT – Application October 1, 2014 – Special Permit (§73-36) to allow for the operation of a physical culture establishment (*Lucille Roberts*). C6-3 zoning district.

PREMISES AFFECTED – 162-01 Jamaica Avenue, corner of Jamaica Avenue and 162nd Street, Block 09761, Lot 0001, Borough of Queens.

COMMUNITY BOARD #12Q

284-14-BZ

APPLICANT – Jay Goldstein, Esq., for 257-267 Pacific Street, LLC, owner; 718 Bar LLC d/b/a The Bar Method, lessee.

SUBJECT – Application November 6, 2014 – Special Permit (§73-36) to allow for the operation of a physical culture establishment (*The Bar Method*) on the first floor of the existing building. R6-2 with an C2-4 Overlay zoning district.

PREMISES AFFECTED – 267 Pacific Street, between Smith Street and Boerum Place on the north side of Pacific Street, Block 181, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #2BK

1-15-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Manhattan Country School (contract vendee).

SUBJECT – Application January 2, 2015 – Variance (§72-21) proposed enlargement of an existing school structure to be used by the Manhattan Country School which will exceed permitted floor area and exceeds the maximum height. R8B zoning district.

PREMISES AFFECTED – 150 West 85th Street, southerly side of West 85th Street between Columbus Avenue and Amsterdam Avenue, Block 1215, Lot 53, Borough of Manhattan.

COMMUNITY BOARD #7M

Ryan Singer, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, APRIL 14, 2015
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

25-57-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for
221-016 Merrick Blvd. Associates, LLC, owner.

SUBJECT – Application July 31, 2014 – Amendment (§11-
413) to permit a change in use (UG 6 retail use) of an
existing commercial building in conjunction with alteration
of an existing commercial building, demolition of three
existing commercial buildings and construction of a new
commercial building located within a C2-3 and R3A zoning
district.

PREMISES AFFECTED – 221-18 Merrick Blvd, southwest
corner of intersection of Merrick Blvd. and 221st Street,
Block 13100, Lot(s) 22 & 26, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Application granted on
condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a reopening and
an amendment to permit a change in use of a portion of an
existing commercial building located partially within an R5D
(C2-3) zoning district and partially within an R3A zoning
district, from an auto repair and tire use (Use Group 16) to a
retail use (Use Group 6); and

WHEREAS, a public hearing was held on this
application on February 10, 2015, after due notice by
publication in the *City Record*, with continued hearings on
March 10, 2015 and March 31, 2015, and then to decision on
April 14, 2015; and

WHEREAS, Commissioners Montanez and Ottley-
Brown performed examinations of the subject site and
premises, as well as the surrounding area; and

WHEREAS, the subject site is a corner lot located at the
southeast corner of the intersection of Merrick Boulevard and
221st Street, within an R5D (C2-3) zoning district, and also
within an R3A zoning district, in Queens; and

WHEREAS, the site has approximately 205 feet of
frontage along the south side of Merrick Boulevard and 97
feet of frontage along the east side of 221st Street, and contains
30,734 sq. ft. of lot area; and

WHEREAS, the site is occupied by four commercial
buildings currently used for retail sales and operated as the
Merrick Flea Market; and

WHEREAS, the applicant proposes to demolish the

three buildings located closest to Merrick Boulevard and
reduce the floor area of the fourth building, situated on the
southerly portion of the subject site (the “Subject Building”),
from 10,600 sq. ft. to 8,176 sq. ft., thereby reducing the total
FAR of the zoning lot from 0.67 to 0.27; and

WHEREAS, the applicant further proposes to change
the use of the Subject Building to a Use Group 6 retail use;
and

WHEREAS, the site has been subject to the Board’s
jurisdiction since September 24, 1957, when, under BSA Cal.
No. 25-57-BZ, the Board permitted the extension of the
existing use (manufacturing, sales, and storage of auto
supplies) to include parking of more than five cars in the
southerly portion of the subject site; and

WHEREAS, the foregoing variance was amended on
April 10, 1962 to permit the erection of the Subject Building;
and

WHEREAS, the applicant now seeks approval for a
change of use to retail (Use Group 6) on that portion of the
Subject Building which is located in the R3A zoning district
pursuant to ZR §§ 11-413 and 52-34; and

WHEREAS, pursuant to ZR § 11-413, the Board may
permit a change in use from a non-conforming use to a
conforming use; and pursuant to ZR § 52-34, the Board may
permit a change in use from a non-conforming use to certain
other uses which do not comply with underlying use
regulations, including Use Group 6, provided that the change
of use does not impair the character or future use or
development of the surrounding area; and

WHEREAS, the applicant states that the proposal
significantly reduces the amount of floor area devoted to a
non-conforming use and the conversion of the use from auto
repair and tire use (Use Group 16) to retail (Use Group 6)
reduces the impact of the non-conforming use on the
surrounding neighborhood; and

WHEREAS, the application asserts that the proposed
commercial use is compatible with the essential character of
the conforming and non-conforming commercial uses in the
surrounding area, including other retail uses at the intersection
of Merrick Boulevard and 221st Street, and notes the historic
commercial use of the site; and

WHEREAS, the applicant also notes that the planned
development of the site will increase the number of accessory
parking spaces thereupon from 18 to 44; and

WHEREAS, the applicant represents that all signage at
the site shall comply with the regulation applicable to the C2
zoning district and will not be located on that portion of the
zoning lot located in the residence district; and

WHEREAS, based on the foregoing, the Board has
determined that the evidence in the record supports the
findings required to be made under ZR §§ 11-412 and 11-
413.

Therefore it is Resolved, that the Board of Standards and
Appeals *reopens* and *amends* the resolution, dated September
24, 1957, to permit the noted changes in use; *on condition* that
any and all work shall substantially conform to drawings as
they apply to the objection above noted, filed with this

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application marked "April 14, 2015"-(3) sheets; and *on further condition:*

THAT the total floor area of the Subject Building is limited to 8,176 sq. ft. and all other bulk parameters shall be as reflected on the BSA-approved plans;

THAT the subject zoning lot shall not be modified without further BSA approval;

THAT all signage at the site shall comply with C2 regulations and that no signage shall be located in that portion of the site which is located in the R3A zoning district;

THAT all construction will be completed and a certificate of occupancy obtained within four years of the date of this grant;

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

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

Adopted by the Board of Standards and Appeals, April 14, 2015.

26-02-BZ

APPLICANT – Eric Palatnik, P.C., for Bolla EM Realty LLC, owner.

SUBJECT – Application March 14, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses, which expired on December 10, 2012; Amendment to convert the existing bays into accessory convenience store and to enlarge the building; Waiver of the Rules. C1-2/R3-2 zoning district.

PREMISES AFFECTED – 1680 Richmond Avenue aka 3101 Victory Boulevard, northwest corner of Richmond Avenue and Victory Boulevard, Block 2160, Lot 1, Borough Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening of a variance and an amendment to permit, on a site within an R3X (C1-2) zoning district, the enlargement of a one-story automobile service station and the conversion of the automobile service bays therein (Use Group 16) to an accessory convenience store, and the legalization of an existing enclosure for on-site remediation equipment, two existing 12,000 gallon tanks (the previous grant provided for four 10,000 gallon tanks), a 0'-6" canopy setback to Richmond Avenue and 42'-0" canopy setback to Victory Boulevard, a fenced trash enclosure and a realignment of permitted signage, as well as an extension of the term; and

WHEREAS, a public hearing was held on this application on March 24, 2015, after due notice by publication in *The City Record*, and then to decision on April 14, 2015; and

WHEREAS, Commissioner Montanez performed an inspection of the premises, site, and surrounding neighborhood; and

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

WHEREAS, the subject site is a corner lot located on the northwest corner of the intersection of Richmond Avenue and Victory Boulevard, within an R3X (C1-2) zoning district, on Staten Island; and

WHEREAS, the site has approximately 126 feet of frontage along Richmond Avenue, 93 feet of frontage along Victory Boulevard, and 13,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story building used as an automotive service station with gasoline sales (Use Group 16), which contains 1,955 sq. ft. of floor area, three automotive service bays, and an existing, smaller accessory convenience store; and

WHEREAS, the Board has exercised jurisdiction over the site since January 6, 1970, when, under BSA Cal. No. 141-69-BZ, the Board granted an application to permit an automotive service station at the site; and

WHEREAS, on December 10, 2002, under the subject calendar number, the Board extended the term of the variance granted under BSA Cal. NO. 141-69-BZ and permitted the extension of the dispenser at the site; and

WHEREAS, the grant was subsequently amended and the term extended; and

WHEREAS, on January 13, 2009, the Board extended the applicant's deadline to obtain a certificate of occupancy for the site to July 13, 2009; and

WHEREAS, on December 10, 2012, the term of the grant expired and was not timely renewed; and

WHEREAS, accordingly, the applicant now seeks a waiver of the Board's Rules to extend the term of the grant; and

WHEREAS, in addition, the applicant seeks an amendment to permit the following: (1) the enlargement and conversion of the one-story building at the site to an accessory convenience store; (2) the legalization of an existing enclosure for on-site remediation equipment; (3) the legalization of two existing 12,000 gallon tanks (the previous grant provided for four 10,000 gallon tanks); (4) the legalization of a 0'-6" canopy setback to Richmond Avenue and 42'-0" canopy setback to Victory Boulevard; and (5) the legalization of a fenced trash enclosure and a realignment of permitted signage; and

WHEREAS, with respect to the proposed expansion of the accessory store, the applicant represents that the proposal complies with DOB Technical Policy and Procedure Notice No. 10/1999, which sets forth the requirements for convenience stores accessory to gasoline and automotive service stations; and

WHEREAS, at hearing, the Board inquired as to a

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temporary structure on the site; and

WHEREAS, in response, the applicant explained that the temporary structure houses a two-phase groundwater/soil vapor extraction remediation system; and

WHEREAS, the Board directed the applicant to remove the temporary structure upon the completion of the remediation and, upon removal of the aforesaid temporary structure, to provide parking as required on Board-approved plans; and

WHEREAS, based upon the above, the Board finds that the evidence in the record supports the findings required to be made under ZR § 11-411, and the requested extension of term and amendment are appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated December 10, 2002, so that as amended the resolution reads: “to permit the noted modifications and to extend the term of the grant for ten years from the prior expiration, to expire on December 10, 2022”; *on condition* that all work will substantially conform to drawings, filed with this application marked “Received April 2, 2015” – (7) sheets; and on further condition:

THAT this grant shall be limited to a term of ten years, to expire on December 10, 2022;

THAT the building will have a maximum of 2,519 sq. ft. of floor area;

THAT the temporary structure containing remediation equipment will be removed upon completion of the required remediation of the site and that parking shall be restored to the area currently occupied by the aforesaid temporary structure as per BSA-approved plans;

THAT the site will be maintained free of debris and graffiti;

THAT the trash enclosure shall be in accordance with the BSA-approved plans;

THAT signage shall be in accordance with C1 regulations;

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

THAT lighting will be directed downward and away from adjoining residences;

THAT the above conditions will be noted in the Certificate of Occupancy;

THAT a certificate of occupancy will be obtained by April 15, 2017;

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

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

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

(DOB Application No. 520146191)

Adopted by the Board of Standards and Appeals, April 14, 2015.

195-02-BZ

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

SUBJECT – Application December 2, 2013 – Extension of Term of a previously approved Variance (§72-21) permitting an eating and drinking establishment with an accessory drive through facility with a legalization of a small addition to the establishment, which expired on February 11, 2013; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 2797 Linden Boulevard, between Drew and Ruby Streets, Block 4471, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #5BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, and an extension of term for a variance permitting an eating and drinking establishment with an accessory drive-through within a residence district, which expired on February 11, 2013; and

WHEREAS, a public hearing was held on this application on October 28, 2014, after due notice by publication in *The City Record*, with a continued hearing on January 27, 2015, and then to decision on April 14, 2015; and

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

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

WHEREAS, the subject site spans the north side of Linden Boulevard, between Drew Street and Ruby Street, within an R4 zoning district; and

WHEREAS, the site, which is rectangular, has 100 feet of frontage along both Drew Street and Ruby Street and 200 feet of frontage along Linden Boulevard; and

WHEREAS, the site has 20,000 sq. ft. of lot area and is occupied by a one-story eating and drinking establishment with approximately 2,240 sq. ft. of floor area (0.11 FAR), 18 parking spaces, and a drive-through with a pickup window; and

WHEREAS, the applicant represents that the site has operated continuously as a McDonald's restaurant since 1972; and

WHEREAS, the Board has exercised jurisdiction over the site since October 31, 1972, when, under BSA Cal. No. 231-72-BZ, it granted, pursuant to ZR § 72-21, an application

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to permit in an R4 zoning district the construction of a one-story building to be operated as an eating and drinking establishment (Use Group 6) contrary to use regulations, for term of 10 years, to expire on October 31, 1972; and

WHEREAS, the grant was amended at various times in subsequent years, including on May 8, 1979, when the Board amended the grant to authorize the operation of an accessory drive-through; in addition, on that same date, the Board extended the term of the grant for ten years, to expire on May 8, 1989; and

WHEREAS, on July 11, 1989, the Board granted a further extension of term, for ten years, to expire on May 8, 1999; and

WHEREAS, on February 11, 2003, under the subject calendar number, the Board granted an application pursuant to ZR § 72-21 to permit the reestablishment of the expired variance authorizing the eating and drinking establishment and accessory drive through, for a term of ten years, to expire on February 11, 2013; and

WEHREAS, accordingly, the applicant now seeks an extension of the term of the variance; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may, in appropriate cases, allow an extension of the term of a variance; and

WHEREAS, at hearing, the Board directed the applicant to: (1) provide additional information regarding the noise management equipment for the menu board; (2) clarify the hours of the garbage collection; (3) provide photographs of the site demonstrating that the signage complies with the C1 regulations; and (4) provide proof that neighbors have been notified of the proposed 24-hour operation of the establishment; and

WHEREAS, in response, the applicant provided the menu board information and noted that the volume is reduced nightly at 9:00 p.m., clarified the hours of the garbage collection (Sundays and Wednesdays, between 9:00 p.m. and 10:00 p.m.), submitted photographs demonstrating compliance with the C1 sign regulations, and submitted proof of notification; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made for an extension of term under ZR §§ 72-01 and 72-22.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated February 11, 2003, so that as amended the resolution reads: “to permit an extension of the term of the variance for an additional ten years from the prior expiration, to expire on February 11, 2023; *on condition on condition* that all work will substantially conform to drawings, filed with this application marked ‘Received August 22, 2014’ –(7) sheets; and on further condition:

THAT the term of the variance shall expire on February 11, 2023;

THAT the signage shall comply with the C1 regulations;

THAT landscaping shall be maintained in accordance with the BSA-approved plans;

THAT the site shall be maintained free of graffiti and

debris;

THAT the menu board volume shall not exceed 50 decibels between the hours of 9:00 p.m. and 8:00 a.m.;

THAT the above conditions shall be noted on the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by April 15, 2016;

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

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

Adopted by the Board of Standards and Appeals, April 15, 2015.

545-56-BZ

APPLICANT – Eric Palatnik, P.C., for Williamsbridge Road Realty corporation, owner.

SUBJECT – Application June 12, 2014 – Extension of Term (§11-411) to seek the term of a previously granted variance for a gasoline service station and maintenance which expired October 19, 2012; Waiver of the Rules. C2-4/R5D zoning district.

PREMISES AFFECTED – 2001-2007 Williamsbridge Road aka 1131 Neil Avenue, southeast corner of Williamsbridge Road and Neil Avenue, Block 4306, Lot 20, Borough of Bronx.

COMMUNITY BOARD #11BX

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

131-93-BZ

APPLICANT – Eric Palatnik, P.C., for Paul Memi, owner.

SUBJECT – Application April 25, 2014 – Extension of Term (§11-411) of a previously approved variance which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses which expires on November 22, 2014. C2-2/R5 zoning district.

PREMISES AFFECTED – 3743-3761 Nostrand Avenue, north of the intersection of Avenue "Y", Block 7422, Lot 53, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

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318-06-BZ

APPLICANT – Eric Palatnik, LLP for Sun Company Inc. (R&M), owner.

SUBJECT – Application August 9, 2013 – Extension of Term (§11-411) of a previously approved variance which permitted the operation of an automotive service station (UG 16B), which expired on May 22, 2013; Extension of Time to Obtain a Certificate of Occupancy which expired on November 22, 2007; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 49-05 Astoria Boulevard, Noreast corner of Astoria Boulevard and 49th Street. Block 1000, Lot 35, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

42-08-BZ

APPLICANT – Eric Palatnik, P.C., for David Nikchemny, owner.

SUBJECT – Application July 22, 2014 – Extension of Time to Complete Construction of a previously granted Special Permit (73-622) for the enlargement of an existing two family home to be converted into a single family home which expired on January 27, 2013; Waiver of the Rules. R3-1 zoning district.

PREMISES AFFECTED – 182 Girard Street, between Oriental Boulevard and Hampton Street, Block 8749, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

278-13-A

APPLICANT – Slater & Beckerman, P.C., for 121 Varick St. Corp., owner.

SUBJECT – Application September 27, 2013 – Appeal of Department of Buildings’ determination that the advertising sign was not established as a lawful non- conforming use. M1-6 zoning district/SHSD.

PREMISES AFFECTED – 121 Varick Street, southwest corner of Varick Street and Dominick Street, Block 578, Lot 67, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for continued hearing.

163-14-A thru 165-14-A

APPLICANT – Ponte Equities, for Ponte Equities, Ink, owner.

SUBJECT – Application July 10, 2014 – Appeal seeking waiver of Section G304.1.2 of the NYC Building Code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A zoning district. PREMISES AFFECTED – 502, 504, 506 Canal Street, Greenwich Street and Canal Street, Block 595, Lot 40, 39, 38, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

218-14-A

APPLICANT – Paul F. Bonfilio, R.A., for Bo Qian, owner. SUBJECT – Application September 4, 2014 – Proposed construction of a four-story residential building for eleven units within the bed of 45th Avenue at its intersection within a bed of unmapped street, contrary to GCL 35. R5 zoning district.

PREMISES AFFECTED – 46-03 88th Street, 45th Avenue at intersection of 88th Street, Block 1584, Lot 16, Borough of Queens.

COMMUNITY BOARD #4Q

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to April 28, 2015, at 10 A.M., for decision, hearing closed.

320-14-A

APPLICANT – Dean Heitner, Esq., for PWV owner LLC c/o The Chevrolet Group, owner.

SUBJECT – Application December 8, 2014 – Interpretative Appeals for an open space requirements on a zoning lot for a proposed nursing facility to be constructed by Jewish Home Life Care on West 97th Street. R7-2/C1-8 zoning district.

PREMISES AFFECTED – 125 West 97th Street, between Amsterdam Avenue and Columbus Avenue, Block 1852, Lot 5, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to June 23, 2015, at 10 A.M., for continued hearing.

MINUTES

16-15-A

APPLICANT – Sheldon Lobel, P.C., for Alan Bigel, owner; Blue School, lessee.

SUBJECT – Application January 23, 2015 – BCG304 to permit the redevelopment of the existing building, The Blue School, a new middle school, located within a flood hazard area. C6-2 zoning district.

PREMISES AFFECTED – 233-235 Water Street, east of the intersection of Water Street and Beekman Street, Block 97, Lot 49, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Off-Calendar.

ZONING CALENDAR

176-13-BZ

CEQR #13-BSA-155M

APPLICANT – Sheldon Lobel, P.C., for 31 BSP LLC, owner.

SUBJECT – Application June 17, 2013 – Variance (§72-21) to permit Use Group 2 residential in an existing 6-story building with a new penthouse addition, contrary to Section 42-10 of the zoning resolution. M1-5B zoning district.

PREMISES AFFECTED – 31 Bond Street, southern side of Bond Street approximately 1170' from Lafayette Street, Block 529, Lot 25, Borough of Manhattan.

COMMUNITY BOARD # 2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 15, 2013, acting on DOB Application No. 121331184, reads in pertinent part:

Proposed UG 2 is not permitted; contrary to ZR 42-10; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-5B zoning district, within the NoHo Historic District Extension, the conversion of a vacant, mixed-use, six-story, non-complying building to a seven-story residential building (Use Group 2), contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on September 16, 2014, after due notice by publication in the *City Record*, with subsequent hearings on October 28, 2014, December 9, 2014, and January 30, 2015, and then to decision on April 14, 2015; and

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

WHEREAS, Community Board 2, Manhattan,

recommends approval of this application, with conditions; and

WHEREAS, the subject site is located on the south side of Bond Street, between Lafayette Street and the Bowery, in the NoHo Historic District Extension, within an M1-5B zoning district, in Manhattan; and

WHEREAS, the site is irregularly shaped and has 25 feet of frontage along Bond Street and a depth of 119 feet, at its eastern boundary, and 114.5 feet, at its western boundary, containing 3,038 square feet of lot area;

WHEREAS, the site is occupied by a six-story and cellar, non-complying, mixed-use building which was constructed in the 19th Century and which is a contributing building within the NoHo Historic District; and

WHEREAS, the existing building contains approximately 16,412 sq. ft. of floor area, has an FAR of 5.4, and has a rear yard that varies in depth from 6'-1" to 10'-10.5" at the first story and from 6'-0" to 17'-7.5" at the upper floors; and

WHEREAS, the applicant notes that the building, which has been vacant since May, 2010, was previously occupied by multiple firms which manufactured hats, hat frames and ribbons, dealt in textiles and also for gallery and performing space, recording studios, classrooms and Joint Live Work Quarters for Artists (“JLWQA”); and

WHEREAS, initially, the applicant proposed to utilize the first floor of the building for a Use Group 6 retail use on the first floor (which is not permitted as-of-right below the floor level of the second story in an M1-5B zoning district) and Use Group 2 residential on the second through sixth floors of the building, and to redistribute floor area throughout the building to construct a penthouse addition above the sixth floor of the building; and

WHEREAS, in response to the Board’s concerns, the proposal was modified and the applicant now seeks to use the entire building for Use Group 2 residential use; and

WHEREAS, in addition, the applicant proposes to remove the backshaft at the rear of the building and to redistribute floor area from the rear of the building to construct a seventh story containing a 1,501 sq. ft. penthouse so that the proposed building will have a total floor area of 15,190 sq. ft. (5.0 FAR) and an increase in the depth of the building’s rear yard to approximately 20'-2.625" to 25'-.5" at the first story, 29'-8.125" to 36'-6.625" at the second story, and 29'-8.125" to 36'-6" on the third through seventh stories; and

WHEREAS, the applicant notes that the proposed improvements to the building will include compliance with modern safety requirements, removal of the backshaft at the rear yard of the building and increased mechanical ventilation, which will result in a safer building; and

WHEREAS, because, per ZR § 42-00, Use Group 2 is not permitted within the subject M1-5B zoning district, the applicant seeks a use variance; and

WHEREAS, the applicant represents that, per ZR § 72-21(a), the following are unique physical conditions which create unnecessary hardship in developing the site in conformance with applicable regulations: (1) the narrowness

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of the subject lot; (2) the irregular, varying, lot depth; (3) the obsolescence of the existing building for a conforming use; and (4) structural constraints; and

WHEREAS, the applicant states that the narrowness of the subject lot (25'-0"), combined with its irregular and varying lot depth of 119'-0" to 124'-0" yields a small, inefficient floor plate which, is not suitable for modern manufacturing or commercial use; and

WHEREAS, the applicant notes that there are 182 lots within a 1,000 foot radius of the site (the "Study Area") that are also within the M1-5B zoning district, only 26 of which have a width of 25'-0" or less; and

WHEREAS, the applicant further notes that of the 26 lots in the Study Area that are 25'-0" in width or narrower, 18 contain residential use; of the eight lots which do not contain residences, seven of which are distinguishable from the subject site in that they all contain either a non-conforming commercial use on the ground floor (retail or eating and drinking establishment) or are located on lots which, because they are shallower than the subject lot, allow for significant light and air and are, therefore, more marketable for conforming commercial uses; and

WHEREAS, the above-noted assertions are supported in a uniqueness study commissioned by the applicant in support of the instant application and reviewed by the Board; and

WHEREAS, the applicant also asserts that the building itself is obsolete for conforming uses; and

WHEREAS, in support of its assertion that the building is obsolete, the applicant notes that the existing building, constructed approximately 120 years ago for manufacturing uses, does not have a loading dock or the space to install a loading dock without relocating the existing stair and elevator core within the building and negatively impacting the historic façade of the building, which, as noted, is a contributing building within the NoHo Historic District; and

WHEREAS, the applicant states that the existing wood joists throughout the subject building are insufficient to support any load in excess of 70 PSF, which precludes manufacturing uses; and

WHEREAS, the Board agrees with the applicant that the site's narrow width and irregular shape as well as the obsolescence of the existing building for a conforming use, are unique physical conditions, which, in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, to satisfy ZR § 72-21(b), the applicant assessed the financial feasibility of three scenarios: (1) an as-of-right office building; (2) an as-of-right hotel; and (3) the proposed residential building; and

WHEREAS, the applicant states that an as-of-right office building with a single elevator and insufficient floor plates would provide a capitalized value of \$5.27 million, which is insufficient to offset development costs estimated to be \$16.79 million, and notes the existence of more marketable spaces within the Study Area which have larger floor plates better suited to modern office build-outs; and

WHEREAS, the applicant states that an as-of-right hotel use, which would require the relocation of the elevator to the middle of the building and would provide for 20 hotel rooms, would provide a capitalized value of \$4.36 million, which is insufficient to offset development costs estimated to be \$18.56 million; and

WHEREAS, the applicant states that the proposed residential building will provide for a capitalize value of \$22.67 million, which will adequately offset development costs estimated to be \$20.01 million; and

WHEREAS, the above-noted assertions are supported in a financial feasibility study submitted by the applicant in support of the instant application and reviewed by the Board; and

WHEREAS, based upon its review of the feasibility study, the Board has determined that because of the subject site's unique physical condition, there is no reasonable possibility that development in strict conformance with applicable use requirements will provide a reasonable return; and

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

WHEREAS, the applicant states that the subject block and surrounding area is increasingly characterized by residential uses, and notes that the LPC's designation report for the NoHo Historic District Extension recognizes that the neighborhood has become increasingly residential; and

WHEREAS, the applicant further states that the proposed use of the building is consistent with the abundance of JLWQA lofts in the neighborhood, which provide for residential use within the M1-5B zoning district, and notes that uses immediately adjacent to the Premises include a mixed use retail and condominium building and two buildings with JLWQA unit; and

WHEREAS, the New York City Landmarks Preservation Commission ("LPC") approved of the proposed building by Certificate of Appropriateness No. 16-9063, approved for design only on March 18, 2015; and

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

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the site's unique physical conditions; and

WHEREAS, finally, the Board finds that the proposal is the minimum variance necessary to afford relief, as set forth in ZR § 72-21(e); and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement (“EAS”) CEQR No. 13-BSA-155M, dated May 22, 2014; and

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21, and grants a variance to permit, on a site within an M1-5B zoning district, within the NoHo Historic District Extension, the conversion of a vacant, mixed-use, six-story, non-complying building to a seven-story residential building (Use Group 2), contrary to ZR § 42-00; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received April 13, 2015” – fourteen (14) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 15,190 sq. ft. (5.0 FAR), seven stories, three dwelling units, a maximum lot coverage of 81 percent, a maximum building height of 91’-6”, and a varying rear yard depth, all as indicated on the BSA-approved plans;

THAT the layouts of the dwelling units shall be as reviewed and approved by DOB;

THAT all heating components shall be powered by natural gas and shall comply with applicable New York City laws and regulations with respect to energy and exhaust type, including, without limitation, location of exhaust;

THAT the window/wall construction shall have a sound attenuation rating of 31dBA to ensure a minimum interior noise level of 45 dBA (closed window condition);

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by April

14, 2019;

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

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

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

Adopted by the Board of Standards and Appeals, April 14, 2015.

232-14-BZ CEQR #15-BSA-072K

APPLICANT – Warsaw Burstein, LLP, for Pennsylvania Associates, LLC., owner; Pennsylvania Avenue Fitness Group, LLC, lessee.

SUBJECT – Application September 26, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Planet Fitness*) within a portion of an existing commercial building. M1-1 zoning district.

PREMISES AFFECTED – 946 Pennsylvania Avenue aka 1000 Pennsylvania Avenue, west side of Pennsylvania Avenue between Wortman Avenue and Cozine Avenue, Block 04389, Lot 0001, Borough of Brooklyn.

COMMUNITY BOARD #5BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated September 10, 2014, acting on DOB Application No. 320916960, reads, in pertinent part:

Proposed Physical Culture Establishment is not permitted as-of-right in an M1-1 zoning district per ZR section 42-10 ...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, a physical culture establishment (the “PCE”) on the first story of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 3, 2015 after due notice by publication in the *City Record*, and then to decision on April 14, 2015; and

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

WHEREAS, Community Board 5, Brooklyn, recommends approval of this application; and

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WHEREAS, the subject site is an entire zoning lot comprising an entire block bounded by Pennsylvania Avenue, to east, Georgia Avenue, to the west, Wortman Avenue, to the north, and Cozine Avenue, to the south; the site has a lot area of 225,000 sq. ft. and is located within an M1-1 zoning district, in Brooklyn; and

WHEREAS, the site is occupied by a two-story and cellar commercial use building containing 400,000 sq. ft. of floor area; and

WHEREAS, the Board granted a variance to permit the construction of the building under BSA Cal. No. 243-71-BZ, pursuant to which certain bulk regulations were waived and the required accessory parking for the site was permitted off-site at 850 Georgia Avenue, Brooklyn (Block 4366, Lot 1 [formerly lots 1 and 20]); and

WHEREAS, the PCE will occupy 13,530 sq. ft. of floor area on the building's first floor and will have approximately 94 feet of frontage along Pennsylvania Avenue; and

WHEREAS, the PCE will operate as Planet Fitness; and

WHEREAS, the hours of operation for the PCE will be 24 hours per day, seven days per week; and

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

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

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

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

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

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

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

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-072K, dated September 26, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, a physical culture

establishment (the "PCE") on the first story of a two-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "March 24, 2015," Three (3) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on April 14, 2025;

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

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

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by April 14, 2019;

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

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

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

Adopted by the Board of Standards and Appeals, April 14, 2015.

242-14-BZ

CEQR #15-BSA-080M

APPLICANT – Jay Goldstein, Esq., for Sutton Realty LLC., owner; Halevy Life, Inc., lessee.

SUBJECT – Application October 8, 2014 – Special Permit (§73-36) to allow for operation of a physical culture establishment (*Halevy Life*) on portions of the cellar and first floor. C1-9 zoning district.

PREMISES AFFECTED – 212 East 57th Street, between 3rd Avenue and 2nd Avenue on the south side of 57th Street, Block 1330, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #6M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated October 3, 2014, acting on DOB Application No. 122080504, reads, in pertinent part:

Proposed change of use to a physical culture establishment ... is not permitted as of right in a

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C1-9/R10 zoning district ...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C1-9 zoning district, a physical culture establishment (the "PCE") which currently operates in the cellar and first story of a 24-story mixed use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 3, 2015, after due notice by publication in the *City Record*, and then to decision on April 14, 2015; and

WHEREAS, Community Board 6, Manhattan, recommends approval of this application; and

WHEREAS, the subject site has 56.25 feet of frontage along the south side of East 57th Street, between Third Avenue and Second Avenue, within a C1-9 zoning district, in Manhattan; and

WHEREAS, the site has a depth of approximately 11 feet and contains approximately 5,648 sq. ft. of lot area and is occupied by a 24-story mixed use building with 75,623 sq. ft. of floor area; and

WHEREAS, the PCE occupies 2,032 sq. ft. of floor space in the cellar and 2,580 sq. ft. of floor area on the first floor of the building, for a total floor area of 2,580 sq. ft.; and

WHEREAS, the PCE will operate as Halevy Life; and

WHEREAS, the hours of operation for the PCE will be Monday through Thursday, from 5:00 a.m. to 9:00 p.m., and on Saturday and Sunday from 8:00 a.m. to 5:00 p.m.; and

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

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

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

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

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

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

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

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

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-080M, dated October 7, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site within a C1-9 zoning district, the operation of a PCE on the cellar and first story of a 24-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "April 2, 2015," Five (5) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on November 2, 2024;

THAT all massages at the PCE shall be performed by New York State licensed massage therapists;

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

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

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by April 14, 2019;

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

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

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

Adopted by the Board of Standards and Appeals, April 14, 2015.

30-12-BZ

APPLICANT – Eric Palatnik, P.C., for Don Ricks Associates, owner; New York Mart Group, Inc., lessee.

SUBJECT – Application February 8, 2012 – Remand Back to Board of Standards and Appeals; seeks a judgment vacating the resolution issued on January 15, 2013 and filed on January 17, 2013. R6-/C2-2 zoning district.

PREMISES AFFECTED – 142-41 Roosevelt Avenue, northwest corner of Roosevelt Avenue and Avenue B, Block 5020, Lot 34, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to June 16, 2015, at 10 A.M., for continued hearing.

MINUTES

343-12-BZ

APPLICANT – Akerman Senterfitt, LLP., for Ocean Ave Education Support, Inc., owner.

SUBJECT – Application December 19, 2012 – Variance (§72-21) to permit the construction of a Use Group 3 school (*Brooklyn School for Medically Frail Children*) with dormitory facilities in a split zoning lot, contrary to lot coverage(§24-11), yard requirements (§24-382, §24-393, §24-33) and use regulations (§22-13). R1-2/R7A zoning district.

PREMISES AFFECTED – 570 East 21st Street, between Dorchester Road and Ditmas Avenue, Block 5184, Lot(s) 39, 62, 66, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for continued hearing.

155-13-BZ

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

SUBJECT – Application May 15, 2013 – Variance (§72-21) to permit the enlargement of an existing synagogue (*Congregation Kozover Sichron Chaim Shloime*) and rabbi's residence (UG 4) and the legalization of a Mikvah, contrary to floor area (§24-11), lot coverage (§24-11), wall height and setbacks (§24-521), front yard (§24-34), side yard (§24-35), rear yard (§24-36), and parking (§25-18, 25-31) requirements. R3-2 zoning district.

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

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for continued hearing.

248-13-BZ

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

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

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

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to May 12, 2015, at 10 A.M., for decision, hearing closed.

301-13-BZ

APPLICANT – Eric Palatnik, P.C., for Rabbi Mordechai Jofen, owner.

SUBJECT – Application November 12, 2013 – Variance (72-21) to add three floors to an existing one story and basement UG 4 synagogue for a religious-based college and post graduate (UG 3) with 10 dormitory rooms, contrary to sections 24-11, 24-521, 24-52,24-34(a),24-06. R5B zoning district.

PREMISES AFFECTED – 1502 Avenue N, southeast Corner of East 15th Street and Avenue N, Block 6753, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for decision, hearing closed.

17-14-BZ

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

SUBJECT – Application January 28, 2014 – Variance (§72-21) to add a third and fourth floor to an existing school building (*Congregation Chasidei Belz Beth Malka*), contrary to floor area (§24-11) lot coverage, maximum wall height (§24-521), side yard (§24-35), front yard (§24-34) and rear yard (§24-361) regulations. R5 zoning district.

PREMISES AFFECTED – 600 McDonald Avenue aka 14 Avenue C, aka 377 Dahill Road, south west corner of Avenue C and McDonald Avenue 655', 140'W, 15'N, 100'E, 586'N, 4"E, 54'N, 39.67'East, Block 5369, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #12BK

ACTION OF THE BOARD – Off-Calendar.

31-14-BZ

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

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

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

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to June 16, 2015, at 10 A.M., for continued hearing.

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37-14-BZ

APPLICANT – Eric Palatnik, P.C., for FHM Roosevelt FLP, owner;

Executive Fitness Gym Inc., lessee.

SUBJECT – Application February 28, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Enterprise Fitness Gym*), which will occupy a portion of the second floor of a two story building. C2-3/R6 zoning district.

PREMISES AFFECTED – 86-10 Roosevelt Avenue, west corner of Elbertson Street and Roosevelt Avenue, Block 1502, Lot 6, Borough of Queens.

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

98-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 404-414 Richmond Terrace Inc., owner.

SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the reestablishment of a banquet facility (catering hall -UG 9) with accessory parking. Located in an R5 and R3A zoning districts within the St. George Historic District.

PREMISES AFFECTED – 404 Richmond Terrace, southeast corner of Richmond Terrace and Westervelt Avenue, Block 3, Lot(s) 40, 31, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

127-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Sean Banayan, owner.

SUBJECT – Application June 5, 2014 – Variance (§72-21) to permit construction of a cellar and two-story, two-family dwelling on a vacant lot that does not provide two required side yards, and does not provide two off street parking spaces. R4 zoning district.

PREMISES AFFECTED – 32-41 101st Street, east side of 101st, 180’ north of intersection with Northern Boulevard, Block 1696, Lot 48, Borough of Queens.

COMMUNITY BOARD #3Q

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

146-14-BZ

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

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

PREMISES AFFECTED – 285 Grand Street, south side of Grand Street approximately 25’ west of the intersection

formed by Grand Street and Eldridge Street, Block 306, Borough of Manhattan.

COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for decision, hearing closed.

169-14-BZ

APPLICANT – Jay Goldstein, Esq., for Midyan Gate Reality No. 3 LLC., owner.

SUBJECT – Application July 21, 2014 – Special Permit (§73-19) to allow a pre-school and child care services (Use Group 3) (*Inner Force Y*) within the existing building. M1-1 Ocean Parkway Special Zoning District.

PREMISES AFFECTED – 325 Avenue Y, southwest corner of Avenue Y between Shell Road and West 3rd Street, Block 7192, Lot 46, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to June 2, 2015, at 10 A.M., for continued hearing.

289-14-BZ

APPLICANT – Sheldon Lobel, P.C., 22-32 31st Street LLC, owner.

SUBJECT – Application November 6, 2015 – Special Permit (§73-42) to extend the conforming Use Group 6 restaurant use located partially within a C4-2A zoning district into the adjacent R5B zoning district.

PREMISES AFFECTED – 22-32/36 31st Street, located on the west side of 31st Street. Block 844, Lot 49, 119, 149. Borough of Queens.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to May 19, 2015, at 10 A.M., for decision, hearing closed.

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**REGULAR MEETING
TUESDAY AFTERNOON, APRIL 14, 2015
1:00 P.M.**

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

ZONING CALENDAR

29-14-BZ

APPLICANT – Lewis Garfinkel for Leon Goldenberg,
owner.

SUBJECT – Application February 11, 2014 – Special
Permit (§73-622) for the enlargement of an existing single
family home contrary to floor area and open space (ZR 23-
14a); side yards (ZR 23-461) and less than the required rear
yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1255 East 27th Street, East side
of East 27th Street, 325 feet from the North corner of
Avenue M. Block 7645, Lot 25. Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to June 2,
2015, at 10 A.M., for continued hearing.

182-14-BZ

APPLICANT – Eric Palatnik, PC, for Izhak Lati, owner.

SUBJECT – Application August 5, 2014 – Special Permit
(§73-622) for the enlargement of an existing single family,
two story dwelling contrary to floor area (ZR 23-141(b));
side yards (ZR 23-461) and less than the minimum rear yard
(ZR 23-47). R5 zoning district.

PREMISES AFFECTED – 1977 Homecrest Avenue,
between Avenue "S" and Avenue "T", Block 7291, Lot 136,
Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to June 23,
2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

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CORRECTION

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

300-12-BZ

CEQR #13-BSA-049M

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

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

PREMISES AFFECTED – 36 West 93rd Street aka 33 West 92nd Street, between Central Park West and Columbus Avenue, Block 1206, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, the applicant notes that the School also

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, the applicant asserts that the existing building is too small to accommodate the organization of the school with lower, middle and upper divisions, as it was not

designed to accommodate the necessary classrooms and ancillary space needed for a middle division; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, the applicant represents that the variance, if granted, will not alter the essential character of the

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

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

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

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

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

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

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

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

WHEREAS, in response to concerns raised by the Community Board regarding the potential impact on the light and air to the immediately adjacent buildings along West 92nd Street, the proposed fourth floor (which contains mechanical

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

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

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

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

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

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

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

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

detrimental to the public welfare; and

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

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

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

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

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

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

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

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R7-2 zoning district within the Upper West Side/Central Park West Historic District, the enlargement of an existing school building, which does not comply with zoning regulations for lot coverage, permitted obstruction, rear yard equivalent, encroachment into the required initial setback distance, width and height of street wall, and side yard, contrary to ZR §§ 24-11, 24-382, 24-33, 24-522, 23-692, and

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24-35, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received October 3, 2014”– fourteen (14) sheets; and *on further condition*:

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

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

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

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

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

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

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

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

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

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

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

The resolution has been amended to correct the tax lot number which read “Lot 50”...now reads: “Lot 20”. Corrected in Bulletin Nos. 16-17, Vol. 100, dated April 22, 2015.