

---

# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:  
40 Rector Street, 9th Floor, New York, N.Y. 10006.

---

Volume 97, No. 11

March 14, 2012

---

### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

**CHRISTOPHER COLLINS, *Vice-Chair***

**DARA OTTLEY-BROWN**

**SUSAN M. HINKSON**

**EILEEN MONTANEZ**

*Commissioners*

**Jeffrey Mulligan, *Executive Director***

**Becca Kelly, *Counsel***

---

<b>OFFICE -</b>	<b>40 Rector Street, 9th Floor, New York, N.Y. 10006</b>
<b>HEARINGS HELD -</b>	<b>40 Rector Street, 6th Floor, New York, N.Y. 10006</b>
<b>BSA WEBPAGE @</b>	<b><a href="http://www.nyc.gov/html/bsa/home.html">http://www.nyc.gov/html/bsa/home.html</a></b>

<b>TELEPHONE - (212) 788-8500</b>
<b>FAX - (212) 788-8769</b>

### CONTENTS

DOCKET .....	171
<b>CALENDAR</b> of March 27, 2012	
Morning .....	172
Afternoon .....	173

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, March 6, 2012**

Morning Calendar .....174

**Affecting Calendar Numbers:**

352-69-BZ            411 Vanderbilt Avenue, Brooklyn  
548-79-BZ            247-251 West 29<sup>th</sup> Street, Manhattan  
433-61-BZ            1702-12 East 16<sup>th</sup> Street, Brooklyn  
997-84-BZ            800 Union Street, Brooklyn  
271-90-BZ            68-01/5 Queens Boulevard, Queens  
162-95-BZ &  
  163-95-BZ            3060 & 3074 Westchester Avenue, Bronx  
149-11-A thru        1789, 1793 & 1797 St. John's Place, Brooklyn  
  151-11-A  
155-11-A            480 Stratford Road, Brooklyn  
162-11-A            179 Ludlow Street, Manhattan

Afternoon Calendar .....178

**Affecting Calendar Numbers:**

76-11-BZ            2263 East 2<sup>nd</sup> Street, Brooklyn  
87-11-BZ            159 Exeter Street, Brooklyn  
130-11-BZ            3600 Bedford Avenue, Brooklyn  
159-11-BZ            212-01 26<sup>th</sup> Avenue, Queens  
179-11-BZ            65-45 Otto Road, Queens  
184-11-BZ            945 East 23<sup>rd</sup> Street, Brooklyn  
188-11-BZ            286 Spring Street, Manhattan  
21-11-BZ            1810 Voorhies Avenue, Brooklyn  
112-11-BZ            2994/3018 Cropsey Avenue, Brooklyn  
177-11-BZ            601 East 156<sup>th</sup> Street, aka 800 St. Ann's Avenue, Bronx  
195-11-BZ            2070 East 21<sup>st</sup> Street, Brooklyn  
4-12-BZ            432-440 Park Avenue, Manhattan

---

# DOCKET

---

New Case Filed Up to March 6, 2012  
-----

**46-12-A**

4215 Park Avenue, north side of East Tremont Avenue, between Park and Webster Avenues., Block 3027, Lot(s) 1, Borough of **Bronx, Community Board: 6**. Application to permit the proposed mixed use development which rests partially within the bed of the mapped but unbuilt portion of East Tremont Avenue contrary to General City Law Section 35 . C4-5X(R7X) Zoning District C4-5X district.  
-----

**47-12-A**

22 Lewiston Street, west side of Lewiston Street, 530.86' north of intersection with Travis Avenue., Block 2370, Lot(s) 238, Borough of **Staten Island, Community Board: 2**. Appeal seeking determination that the Department of Buildings improperly denied application for permit for new building based on erroneous decision that proposed building did not qualify for rear yard reduction pursuant to Z.R.§23-52. R3-1(LDGMA) district.  
-----

**48-12-BZ**

336 West 37th Street, South side of West 37th Street between Eighth and Ninth Avenues, Block 760, Lot(s) 63, Borough of **Manhattan, Community Board: 04**. Variance (§72-21) to permit the legalization of an existing 14-story commercial building primarily as Use Group 6 offices. C6-4 (GC, P2) zoning district C6-4 (GC, P2) district.  
-----

**49-12-BZ**

34-09 Francis Lewis Boulevard, northeast corner of Francis Lewis Boulevard and 34th Avenue, Block 6077, Lot(s) 1, Borough of **Queens, Community Board: 11**. Special Permit (§73-36) to permit the operation of a physical culture establishment in a portion of an existing one-story commercial building. C2-2/R5B zoning district C2-2/R5B district.  
-----

**50-12-BZ**

177-90 South Conduit Avenue, south side of South Conduit Avenue, 229.83' west of corner of South Conduit Avenue and Farmers Boulevard., Block 13312, Lot(s) 146, Borough of **Queens, Community Board: 13**. Proposed one story commercial retail building (Use Group 6) in an R3-2 zoning district is contrary to 22-00 Z.R. R3-2 district.  
-----

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

---

# CALENDAR

---

**MARCH 27, 2012, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, March 27, 2012, 10:00 A.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

-----  
**SPECIAL ORDER CALENDAR**

**389-37-BZ**

APPLICANT – The Law Office of Fredrick A. Becker, for Rosemarie Fiore and George Fiore.

SUBJECT – Application February 22, 2012 – Extension of Time to obtain a Certificate of Occupancy of previously granted variance for the operation of a UG8 parking lot which expired on May 11, 2011; Waiver of the Rules. R5/C1-2 zoning district.

PREMISES AFFECTED –31-08 to 31-12 45<sup>th</sup> Street, southwest corner of 45<sup>th</sup> Street and 31<sup>st</sup> Avenue, Block 710, Lot 1, Borough of Queens.

**COMMUNITY BOARD #1Q**

-----

**21-01-BZ**

APPLICANT – Troutman Sanders, LLP, for Mattone Group Jamaica Co., LLC, owner; Bally's Total Fitness of Greater New York, lessee.

SUBJECT – Application January 23, 2012 – Extension of Term of a special permit (§73-36) for the continued operation of a physical culture establishment (Bally Total Fitness) which expired on May 22, 2011. C6-3 (DJ) zoning district.

PREMISES AFFECTED – 159-02 Jamaica Avenue, 160<sup>th</sup> Street, Block 10100, Lot 1, Borough of Queens.

**COMMUNITY BOARD #12Q**

-----

**77-05-BZ**

APPLICANT – Wachtel & Masyr, LLP, for Jack Ancona, owner.

SUBJECT – Application February 21, 2012 – Extension of Time to Complete Construction of a previously granted Variance (ZR §72-21) to permit the construction of a twelve-story mixed use building, containing residential (UG2) and retail uses (UG6) which expired on February 28, 2010; waiver of the rules. M1-6 zoning district.

PREMISES AFFECTED – 132 West 26<sup>th</sup> Street, between Avenue of the Americas and Seventh Avenue, Block 801, Lot 60, Borough of Manhattan.

**COMMUNITY BOARD #4M**

-----

**187-10-BZ**

APPLICANT – NYC Board of Standards and Appeals

OWNER – Ranjit S. Atwal

SUBJECT – Application October 5, 2010 – Dismissal for lack of Prosecution – Variance (§72-21) to permit the legalization of a three family building which does not comply with the side yard zoning requirements (ZR §23-462(c)). R6B zoning district.

PREMISES AFFECTED – 40-29 72<sup>nd</sup> Street, between Roosevelt Avenue and 41<sup>st</sup> Avenue, Block 1304, Lot 16, Borough of Queens.

**COMMUNITY BOARD #2Q**

-----

**APPEALS CALENDAR**

**122-11-A**

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Mitchell Pacifico, owner.

SUBJECT – Application August 23, 2011 – Proposed construction of a one family dwelling located partially within the bed of a mapped street contrary to General City Law Section 35. R3-1 Zoning District.

PREMISES AFFECTED – 5 Bement Avenue, southeast corner of Bement Avenue and Richmond Terrace, Block 150, Lot 4, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

-----

**163-11-A**

APPLICANT – FDNY, for Badem Buildings, owner.

SUBJECT – Application October 17, 2011 – Application filed by the Fire Department seeking a modification of the existing Certificate of Occupancy to provide additional fire safety measures in the form of a wet sprinkler system throughout the entire building.

PREMISES AFFECTED – 469 West 57<sup>th</sup> Street, between 9<sup>th</sup> and 10<sup>th</sup> Avenue, Block 1067, Lot 4, Borough of Manhattan.

**COMMUNITY BOARD #4M**

-----

---

# CALENDAR

---

**MARCH 27, 2012, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, March 27, 2012, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

-----  
**ZONING CALENDAR**

**71-11-BZ**

APPLICANT – Sheldon Lobel, P.C., for Masjid Al-Taufiq, Inc., owner.

SUBJECT – Application May 23, 2011 – Variance (§72-21) to legalize the conversion of a mosque (*Masjid Al-Taufiq*). R4 Zoning District.

PREMISES AFFECTED – 41-02 Forley Street, northeast corner of the intersection formed by Forley Street and Britton Avenue, Block 1513, Lot 6, Borough of Queens.

**COMMUNITY BOARD #4Q**

-----

**183-11-BZ**

APPLICANT – Friedman & Gotbaum, LLP by Shelly S. Friedman, Esq., for S.K.I. Realty, Inc., owner; Memorial Hospital for cancer and Allied Diseases, lessee.

SUBJECT – Application December 5, 2011 – Variance (§72-21) to allow for the construction of a new outpatient surgical center (*Memorial Hospital for Cancer and Allied Diseases*) contrary to maximum floor area ratio (ZR§33-123); rear yard (ZR §33-261) height and setback regulations (ZR§33-432); curb cut (ZR§13-142) and signage (ZR §§32-643 & 32-655) C1-9/C8-4 zoning districts.

PREMISES AFFECTED – 1133 York Avenue, north side of east 61<sup>st</sup> Street, westerly from the corner formed by the intersection of the northerly side of East 61<sup>st</sup> Street and the westerly side of York Avenue, Block 1456, Lot 21, Borough of Manhattan.

**COMMUNITY BOARD #8M**

-----

**193-11-BZ**

APPLICANT – Eric Palatnik, P.C., for Aleksandr Falikman, owner.

SUBJECT – Application December 21, 2011 – Special Permit (§73-622) for an enlargement of an existing single family home contrary to floor area, open space and lot coverage (§23-141(b)); less than the minimum side yard (§23-461) and less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 215 Exeter Street, Oriental Boulevard and Esplanade, Block 8743, Lot 42, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

-----

*Jeff Mulligan, Executive Director*

# MINUTES

## REGULAR MEETING TUESDAY MORNING, MARCH 6, 2012 10:00 A.M.

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

### SPECIAL ORDER CALENDAR

#### 352-69-BZ

APPLICANT – Sheldon Lobel, P.C., for Dr. Alan Burns,  
owner.

SUBJECT – Application September 29, 2011 – Extension of  
Term (§72-21) of a Variance for the continued operation of  
a UG16 animal hospital (*Brooklyn Veterinary Hospital*)  
which expired on September 30, 1999; Waiver of the Rules.  
R6B zoning district.

PREMISES AFFECTED – 411 Vanderbilt Avenue, east side  
of Vanderbilt Avenue between Greene and Gates Avenue,  
Block 1960, Lot 28, Borough of Brooklyn.

#### COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Jordan Most.

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

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a reopening, a  
waiver, and an extension of term for the continued use of the  
site as an animal hospital (Use Group 16), which expired on  
September 30, 1999; and

WHEREAS, a public hearing was held on this  
application on January 10, 2012, after due notice by  
publication in *The City Record*, with a continued hearing  
February 7, 2012, and then to decision on March 6, 2012; and

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

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

WHEREAS, the site is located on the east side of  
Vanderbilt Avenue between Greene Avenue and Gates  
Avenue, within an R6B zoning district; and

WHEREAS, the site has 55 feet of frontage on  
Vanderbilt Avenue, a depth of 70 feet, and a total lot area of  
3,861 sq. ft.; and

WHEREAS, the site is occupied by a two-story building  
with an animal hospital (Use Group 16) at the first floor and  
residential use above; and

WHEREAS, the Board has exercised jurisdiction over  
the subject site since September 30, 1969 when, under the  
subject calendar number, the Board granted a variance to  
permit the change in occupancy of an existing one-story  
building from a machine shop and electrical repair shop to  
an animal hospital, for a term of ten years; and

WHEREAS, subsequently, the grant has been  
amended and the term extended by the Board at various  
times; and

WHEREAS, most recently, on June 12, 1990, the  
Board granted an amendment to legalize changes to the  
interior design and layout and the construction of an open  
storage shed in the rear yard, and an extension of term for  
ten years from the expiration of the prior grant, to expire on  
September 30, 1999; and

WHEREAS, the applicant now requests an additional  
ten-year extension of term; and

WHEREAS, at hearing, the Board directed the  
applicant to provide evidence in support of its representation  
that the subject animal hospital has been operating  
continuously on the site since the Board's last extension of  
term grant in 1990; and

WHEREAS, in response, the applicant submitted (1)  
an affidavit from the owner stating that he has worked at or  
owned the site since 1995 and the animal hospital use has  
operated continuously since that time; (2) W-2 forms for tax  
years 1995 and 1996 reflecting the current owner was  
employed by the animal hospital during those years; (3)  
copies of deeds reflecting the transfer in interest to the  
current owner of the site; and (4) an affidavit stating that the  
applicant researched the business telephone numbers  
maintained at the subject site from 1990 to the present and  
that The Cole's Cross Reference Directory showed that the  
animal hospital maintained an operating phone line at the  
site since 1990; and (5) photographs of the relevant pages  
from the Cole's directory; and

WHEREAS, the Board finds that the evidence  
submitted by the applicant is sufficient to establish that the  
animal hospital has operated continuously at the site since  
the Board's last extension of term grant in 1990; and

WHEREAS, the Board also raised questions regarding  
the use of the kennels at the rear of the site and whether  
overnight care for animals is provided at the site, which may  
result in noise during the overnight hours; and

WHEREAS, in response, the applicant states that the  
kennels at the rear of the site are only used temporarily  
when cleaning the interior of the site; and

WHEREAS, the applicant further states that typically  
animals that require overnight treatment are transferred to a  
separate facility, and animals are only kept at the site  
overnight if their status is critical and transfer to another  
facility could jeopardize their health, which only occurs  
once every four to six weeks; and

WHEREAS, the applicant further states that when  
overnight treatment is required at the site, the animals are  
monitored by one of the animal hospital's veterinary  
technicians, who resides in one of the upstairs apartments;  
and

# MINUTES

WHEREAS, since animals are rarely kept for overnight treatment at the site, the applicant states that the noise during the overnight hours has not been an issue; and

WHEREAS, based upon the above, the Board finds that the requested ten-year extension of term is appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated September 30, 1969, so that as amended this portion of the resolution shall read: “to extend the term for ten years from the date of the grant, to expire on March 6, 2022; *on condition* that all use and operations shall substantially conform to plans filed with this application marked Received ‘September 29, 2011’-(4) sheets; and *on further condition*:

THAT the term of the grant will expire on March 6, 2022;

THAT the above condition will be reflected on the certificate of occupancy;

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (Alt. 632-69)

Adopted by the Board of Standards and Appeals March 6, 2012.

-----

## 548-79-BZ

APPLICANT – Bryan Cave LLP, for 249 West 29 Owners Corp.

SUBJECT – Application December 2, 2011 – Amendment of a previously approved variance (§72-21) which permitted residential use (UG2) on floors 3 through 15. Application seeks to legalize residential use on the 2nd floor, contrary to use regulations §42-481. M1-6D zoning district.

PREMISES AFFECTED – 247-251 West 29<sup>th</sup> Street, north side of West 29<sup>th</sup> Street, 170’ east of 8<sup>th</sup> Avenue, Block 779, Lot 10, 12, Borough of Manhattan.

## COMMUNITY BOARD #5M

### APPEARANCES –

For Applicant: Margery Perlmutter.

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

### THE VOTE TO GRANT –

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

### THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously granted variance which permitted

the conversion of all floors above the second floor of a 15-story commercial and manufacturing building to residential use, contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on February 14, 2012, after due notice by publication in *The City Record*, and then to decision on March 6, 2012; and

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

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

WHEREAS, the subject site is located on the north side of West 29<sup>th</sup> Street between Seventh Avenue and Eighth Avenue, within an M1-6D zoning district; and

WHEREAS, the applicant notes that the site was formerly located within an M1-5 zoning district, but on September 21, 2011, the City Council rezoned the site to M1-6D; and

WHEREAS, the site has 75 feet of frontage on West 29<sup>th</sup> Street, a depth of 100 feet, and a lot area of 7,500 sq. ft.; and

WHEREAS, the site is occupied by a 50-ft. wide 15-story building at 249 West 29<sup>th</sup> Street (the “249 Building”) and an adjoining 25-ft. wide, two-story building at 247 West 29<sup>th</sup> Street (the “247 Building”) (together, the “Building”); and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 15, 1980 when, under the subject calendar number, the Board granted a variance pursuant to ZR § 72-21, which permitted the conversion of all floors above the second floor of the commercial and manufacturing building to residential use, contrary to ZR § 42-00; and

WHEREAS, subsequently, the grant was amended on several occasions to permit changes in the number of dwelling units on certain floors, changes to the interior layout of the Building, and the addition of a greenhouse on the exterior balcony of the tenth floor; and

WHEREAS, the applicant now seeks to amend the grant to permit the further conversion of the three commercial units on the second floor to residential use; and

WHEREAS, the applicant states that the original variance requested conversion of the second floor of the Building, which at the time was occupied by an active conforming use, to residential as well, however the Board excluded the second floor from the variance approval; and

WHEREAS, the applicant states that in the years since the variance was granted, the owners of the three units on the second floor have had difficulty finding long-term replacement tenants, and all of the commercial spaces on the second floor are now occupied as live-work spaces; and

WHEREAS, the applicant represents that converting the second floor to residential use is necessary to provide a reasonable return because the owners are unlikely to find commercial tenants for the second floor units for the following reasons: (1) the floor plates and size of the units at the second floor are too small to be attractive to many manufacturing or commercial uses; (2) the layout of the second floor imposes hardships on the suitability and marketability of that floor for

---

# MINUTES

---

conforming uses; and (3) there is only one lobby and elevator for both the residential and commercial tenants, which creates access, egress, and security issues; and

WHEREAS, as to the physical structure of the Building, the applicant states that the Building has small floor plates with units containing less than 2,100 sq. ft. each, and are too small to accommodate the types of commercial and manufacturing uses that operate in the surrounding area; and

WHEREAS, the Board notes that the unique building conditions, which support the findings for the original variance for the third through 15<sup>th</sup> floors, namely that those floors were not viable for a conforming use due to the building's inadequate floor plates, there was a lack of interest in such spaces for commercial use, and the decline of the manufacturing sector in the area that led to extensive vacancies, also apply to the second floor; and

WHEREAS, as to the layout of the second floor, the applicant notes that the second floor of the 249 Building is 50 feet wide and approximately 88 feet deep (4,400 sq. ft.), and is occupied by two of the second floor units, while the second floor of the 247 Building is 25 feet wide and approximately 88 feet deep (2,210 sq. ft.), and is occupied by one of the second floor units; and

WHEREAS, the applicant states that for structural reasons there is a four-ft. wide penetration through the party wall that connects the 249 Building and the 247 Building, which separates the first and second floors of the Building into two parts; and

WHEREAS, the applicant further states that the opening in the party wall to allow access between the 247 Building and the 249 Building is limited by structural considerations, so it is not possible to treat the two portions as a single contiguous 6,610 sq. ft. space, which would be more marketable for conforming uses; and

WHEREAS, the applicant states that the elevator and stair cores, which occupy approximately 1,120 sq. ft., are located in the 249 Building and are the only means of access to the unit in the 247 Building; and

WHEREAS, the applicant represents that installing separate stairs and an elevator in the 247 Building solely to access one unit would be cost prohibitive and would significantly reduce the size of the retail space on the first floor, further reducing the Building's revenue; and

WHEREAS, as to the access issues, the applicant states that there is only one passenger elevator, while the freight elevator is manually operated and there is no full-time elevator operator on staff because it is cost prohibitive; and

WHEREAS, the applicant states that because visitors and employees of the commercial tenants at the second floor cannot use the manual freight elevator and there is no full-time elevator operator, commercial and residential tenants must share a common lobby and elevator, which results in an inappropriate mixing of public and private occupancies that poses a significant security risk to residential tenants; and

WHEREAS, the applicant represents that modification of the existing service corridor to provide separate, 36-inch wide clear access into the building by commercial tenants and their guests would require redirecting service risers and flues, re-

purposing a portion of the existing disused elevator shaft into a lobby area in order to be ADA-accessible, and converting the existing freight elevator from manual to automatic which would cost in excess of \$415,000; and

WHEREAS, as noted above, the subject site was rezoned from an M1-5 zoning district to an M1-6D zoning district on September 21, 2011; and

WHEREAS, the applicant states that in M1-6D zoning districts, ZR § 42-481 permits residential use in existing buildings where the building to be converted contains less than 40,000 sq. ft. of floor area; and

WHEREAS, however, the applicant notes that the Building contains approximately 62,500 sq. ft. of floor area and therefore is not eligible for as-of-right residential conversion pursuant to ZR § 42-481; and

WHEREAS, the applicant represents that the recent rezoning of the site to M1-6D reflects that residential uses are consistent with the surrounding neighborhood, which is characterized by a mix of manufacturing, commercial and residential uses; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may permit an amendment to an existing variance; and

WHEREAS, based upon its review of the evidence, the Board finds that the requested amendment is appropriate, with certain conditions set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated January 15, 1980, so that as amended this portion of the resolution shall read: "to permit the noted modification to the plans to reflect the conversion of the second floor to residential use, contrary to ZR § 42-481; *on condition* that all work shall substantially conform to drawings filed with this application and marked "Received December 2, 2011"-(4) sheets; and *on further condition*:

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

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

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

(DOB Application No. 120883491)

Adopted by the Board of Standards and Appeals, March 6, 2012.

-----  
**433-61-BZ**

APPLICANT – Harold Weinberg, for Shin J. Yoo, owner.  
SUBJECT – Application November 28, 2012 – Extension of Term (§11-411) of a variance which permitted a one story and mezzanine retail building, contrary to use regulations; Waiver of the Rules. R7A zoning district.

PREMISES AFFECTED – 1702-12 East 16<sup>th</sup> Street, between Quentin Road and Avenue R. Block 6798, Lot 13, Borough of Brooklyn.

# MINUTES

## COMMUNITY BOARD #15BK

### APPEARANCES –

For Applicant: Frank Sellitto and Harold Weinberg.

**ACTION OF THE BOARD** – Laid over to April 3, 2012, at 10 A.M., for continued hearing.

-----

## 997-84-BZ

APPLICANT – Akerman Senterfitt, for 222 Union Associates, owner; Central Parking System of New York, Inc., lessee.

SUBJECT – Application February 6, 2012 – Extension of Time to obtain a Certificate of Occupancy for an existing six story public parking garage with an automobile rental establishment which expired on June 4, 2008; waiver of the rules. R6A zoning district.

PREMISES AFFECTED – 800 Union Street, southside of Union Street between 6<sup>th</sup> and 7<sup>th</sup> Avenues, Block 957, Lot 29, Borough of Brooklyn.

## COMMUNITY BOARD #6BK

### APPEARANCES –

For Applicant: Jessica A. Loeser.

**ACTION OF THE BOARD** – Laid over to April 3, 2012, at 10 A.M., for continued hearing.

-----

## 271-90-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for EPT Realty Corp., owner.

SUBJECT – Application October 11, 2011 – Extension of Term (§11-411) for the continued operation of a UG16 automotive repair shop with used car sales which expired on October 29, 2011. R7X/C2-3 zoning district.

PREMISES AFFECTED – 68-01/5 Queens Boulevard, northeast corner of intersection of Queens Boulevard and 68<sup>th</sup> Street, Block 1348, Lot 53, Borough of Queens.

## COMMUNITY BOARD #2Q

### APPEARANCES –

For Applicant: Todd Dale.

**ACTION OF THE BOARD** – Laid over to April 24, 2012, at 10 A.M., for continued hearing.

-----

## 162-95-BZ & 163-95-BZ

APPLICANT – Sheldon Lobel, P.C., for Salvatore Bonavita, owner; Pelham Bay Fitness Group, LLC, lessee.

SUBJECT – Application April 3, 2011 – Extension of Term to permit the continued operation of a Physical Cultural Establishment (*Planet Fitness*) which expired on July 30, 2006; Amendment to increase the floor area of the establishment. Waiver of the rules. C2-4/R6 and R7-1 zoning district.

PREMISES AFFECTED – 3060 & 3074 Westchester Avenue, Southern side of Westchester Avenue between Mahan Avenue and Hobart Avenue. Block 4196, Lots 9, 11 & 13, Borough of Bronx.

## COMMUNITY BOARD #10BX

### APPEARANCES –

For Applicant: Jordan Most.

**ACTION OF THE BOARD** – Laid over to March 27, 2012, at 10 A.M., for adjourned hearing.

-----

## APPEALS CALENDAR

### 149-11-A thru 151-11-A

APPLICANT – Sheldon Lobel, P.C., for Eastern 7 Inc., owner.

SUBJECT – Application September 16, 2011 – Appeal pursuant to NYC Charter §666.7 to permit construction of three, two-family homes within 30'-0" of the street line of Eastern Parkway, contrary to Administrative Code §18-112 and New York City Building Code §3201.3.1. R6 zoning district.

PREMISES AFFECTED – 1789, 1793 & 1797 St. John's Place, northeast corner of intersection formed by St. John's Place and Eastern Parkway, Block 1471, Lot 65, 67, 68, Borough of Brooklyn.

## COMMUNITY BOARD #16BK

### APPEARANCES –

For Applicant: Jordan Most.

### THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to March 27, 2012, at 10 A.M., for decision, hearing closed.

-----

### 155-11-A

APPLICANT – Sheldon Lobel, P.C., for 10 Stratford Associates, owners.

SUBJECT – Application October 3, 2011 – Appeal seeking a common law vested right to continue construction commenced under the prior R6 zoning district regulations. R3X zoning district.

PREMISES AFFECTED – 480 Stratford Road, west side of Stratford Road, through to Coney Island Avenue between Dorchester and Ditmas Avenue, Block 5174, Lot 16, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

### APPEARANCES –

For Applicant: Jordan Most.

**ACTION OF THE BOARD** – Laid over to April 3, 2012, at 10 A.M., for continued hearing.

-----

### 162-11-A

APPLICANT – Akerman Senterfitt, LLP, for 179 Ludlow Holding LLC, owners.

SUBJECT – Application October 17, 2011 – Appeal seeking a common law vested right to continue construction commenced under prior C6-1 zoning district regulations. C4-4A zoning district.

# MINUTES

PREMISES AFFECTED – 179 Ludlow Street, western side of Ludlow on a block bounded by Houston to the north and Stanton to the south, Block 412, Lot 26, Borough of Manhattan.

**COMMUNITY BOARD #3M**

APPEARANCES –

For Applicant: Jordan Most.

**ACTION OF THE BOARD** – Laid over to April 3, 2012, at 10 A.M., for continued hearing.

-----

**REGULAR MEETING**

**TUESDAY AFTERNOON, MARCH 6, 2012**

**1:30 P.M.**

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

-----

**ZONING CALENDAR**

**76-11-BZ**

**CEQR #11-BSA-103K**

APPLICANT – Sheldon Lobel, P.C., for Mr. Eli Braha, owner.

SUBJECT – Application May 26, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (§23-141); rear yard (§23-47) and side yard (§23-461). R4/Ocean Parkway zoning district.

PREMISES AFFECTED – 2263 East 2<sup>nd</sup> Street, approximately 235’ south of Gravesend Neck Road, Block 7154, Lot 68, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Nora Martins.

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

**THE VOTE TO GRANT** –

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

**THE RESOLUTION** –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 25, 2011, acting on Department of Buildings Application No. 320292811, reads in pertinent part:

- ZR 23-141(b) Proposed floor area exceeds permitted
- ZR 23-141(b) Proposed lot coverage exceeds permitted
- ZR 23-141 Proposed open space is less than required
- ZR 23-47 Proposed rear yard is less than

required

ZR 23-461 Proposed side yard is less than required; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R4 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space, lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on October 18, 2011, after due notice by publication in *The City Record*, with continued hearings on November 22, 2011, January 10, 2012 and February 7, 2012, and then to decision on March 6, 2012; and

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

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

WHEREAS, the subject site is located on the east side of East 2<sup>nd</sup> Street, between Avenue W and Gravesend Neck Road, within an R4 zoning district; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with a floor area of 2,970 sq. ft. (0.74 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,970 sq. ft. (0.74 FAR) to 4,969 sq. ft. (1.24 FAR); the maximum permitted floor area is 3,000 sq. ft. (0.75 FAR); and

WHEREAS, the applicant proposes to provide an open space of 51 percent (55 percent is the minimum required); and

WHEREAS, the applicant proposes to provide lot coverage of 49 percent (45 percent is the maximum permitted); and

WHEREAS, the applicant proposes to maintain the existing side yard along the northern lot line with a width of 3’-1¼” (a minimum width of 5’-0” is required for each side yard) and to provide a side yard with a width of 8’-0” along the southern lot line; and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 20’-0” (a minimum rear yard depth of 30’-0” is required); and

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

WHEREAS, the Board notes that the applicant’s original proposal stated that the proposed home had a floor area of 4,545 sq. ft. (1.15 FAR); and

WHEREAS, the applicant states that, in response to concerns raised by the Board during the hearing process, the applicant discovered that one of the proposed dormers encroached into the sky exposure plane, requiring a redesign of

---

# MINUTES

---

the attic and roof to ensure compliance; and

WHEREAS, the applicant represents that, after redesigning the attic floor plan the architect recalculated the floor area for the home and included certain walled-off areas of the attic not previously counted in the zoning calculations, pursuant to recent DOB policies regarding calculation of attic floor area, which resulted in a change in the floor area from 4,545 sq. ft. (1.15 FAR) to 4,969 sq. ft. (1.24 FAR); and

WHEREAS, the applicant states that, although the floor area is higher than what was originally proposed, the overall envelope of the home has actually been reduced, and is smaller than that approved by the Community Board; and

WHEREAS, the applicant performed a survey which reflected that there are 20 homes out of 657 homes within a 1,000-ft. radius of the site that have a floor area in excess of the proposed 4,969 sq. ft.; and

WHEREAS, the applicant states that three other homes on the subject block were enlarged pursuant to the special permit under ZR § 73-622, and that the subject homes had FARs of 1.22, 1.32 and 1.34, respectively, and therefore the proposed FAR of 1.24 is consistent with the nature of residential development in the surrounding area; and

WHEREAS, the applicant notes that a block like the subject block entirely within an R4 zoning district may be eligible for the predominantly built-up regulations, which include an increased floor area of 1.35 FAR as-of-right, but because the existing front yard of 9'-4¾" does not satisfy the minimum depth of 18'-0", the predominantly built-up area regulations cannot be applied to the subject site, thus the floor area request is required; and

WHEREAS, during the course of the hearing process, the Board directed the applicant to clarify whether the lowest floor is properly classified as a cellar or a basement; and

WHEREAS, in response, the applicant submitted revised plans reflecting that the lowest floor fits the definition of a cellar and is therefore excluded from floor area calculations; and

WHEREAS, at the Board's direction the applicant also submitted revised plans that clearly depict which portions of the home are being retained, and note that the proposed parking spaces are subject to Department of Buildings ("DOB") approval; and

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

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to

be made under ZR §§ 73-622 and 73-03.

*Therefore it is resolved,* that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R4 zoning district, the enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space, lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received January 27, 2012"-(14) sheets; and *on further condition:*

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,969 sq. ft. (1.24 FAR); lot coverage of 49 percent; an open space of 51 percent; a front yard with a minimum depth of 9'-4¾"; a side yard with a minimum width of 3'-1¼" along the northern lot line; a side yard with a minimum width of 8'-0" along the southern lot line; and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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

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

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

Adopted by the Board of Standards and Appeals, March 6, 2012.

-----

## **87-11-BZ**

### **CEQR #11-BSA-107K**

APPLICANT – Eric Palatnik, P.C., for Leonid Vayner, owner.

SUBJECT – Application June 21, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (23-141(b)). R3-1 zoning district.

PREMISES AFFECTED – 159 Exeter Street, between Hampton Street and Oriental Boulevard, Block 8737, Lot 26, Borough of Brooklyn.

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

APPEARANCES –

For Applicant: Todd Dale.

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

---

# MINUTES

---

## THE VOTE TO GRANT –

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

## THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough  
Commissioner, dated April 26, 2011, acting on Department  
of Buildings Application No. 320297541, reads in pertinent  
part:

The proposed horizontal and vertical enlargement  
of the existing one family residence in an R3-1  
zoning district:

1. Creates a new non-compliance with respect to  
lot coverage and is contrary to Section 23-  
141(b) of the Zoning Resolution (ZR).
2. Creates a new non-compliance with respect to  
floor area and is contrary to Section 23-141(b)  
ZR.
3. Creates a new non-compliance with respect to  
open space and is contrary to Section 23-  
141(b) ZR; and

WHEREAS, this is an application under ZR §§ 73-622  
and 73-03, to permit, in an R3-1 zoning district, the  
proposed enlargement of a single-family home, which does  
not comply with the zoning requirements for floor area,  
open space, and lot coverage, contrary to ZR § 23-141; and

WHEREAS, a public hearing was held on this  
application on January 10, 2012, after due notice by  
publication in *The City Record*, with a continued hearing on  
February 14, 2012, and then to decision on March 6, 2012;  
and

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

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

WHEREAS, the Manhattan Beach Community Group  
provided testimony in opposition to the proposal, citing  
concerns about (1) neighborhood character, (2) the accuracy  
of the data used to establish neighborhood context, (3)  
whether the lowest level is a basement, or a cellar, and (4)  
whether the architectural plans are complete; and

WHEREAS, the subject site is located on the east side  
of Exeter Street, between Hampton Street and Oriental  
Boulevard, within an R3-1 zoning district; and

WHEREAS, the subject site has a total lot area of  
5,824 sq. ft., and is occupied by a single-family home with a  
floor area of 2,087 sq. ft. (0.36 FAR); and

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

WHEREAS, the applicant seeks an increase in the  
floor area from 2,087 sq. ft. (0.36 FAR) to 5,373 sq. ft. (0.92  
FAR); the maximum permitted floor area is 3,494 sq. ft.  
(0.60 FAR); and

WHEREAS, the applicant proposes to provide an open

space of 3,656 sq. ft. (the minimum required open space is  
3,786 sq. ft.); and

WHEREAS, the applicant proposes to provide lot  
coverage of 37 percent (35 percent is the maximum  
permitted); and

WHEREAS, the applicant proposes complying side  
yards with widths of 8'-9 ½" and 5'-0" and to provide a  
complying rear yard with a depth of 30'-6"; and

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

WHEREAS, at hearing, the Board directed the applicant  
to (1) provide an FAR analysis of homes in the surrounding  
area and (2) provide a survey which reflects the height of the  
home's floors; and

WHEREAS, in response, the applicant provided an FAR  
analysis which includes photographs of and bulk conditions for  
larger homes within a 400-ft. radius of the site; and

WHEREAS, as to the accuracy of the data, the applicant  
states that it cross-referenced the PLUTO data against DOB  
filings to identify any conflicting information; and

WHEREAS, the study reflects that there are 25 homes  
within a 400-ft. radius of the site with FAR that exceeds zoning  
district regulations, five homes with floor area between 4,000  
to 5,000 sq. ft., and four homes with floor area greater than  
5,000 sq. ft.; and

WHEREAS, the applicant notes that the Manhattan  
Beach Community Group's suggested methodology of  
establishing FAR - taking building dimensions supplied by the  
Department of Finance (DOF) and multiplying it by the  
number of floors – has the same flaws as taking the actual floor  
area supplied by the DOF, since the DOF is the source for both  
data sets; and

WHEREAS, accordingly, the applicant asserts that by  
cross-referencing with DOB filings, it has reduced the amount  
of acknowledged inaccuracies in the data, which are similarly  
present in Manhattan Beach's examples; and

WHEREAS, the Board notes that the data sources may  
contain flaws, but finds that the applicant's analysis, which  
includes photographs of the study homes and cross-referencing  
DOB filings, satisfies its request to provide information about  
the FAR of homes in the area and notes that there are flaws  
with the Manhattan Beach Community Group's alternative  
data; and

WHEREAS, the Board notes that the proposal includes  
all of the required yards and complies with all other bulk  
regulations other than minimal non-compliance with lot  
coverage and open space; and

WHEREAS, the Board also notes that it has made visits  
to the subject site and to the surrounding area to observe the  
built conditions and neighborhood character; and

WHEREAS, the applicant provided a survey, which  
reflects that more than half of the height of the lowest level is  
below grade and thus it is a cellar, rather than a basement, for  
zoning purposes; and

WHEREAS, the Board has reviewed the survey but notes  
that DOB will review the entire building, including the lowest

# MINUTES

level, to verify floor area calculations; and

WHEREAS, the Board notes that if DOB determines that the lowest level is a basement and, thus, contributes to the building's floor area, the proposal will not comply with the 5,373 sq. ft. (0.92 FAR) reflected on the plans and will need to be revised; and

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

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-622 and 73-03.

*Therefore it is resolved*, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, in an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space, and lot coverage, contrary to ZR § 23-141; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received November 30, 2011"-(14) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 5,373 sq. ft. (0.92 FAR); a minimum open space of 3,656 sq. ft., and a maximum lot coverage of 37 percent, as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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

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

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

Adopted by the Board of Standards and Appeals, March 6, 2012.

## 130-11-BZ

### CEQR #12-BSA-020K

APPLICANT – Law Office of Fredrick A. Becker, for Leah Gutman and Arthur Gutman, owners.

SUBJECT – Application September 2, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 3600 Bedford Avenue, between Avenue N and Avenue O, Block 7678, Lot 90, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

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

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 16, 2011, acting on Department of Buildings Application No. 320329881, reads in pertinent part:

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

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on January 10, 2012, after due notice by publication in *The City Record*, with continued hearings on January 31, 2012 and February 14, 2012, and then to decision on March 6, 2012; and

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

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

WHEREAS, the subject site is located on the west side of Bedford Avenue, between Avenue N and Avenue O,

---

# MINUTES

---

within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with a floor area of 3,466.43 sq. ft. (0.87 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 3,466.43 sq. ft. (0.87 FAR) to 4,163.28 sq. ft. (1.04 FAR); the maximum permitted floor area is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 50.66 percent (150 percent is the minimum required); and

WHEREAS, the applicant proposes to maintain the existing side yard along the northern lot line with a width of 3'-0" (a minimum width of 5'-0" is required for each side yard) and to provide a side yard with a width of 8'-0" along the southern lot line; and

WHEREAS, the proposed enlargement will maintain the portion of the rear yard with an existing depth of 17'-11" and provide a rear yard with a depth of 23'-8" for the new portion of the building (a minimum rear yard depth of 30'-0" is required); and

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

WHEREAS, at hearing, the Board directed the applicant to review the covered terrace to confirm that it does not contribute to floor area and to review the front dormer for compliance with the parameters of the building envelope; and

WHEREAS, in response, the applicant provided revised plans which note that the terraces are subject to DOB approval and reduced the width of the front dormer; and

WHEREAS, the applicant submitted a study of FARs in the area which reflects that there are 11 homes on adjacent blocks between Avenue N and Avenue O with FAR in excess of 1.0 and concludes that the proposed FAR is compatible with the neighborhood character; and

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

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-622 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6

N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the enlargement of a single-family home, which does not comply with the zoning requirements for floor area, open space, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received January 19, 2012"-(12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,163.28 sq. ft. (1.04 FAR); an open space ratio of 50.66 percent; a side yard with a minimum width of 3'-0" along the northern lot line; a side yard with a minimum width of 8'-0" along the southern lot line; and a rear yard with minimum depths ranging from 17'-11" to 23'-8", as illustrated on the BSA-approved plans;

THAT DOB shall review and approve all balconies and terraces;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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

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

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

Adopted by the Board of Standards and Appeals, March 6, 2012.

-----

## 159-11-BZ

### CEQR #12-BSA-031Q

APPLICANT – Eric Palatnik, P.C., for Cord Meyer Development, LLC, owner; JWSTKD II, lessee.

SUBJECT – Application October 21, 2011 – Special Permit (§73-36) to permit the legalization of an existing Physical Culture Establishment (*Hi Performance Tai Kwon Do*). C4-1 zoning district.

PREMISES AFFECTED – 212-01 26<sup>th</sup> Avenue, 26<sup>th</sup> Avenue between Bell Boulevard and Corporal Kennedy Street, Block 5900, Lot 2, Borough of Queens.

### COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Todd Dale.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collins,

---

# MINUTES

---

Commissioner Ottley-Brown, Commissioner Hinkson and  
Commissioner Montanez .....5  
Negative:.....0

## THE RESOLUTION –

WHEREAS, the decision of the Queens Borough  
Commissioner, dated September 12, 2011, acting on  
Department of Buildings Application No. 420480125, reads  
in pertinent part:

Proposed physical culture establishment is not  
permitted as of right and requires a special permit  
from the NYC BSA pursuant to ZR Section 73-  
36; and

WHEREAS, this is an application under ZR §§ 73-36  
and 73-03, to permit, on a site located within a C4-1 (R5)  
zoning district, the operation of a physical culture  
establishment (PCE) on a portion of the first floor and cellar  
of a one-story commercial building, contrary to ZR § 32-10;  
and

WHEREAS, a public hearing was held on this  
application on January 24, 2012, after due notice by  
publication in *The City Record*, with a continued hearing on  
February 14, 2012 and then to decision on March 6, 2012;  
and

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

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

WHEREAS, the subject site is located on the corner of  
26<sup>th</sup> Avenue and Bell Boulevard, within a C4-1 (R5) zoning  
district; and

WHEREAS, the subject site has a total lot area of  
604,500 sq. ft. and is occupied by the Bay Terrace shopping  
center; and

WHEREAS, the applicant states that the shopping  
center comprises multiple buildings on the subject site and  
that the proposed PCE will occupy a single storefront in a  
one-story multi-storefront commercial building located  
along 26<sup>th</sup> Avenue; and

WHEREAS, the proposed PCE will occupy 1,609 sq. ft.  
of floor area on the first floor, with an additional 460 sq. ft. of  
floor space located in the cellar; and

WHEREAS, the PCE will be operated as High  
Performance Taekwondo Studio; and

WHEREAS, the proposed hours of operation for the  
PCE are: Monday through Saturday, from 1:00 p.m. to 9:00  
p.m.; and closed on Sunday; and

WHEREAS, the applicant represents that the services  
at the PCE include facilities for instruction and programs for  
physical improvement; and

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

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

satisfactory; and

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

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

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

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

WHEREAS, the Board has conducted an environmental  
review of the proposed action and has documented relevant  
information about the project in the Final Environmental  
Assessment Statement, CEQR No. 12BSA031Q, dated  
October 3, 2011; and

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

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

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

*Therefore it is Resolved* that the Board of Standards and  
Appeals issues a Negative Declaration prepared in accordance  
with Article 8 of the New York State Environmental  
Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the  
Rules of Procedure for City Environmental Quality Review  
and Executive Order No. 91 of 1977, as amended, and makes  
each and every one of the required findings under ZR §§ 73-36  
and 73-03, to permit, on a site located within a C4-1 (R5)  
zoning district, the operation of a physical culture  
establishment on a portion of the first floor and cellar of a  
one-story commercial building, contrary to ZR § 32-10; *on  
condition* that all work shall substantially conform to  
drawings filed with this application marked “Received  
December 13, 2011- (5) sheets; and *on further condition*:

THAT the term of this grant shall expire on March 6,  
2022;

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

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

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

THAT fire safety measures shall be installed and/or

# MINUTES

maintained as shown on the Board-approved plans;

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

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

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

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

Adopted by the Board of Standards and Appeals, March 6, 2012.

-----

## 179-11-BZ

### CEQR #12-BSA-043Q

APPLICANT – Herrick, Feinstein LLP, for Ridgedale Realty Company, LLC, owner; Kings of Queens Retro/Retro Fitness of Glendale, lessee.

SUBJECT – Application November 30, 2011 – Special Permit (§73-36) to permit a physical culture establishment (*New Retro Fitness*). M1-1 zoning district.

PREMISES AFFECTED – 65-45 Otto Road, between 66<sup>th</sup> Street and 66<sup>th</sup> Place. Block 3667, Lot 625. Borough of Queens.

### COMMUNITY BOARD #5Q

APPEARANCES –

For Applicant: Jennifer Dickson.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**THE RESOLUTION** –

WHEREAS, the decision of the Queens Borough Commissioner, dated January 27, 2012, acting on Department of Buildings Application No. 420497439, reads in pertinent part:

The subject property to be used as a physical culture establishment is contrary to Section ZR 42-10 and requires a special permit from the NYC BSA pursuant to Section 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within an M1-1 zoning district, the operation of a physical culture establishment (PCE) on a portion of the first floor of a one-story warehouse building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on January 31, 2012, after due notice by publication in *The City Record*, with a continued hearing on February 14, 2012, and then to decision on March 6, 2012; and

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

WHEREAS, Community Board 5, Queens, recommends approval of this application, with the following conditions: (1) the sidewalk along Otto Road be repaired; and (2) a grass strip be planted along the curbline, adjacent to the street trees; and

WHEREAS, the subject site is located on the north side of Otto Road, between 66<sup>th</sup> Street and 66<sup>th</sup> Place, within an M1-1 zoning district; and

WHEREAS, the subject site has a total lot area of 130,150 sq. ft. and is occupied by a one-story warehouse building; and

WHEREAS, the proposed PCE will occupy 21,109 sq. ft. of floor area on a portion of the first floor and mezzanine of the one-story warehouse building located on the site; and

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

WHEREAS, the proposed hours of operation for the PCE are 6:00 a.m. to 12:00 a.m., daily; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; and

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

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

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

WHEREAS, in response to concerns raised by the Board, the applicant submitted plans clarifying that pedestrian access to the site will be achieved through a striped pedestrian way leading from the entrance to the site on Otto Street to the entrance to the PCE at the south side of the building; and

WHEREAS, in response to the issues raised by the Community Board, the applicant states that it will repair the sidewalk along Otto Road during its renovation of the building for PCE use; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant

# MINUTES

information about the project in the Final Environmental Assessment Statement, CEQR No. 12BSA043Q, dated October 13, 2011; and

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

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site located within an M1-1 zoning district, the operation of a physical culture establishment on a portion of the first floor and mezzanine of a one-story warehouse building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received November 30, 2011" - (3) sheets and "Received February 22, 2012" - (1) sheet and *on further condition*:

THAT the term of this grant will expire on March 6, 2022;

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

THAT all massages must be performed by New York State licensed massage therapists;

THAT the sidewalk along Otto Road will be repaired;

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

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

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

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

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

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

THAT the Department of Buildings must ensure compliance with all of the applicable provisions of the

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

Adopted by the Board of Standards and Appeals, March 6, 2012.

## 184-11-BZ

### CEQR #12-BSA-046K

APPLICANT – Law Office of Fredrick A. Becker, for Esther Snyder and Robert Snyder, owner.

SUBJECT – Application December 5, 2011 – Special Permit §73-622 for the enlargement of an existing single family home, contrary to floor area and open space (§23-141) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 945 East 23<sup>rd</sup> Street, east side of East 23<sup>rd</sup> Street between Avenue T and J, Block 7587, Lot 26, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 4, 2011, acting on Department of Buildings Application No. 320350758, reads in pertinent part:

- Proposed plans are contrary to ZR 23-141 in that the proposed building exceeds the maximum permitted floor area ratio of .50.
- Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required open space of 150.
- Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required rear yard of 30 feet; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on February 14, 2012, after due notice by publication in *The City Record*, and then to decision on March 6, 2012; and

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

WHEREAS, Community Board 14, Brooklyn,

# MINUTES

recommends approval of this application; and

WHEREAS, the subject site is located on the east side of East 23<sup>rd</sup> Street, between Avenue I and Avenue J, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 4,600 sq. ft., and is occupied by a single-family home with a floor area of 2,698.36 sq. ft. (0.59 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,698.36 sq. ft. (0.59 FAR) to 4,621.53 sq. ft. (1.01 FAR); the maximum permitted floor area is 2,300 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide an open space ratio of 53.8 percent (150 percent is the minimum required); and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 20'-0" (a minimum rear yard depth of 30'-0" is required); and

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

WHEREAS, at hearing, the Board raised concerns about whether the rear terrace should be included in floor area calculations and whether the applicant was permitted to add a second curb cut; and

WHEREAS, the Board noted that the terrace and curb cut conditions were subject to DOB review and approval and that it was not approving either condition absent DOB's review and approval; and

WHEREAS, accordingly, the Board directed the applicant to note on its building plans that the terrace and curb cut were subject to DOB review; and

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

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-622 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family home, which does

not comply with the zoning requirements for floor area ratio, open space, and rear yard, contrary to ZR §§ 23-141 and 23-47; on condition that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 5, 2011"-(9) sheets, "February 21, 2012"-(1) sheet and "March 6, 2012"-(1) sheet; and on further condition:

THAT the following will be the bulk parameters of the building: a maximum floor area of 4,621.53 sq. ft. (1.01 FAR); an open space ratio of 53.8 percent; and a rear yard with a depth of 20'-0", as illustrated on the BSA-approved plans;

THAT the attic floor area will be limited to 726.29 sq. ft.;

THAT DOB will review the terraces and porches for compliance;

THAT DOB will review the addition of a second curb cut for compliance;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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

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

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

Adopted by the Board of Standards and Appeals, March 6, 2012.

-----

## 188-11-BZ

### CEQR #12-BSA-049M

APPLICANT – Bryan Cave LLP/Frank E. Chaney, Esq., for Hudson Spring Partners, LP, owner.

SUBJECT – Application December 9, 2011 – Variance (§72-21) to allow for the conversion of floors two through six from commercial use to residential use, contrary to use regulations (§42-10). M1-6 zoning district.

PREMISES AFFECTED – 286 Spring Street, southeast corner of Spring Street and Hudson Street, Block 579, Lot 5, Borough of Manhattan.

### COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Frank E. Chaney.

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

THE VOTE TO GRANT –

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

---

# MINUTES

---

## THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated December 6, 2011, acting on Department of Buildings Application No. 120879399, reads in pertinent part:

Proposed residential use on floors 2-6 not permitted in an M1-6 district; contrary to ZR Section 42-10; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-6 zoning district, the conversion of the second through sixth floors of a six-story commercial building to residential use, which is contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on February 7, 2012 after due notice by publication in the *City Record*, and then to decision on March 6, 2012; and

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

WHEREAS, Community Board 2, Manhattan, recommends approval of the application, but states that it favors retaining the second floor as commercial space for the current tenant, a jazz cultural center, which it deems to be a valuable resource for the community; and

WHEREAS, the subject site is an irregular L-shaped lot located near the southeast corner of the intersection of Spring Street and Hudson Street, within an M1-6 zoning district; and

WHEREAS, the site has 28 feet of frontage on Spring Street, 19.5 feet of frontage on Hudson Street, and a total lot area of 4,225 sq. ft.; and

WHEREAS, the site is occupied by a six-story L-shaped commercial building with a floor area of 24,054 sq. ft. (5.69 FAR); and

WHEREAS, the applicant states that the subject lot and building wrap around a vacant corner lot (Lot 9) which is owned by the Port Authority of New York and New Jersey (the "Port Authority") and is used as a parking lot; and

WHEREAS, the applicant further states that an approach ramp to the Holland Tunnel runs directly beneath the subject building, for which there is an approximately 35-ft. wide subsurface easement that runs across the middle of the subject site (the "Tunnel Easement"); and

WHEREAS, the applicant states that the building is currently partially vacant, with an eating and drinking establishment (Use Group 6) at the first floor and offices (Use Group 6) that are currently 50 percent vacant above; and

WHEREAS, the applicant proposes to convert the second through sixth floors of the building from commercial to residential use, with the first floor continuing to be occupied by a conforming commercial use; and

WHEREAS, the applicant states that the proposed building will have one loft dwelling unit on each of floors two through six, for a total of five dwelling units; and

WHEREAS, because residential use is not a permitted use in the subject M1-6 zoning district, the subject variance application was filed; and

WHEREAS, on March 14, 2000, under BSA Cal. No.

145-99-BZ, the Board denied a previous variance application to permit the conversion of the second through sixth floors of the subject building to residential use, finding that the applicant failed to establish that there were practical difficulties or unnecessary hardship in complying with the use provisions, primarily because "floors two through six were at or near full occupancy" and "the offices seemed to be functioning well;" and

WHEREAS, subsequently, the applicant filed a request for a rehearing of the previously denied variance application pursuant to Section 1-10(e) of the Board's Rules of Practice and Procedure, and on May 24, 2011, under BSA Cal. No. 145-99-BZ, the Board granted the applicant's request for a rehearing, finding that the applicant had identified substantial evidence which supports the conclusion that there has been a material change in circumstances since the 1999 application; and

WHEREAS, accordingly, the applicant subsequently filed the subject variance application; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformity with applicable regulations: (1) the small and narrow size of the site and building, and its irregular L-shape; and (2) the proximity of the Holland Tunnel approach ramp and the presence of the Tunnel Easement on the site; and

WHEREAS, the applicant notes that the site is a 4,225 sq. ft. L-shaped parcel with 28 feet of frontage on Spring Street and only 19.5 feet of frontage on Hudson Street, and that if each side of the property were considered a separate lot, the Spring Street side would be a 2,470 sq. ft. lot and the Hudson Street side would be a 1,775 sq. ft. lot; and

WHEREAS, the applicant states that the two sides of the building are connected at the rear for only 15 contiguous linear feet and because the building is not built full to the rear lot lines, the footprint is even smaller than the lot size, at 4,009 sq. ft., with the Spring Street side of the building having a floor area of 2,254 sq. ft. and the Hudson Street side of the building having a floor area of 1,755 sq. ft.; and

WHEREAS, the applicant further states that while the floor plates of the building are small and narrow, due to the width of the exterior brick walls of the building, the interior space is even more constrained with an interior wall-to-wall dimension of only 24 feet on the Spring Street side of the building and 15.5 feet on the Hudson Street side of the building; thus, the usable floor area on each floor of the building is approximately 3,169 sq. ft.; and

WHEREAS, the applicant states that because of its small, narrow and irregular shape, the building has an unusually high ratio of exterior walls to usable interior space, with approximately 1.4 sq. ft. of exterior wall to each sq. ft. of usable interior space; and

WHEREAS, the applicant further states that the shape of the building also results in a disproportionate share of the interior floor area being devoted to core functions, including elevators, stairways and bathrooms, as approximately 990 sq. ft. of the second through sixth floors are occupied by such core functions, representing 24.7 percent of each floor's gross floor

---

# MINUTES

---

area and 28.4 percent of each floor's usable interior space; and

WHEREAS, the applicant states that the small, narrow and irregular shape of the site and the building result in awkward floor plates that are inefficient and unattractive to modern office or manufacturing users; and

WHEREAS, as to the Subsurface Easement, the applicant states that an approach ramp to the Holland Tunnel is located nine feet below the cellar of the subject building, and as a result the 35-ft. wide Tunnel Easement runs across the middle of the site; and

WHEREAS, the applicant notes that there is no cellar in the middle portion of the building due to the tunnel approach and the Tunnel Easement, and that Port Authority regulations prohibit the installation of piles in close proximity to the tunnel approach; and

WHEREAS, the applicant states that, as a result of the lack of a cellar and the inability to install piles, it is not feasible to enlarge the building or redevelop the site to utilize more or all of the 10.0 FAR allowed for conforming uses in the subject M1-6 zoning district; and

WHEREAS, as to the uniqueness of the aforementioned physical conditions, the applicant provided a radius diagram and land use map which reflects that the subject site is the only property in the surrounding area that is small, narrow and L-shaped, and located directly above the Holland Tunnel approach; and

WHEREAS, the applicant states that returning the building to a conforming industrial use would require a major investment to upgrade the building's systems (including elevators and electrical) to industrial capacity, and that even if such investment were made, the building would not be feasible for industrial use due to the small, oddly-shaped floor plates that would not be suitable for a modern industrial use; and

WHEREAS, the applicant notes that when the owner purchased the property in 1990 in its previous configuration as a warehouse with offices, the building was vacant because it had been unable to attract any industrial tenants; and

WHEREAS, the applicant represents that the building would be even less able to attract industrial tenants today because the character of the area has materially changed from being primarily industrial to being primarily a mix of office and residential uses; and

WHEREAS, the applicant states that the small and irregular floor plates also make the building inefficient and unattractive for modern office uses; and

WHEREAS, the applicant represents that since the time of the original variance application in 1999, the number and frequency of vacancies in the building's office units have continually increased as more and newer offices have become available within the surrounding neighborhood; and

WHEREAS, the applicant submitted a table reflecting that, as of the date of the subject application, eight and one-half of the building's 17 office units (50 percent) are vacant, representing 55.8 percent of the rentable office floor space and 43.3 percent of the office rent roll; and

WHEREAS, the applicant states that two additional units, after having been vacant for an extended period of time, are occupied by family members of the owner, paying nominal

rents on a week-to-week basis until such time as a tenant can be found to lease the unit; if these two units are also counted as vacant, the resulting ten and one-half vacant units would represent 61.8 percent of all units, 61.5 percent of the rentable office floor space, and 47.4 percent of the office rent roll; and

WHEREAS, the applicant represents that conversion of the building to a conforming community facility use is also infeasible; and

WHEREAS, the applicant states that, of the permitted Use Group 4A community facility uses, most are not-for-profit and/or religious and therefore the only one for which a reasonable return might be possible is an ambulatory diagnostic or treatment health care facility; however, for the same reasons that the building is unsuitable for modern conforming industrial and office use, it would be inefficient and therefore infeasible for a modern health care facility; and

WHEREAS, specifically, the applicant states that providing the necessary ADA-compliant vertical and horizontal circulation, bathrooms, patient examining rooms, and offices for a modern health care facility would not be possible within the constraints of the building's narrow floor plates; and

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

WHEREAS, the applicant asserts that because of its unique physical conditions, there is no reasonable possibility that the development of the property in conformance with the use will bring a reasonable return to the owner; and

WHEREAS, the applicant submitted a feasibility study which analyzed (1) the continued use of the building as a six-story conforming office building with a variety of small office suites on floors two through six and ground floor retail use, and (2) the proposed use of the building as a six-story mixed-use building with retail use and a small residential lobby on the ground floor and a total of five residential units (one unit per floor) on floors two through six; and

WHEREAS, the feasibility study concluded that the conforming office scenario would not realize a reasonable return, but that the proposed building would realize a reasonable return; and

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

WHEREAS, the applicant represents that the proposed use will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the immediate area is characterized predominantly by a mix of residential and commercial uses; and

WHEREAS, the applicant states that the surrounding neighborhood has undergone significant changes since the

---

# MINUTES

---

time of the Board's denial of the original variance application; and

WHEREAS, as to the Hudson Square area's office space market, the applicant states that nearly 2.6 million square feet of formerly industrial floor area in the surrounding area has been converted to modern office use and identifies the following industrial buildings which have been converted to commercial office space since the 1999 application: One Hudson Square (a 16-story, 993,903 sq. ft. building); 304 Hudson Street (an eight-story, 230,000 sq. ft. building); 326 Hudson Street (a 23-story, 345,621 sq. ft. building); 348 Hudson Street (a nine-story, 259,000 sq. ft. building); and 341 Hudson Street (a 17-story, 797,000 sq. ft. building); and

WHEREAS, additionally, the applicant identifies the Business Incubator at 160 Varick Street, a City-subsidized facility for small businesses, which is currently at full capacity with 35 businesses; and

WHEREAS, as to the neighborhood context, the applicant cites to several rezonings in the neighborhood which have taken place since the 1999 denial, which include (1) the 2003 Hudson Square Rezoning, which rezoned a portion of the area, just west of the site from M1-6 and M2-4 zoning districts to a C6-2A zoning district, which permits residential use as-of-right; (2) the 2006 North Tribeca Rezoning, which rezoned a four-block area south of Canal Street from M1-5 to C6-2A and C6-3A, which permits residential uses as-of-right; and (3) the 2010 North Tribeca Rezoning, which rezoned the remaining M1-5 area to C6-2A; and

WHEREAS, the applicant states that the Hudson Square and North Tribeca rezonings have led to several residential conversions and the construction of new residential buildings at sites including: 300 Spring Street, 505 Greenwich Street, 255 Hudson Street, and 479 Greenwich Street; and

WHEREAS, the applicant cites to additional actions such as a proposed Hudson Square Special District, which would allow for more residential use in the area; and Board use variances between 2005 and 2007, which have allowed for residential use within M1-5 and M1-6 zoning districts in the area; and

WHEREAS, the applicant represents that the above-mentioned factors reflect that the surrounding area is characterized by a mixed-use area of primarily commercial and residential uses, and that the proposed conversion of floors two through six of the building to create five loft dwelling units will not alter the essential character of the neighborhood; and

WHEREAS, the applicant notes that the proposed conversion of the second through sixth floors will be confined to the existing building envelope and will not result in any additional floor area; and

WHEREAS, the applicant represents that the existing conforming commercial use on the first floor will remain and is compatible with the mix of uses in the area; and

WHEREAS, the applicant represents that the proposed conversion meets the light and air requirements of the Multiple

Dwelling Law; and

WHEREAS, at hearing, the Board questioned whether the proposed residential loft units complied with the requirements of the Building Code with respect to distance from a required means of egress; and

WHEREAS, in response, the applicant states that the Building Code requires the proposed residential loft building to have an automatic sprinkler system, two means of egress, and a maximum travel distance between any point in a dwelling unit to a means of egress of 200 feet for a sprinklered building; and

WHEREAS, the applicant submitted revised plans reflecting that an automatic sprinkler system will be installed in the building, and states that two means of egress will be provided for the residential loft units by the "scissor" stairs (a pair of criss-crossing stairs) located on the Spring Street side of the building, and the maximum travel distance to a means of egress in the building is approximately 105 feet; and

WHEREAS, as to the Community Board's request that the second floor of the building remain commercial space to accommodate the jazz cultural center tenant, the applicant notes that a Stipulation of Settlement dated July 7, 2010 by the Civil Court, orders the jazz cultural center to vacate the site due to over \$50,000 in rent arrears; 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 the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the existing unique physical conditions cited above; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6 NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 12BSA049M, dated February 18, 2012; and

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

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

# MINUTES

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

*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 M1-6 zoning district, the conversion of the second through sixth floors of a six-story commercial building to residential use, which is 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 March 5, 2012" – twelve (12) sheets; and *on further condition*:

THAT the following are the bulk parameters of the building: six stories; 20,045 sq. ft. (4.74 FAR) of residential floor area on the second through sixth floors, 4,009 sq. ft. (0.95 FAR) of commercial floor area on the first floor, a total floor area of 24,054 sq. ft. (5.69 FAR); and five dwelling units, as indicated on the BSA-approved plans;

THAT substantial construction be completed in accordance with ZR § 72-23; and

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

THAT the approved plans 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, March 6, 2012.

## 21-11-BZ

APPLICANT – Eric Palatnik, P.C., for 1810-12 Voorhies Avenue, LLC, owner.

SUBJECT – Application February 28, 2011 – Special Permit (§73-44) to permit the reduction in required parking for an ambulatory or diagnostic treatment facility. C1-2/R4 zoning district.

PREMISES AFFECTED – 1810 Voorhies Avenue, south side of Voorhies Avenue, between East 19<sup>th</sup> Street and Sheepshead Bay Road, Block 8772, Lot 3, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Todd Dale.

**ACTION OF THE BOARD** – Laid over to May 8, 2012, at 1:30 P.M., for continued hearing.

## 112-11-BZ

APPLICANT – Eric Palatnik, P.C., for Louis N. Petrosino, owner.

SUBJECT – Application August 9, 2011 – Variance (§72-21) to legalize the extension of the use and enlargement of the zoning lot of a previously approved scrap metal yard (UG 18), contrary to §32-10. C8-1 zoning district.

PREMISES AFFECTED – 2994/3018 Cropsey Avenue, southwest corner of Bay 54<sup>th</sup> Street. Block 6947, Lot 260. Borough of Brooklyn.

### COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Todd Dale.

**ACTION OF THE BOARD** – Laid over to April 24, 2012, at 1:30 P.M., for continued hearing.

## 177-11-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for St Anns ABH Owner LLC, owners.

SUBJECT – Application November 16, 2011 – Special Permit (§73-36) to permit a physical culture establishment (*Blink Fitness*) within portions of an existing building. C2-3(R7X) zoning district.

PREMISES AFFECTED – 601 East 156<sup>th</sup> Street, aka 800 St. Ann's Avenue, north east corner of East 156<sup>th</sup> Street and St. Ann's Avenue, Block 2618, Lot 7501, Borough of Bronx.

### COMMUNITY BOARD #1BX

APPEARANCES –

For Applicant: Todd Dale.

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to March 20, 2012, at 1:30 P.M., for decision, hearing closed.

## 195-11-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Harriet Mandalaoui and David Mandalaoui, owners.

SUBJECT – Application December 22, 2011 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, open space and lot coverage (§23-141(b)); side yard (§23-461) and less than the required rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 2070 East 21<sup>st</sup> Street, west side of East 21<sup>st</sup> Street, between Avenue S and Avenue T, Block 7299, Lot 39, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to April 3, 2012, at 1:30 P.M., for continued hearing.

---

# MINUTES

---

**4-12-BZ**

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for 56<sup>th</sup> and Park (NY) Owner, LLC.

SUBJECT – Application January 11, 2012 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*The Wright Fit*). C5-3/C5-2.5 (MID) zoning district.

PREMISES AFFECTED – 432-440 Park Avenue, northwest corner of Park Avenue and East 56<sup>th</sup> Street, Block 1292, Lot 33, 43, 45, 46, Borough of Manhattan.

**COMMUNITY BOARD #5M**

APPEARANCES –

For Applicant: Robert E. Flahive.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to March 27, 2012, at 1:30 P.M., for decision, hearing closed.

-----

*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*