
BULLETIN

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March 13, 2013

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

CHRISTOPHER COLLINS, *Vice-Chair*

DARA OTTLEY-BROWN

SUSAN M. HINKSON

EILEEN MONTANEZ

Commissioners

Jeffrey Mulligan, *Executive Director*

Becca Kelly, *Counsel*

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

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

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New Case Filed Up to March 5, 2013

79-13-A

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80-13-BZ

200 Park Avenue South, northwest corner of Park Avenue South and East 17th Street, Block 846, Lot(s) 33, Borough of **Manhattan, Community Board: 5**. Special Permit to allow a physical culture establishment in a C6-4A zoning district.

81-13-BZ

264-12 Hillside Avenue, 265th Street, Block 8794, Lot(s) 22, Borough of **Queens, Community Board: 13**. Re-Instatement (§11-411) of a previously approved variance which permitted an automotive service station (UG16B), with accessory uses in a residential district which expired on November 6, 1992; Amendment (§11-413) to permit the change of use from automot R2 district.

82-13-BZ

1957 East 14th Street, east side of 14th Street between Avenue S and Avenue T., Block 7293, Lot(s) 64, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to permit the enlargement of a single family residence located in a residential (R5) zoning district. R5 district.

83-13-BZ

3089 Bedford Avenue, Bedford Avenue between Avenue I and Avenue J, Block 7589, Lot(s) 18, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to permit the enlargement of a single family residence located in a residential. R2 zoning district. R2 district.

84-13-BZ

184 Kent Avenue, northwest corner of intersection of Kent Avenue and North 3rd Street., Block 2348, Lot(s) 7501, Borough of **Brooklyn, Community Board: 1**. Special Permit (§73-36) to permit the operation of a physical culture establishment within portions of an existing cellar and seven-story mixed-use building. C2-4(R6) zoning district. C2-4(R6) district.

85-13-BZ

250 Utica Avenue, northeast corner of intersection of Utica Avenue and Lincoln Place, Block 1384, Lot(s) 51, Borough of **Brooklyn, Community Board: 8**. Special Permit (§73-36) to allow a physical culture establishment (Blink Fitness) within existing building. C4-3/R6 zoning district. C4-3(R6) district.

89-13-A

242 West 76th Street, south side of West 76th Street, 112' west of Broadway, between Broadway and West End Avenue., Block 1167, Lot(s) 55, Borough of **Manhattan, Community Board: 7**. This appeal is for an extension of time to obtain a Class B Certificate of Occupancy to legalize applicant's 120 hotel units, as provided for in recent legislation under Chapters 225 and 566 of the Laws of New York 2010, due to circumstances beyond the ap R8B 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 19, 2013, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 19, 2013, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

390-61-BZ

APPLICANT – Peter Hirshman, for Rapid Park Industries, owner.

SUBJECT – Application January 5, 2013 – On February 22, 2011 an amendment was filed to permit the addition of an auto rental establishment on (UG8) in the cellar. The Application was approved on December 13, 2011. The Board specified that a new CO be obtained by December 13, 2012. The CO has not been issued and this application is filed for time to obtain the CO. R8B zoning district.

PREMISES AFFECTED – 148-150 East 33rd Street, southside of E. 33rd Street, 151.9' east of Lexington Avenue, Block 888, Lot 51, Borough of Manhattan.

COMMUNITY BOARD #6M

11-80-BZ

APPLICANT – Richard Bass, Herrick, Feinstein, LLP, for West 28th Street Owners LLC.

SUBJECT – Application January 10, 2013 – Amendment of previously granted variance (§72-21) which allowed conversion of the 3rd through the 7th floor of building from commercial to residential. Amendment would permit the conversion of the second floor from commercial to residential use. M1-6 zoning district.

PREMISES AFFECTED – 146 West 28th Street, south side of West 28th Street, between 6th and 7th Avenues, Block 803, Lot 65, Borough of Manhattan.

COMMUNITY BOARD #5M

543-91-BZ

APPLICANT – Eric Palatnik P.C., for George F. Salamy, owner.

SUBJECT – Application December 20, 2012 – Extension of Term of a previously approved Variance (§72-21) permitting a one-story television, radio, phonograph and household appliance store (*P.C. Richards*) which expired on July 28, 2012; Waiver of the Rules. C4-2A/R4-1 zoning district.

PREMISES AFFECTED – 576-80 86th Street, between Fort Hamilton Parkway, Brooklyn Queens Expressway, Block 6053, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #10BK

78-08-BZ

APPLICANT – Stephen Grasso, Partners for Architecture, for South Bronx Charter School for International Cultures & The Arts, owners.

SUBJECT – Application February 12, 1923 – Extension of Time to Complete Construction for a previously granted Variance (72-21) to construct a five-story charter elementary school (The South Bronx Charter School for International Cultures and the Arts) which expired on August 26, 2012; Waiver of the Rules. M1-2/R-6A, MX-1(Special Mixed Use) zoning district.

PREMISES AFFECTED – 611 East 133rd Street, bound by East 133rd Street and Cypress Place, Block 2546, Lot 27, Borough of Bronx.

COMMUNITY BOARD #1BX

APPEALS CALENDAR

251-12-A

APPLICANT – Davidoff Hutcher & Citron LLP, for 330 Associates LLC c/o George A. Beck, owner; Radiant Outdoor, LLC, lessee.

SUBJECT – Application August 14, 2012 – Appeal from Department of Buildings' determination that sign is not entitled to continued non-conforming use status as advertising sign. C2-5 Zoning District.

PREMISES AFFECTED – 330 East 59th Street, west of southwest corner of 1st Avenue and East 59th Street, Block 1351, Lot 36, Borough of Manhattan.

COMMUNITY BOARD # 6M

292-12-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Marie & Kenneth Fuchs, lessees.

SUBJECT – Application October 10, 2012 – Proposed reconstruction and enlargement of the existing single family dwelling partially in the bed of a mapped street is contrary to Article 3, Section 35 of the General City Law. The proposed upgrade of the existing private disposal system in the bed of the mapped street is contrary to Article 3, Section 35 of the General City Law. R4 zoning district.

PREMISES AFFECTED – 19 Marion Walk, east side of Marion Walk, 125' north of Breezy Point, Block 16350, Lot p/o400, Borough of Queens.

COMMUNITY BOARD #14Q

CALENDAR

297-12-A

APPLICANT – Law Office of Fredrick A. Becker, for 28-20 Astoria Blvd LLC, owners.

SUBJECT – Application October 17, 2012 – An application filed seeking a determination that the owner of the premises has acquired a common law vested right to complete construction commenced under the prior R6 zoning district. R6-A (C1-1) ZD

PREMISES AFFECTED – 28-18/20 Astoria Boulevard, south side of Astoria Boulevard, approx. 53.87' west of 29th Street, Block 596, Lot 45, Borough of Queens.

COMMUNITY BOARD #1Q

307-12-A

APPLICANT – Gary Lenhart, for The Breezy Point Cooperative, Inc., owner; Anne McCoale, lessee.

SUBJECT – Application November 8, 2012 – Reconstruction and enlargement of existing single family dwelling not fronting a mapped street is contrary to Article 3, section 36 of the General City law. The proposed upgrade of the existing non-conforming private disposal system located partially in the bed of the service road is contrary to building department policy.

PREMISES AFFECTED – 25 Olive Walk, Queens, east side of Olive Walk, 140' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

ZONING CALENDAR

321-12-BZ

APPLICANT – Dennis D. Dell'Angelo, for Jay Lessler, owner.

SUBJECT – Application December 6, 2012 – Special permit (§73-622) for the enlargement of an existing two family home to be converted to a single family home contrary to floor area ZR§ 23-141; perimeter wall height ZR §23-631 and less than the required rear yard ZR §23-47. R3-1 zoning district.

PREMISES AFFECTED – 22 Girard Street, west side of Girard Street, 149.63' south of Shore Boulevard, Block 8745, Lot 70, Borough of Brooklyn.

COMMUNITY BOARD #15BK

338-12-BZ

APPLICANT – Eric Palatnik, P.C., for 164-20 Northern Boulevard, LLC, owner; Northern Gym, Corp., lessee.

SUBJECT – Application December 13, 2012 – Special Permit (§73-36) to permit the legalization of a physical culture establishment (*Metro Gym*) establishment located in an existing one-story and cellar 4,154 square feet commercial building. C2-2/R5B zoning district.

PREMISES AFFECTED – 164-20 Northern Boulevard,

west side of the intersection of Northern Boulevard and Sanford Avenue, Block 5337, Lot 17, Borough of Queens.

COMMUNITY BOARD # 7Q

1-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Dryland Properties, LLC, owner; Reebok CrossFit 5th Avenue, L.P., lessee.

SUBJECT – Application January 7, 2013 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Reebok Crossfit*) at the cellar of an existing building. C5-3 zoning district.

PREMISES AFFECTED – 420 Fifth Avenue, aka 408 Fifth Avenue, between West 37th Street and West 38th Street, Block 839, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD # 5M

7-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Sharon Sofer and Daniel Sofer, owners.

SUBJECT – Application January 15, 2013 – Special Permit (§73-621) for the enlargement of a single family contrary to floor area, open space and lot coverage (ZR §23-141). R3-2 zoning district.

PREMISES AFFECTED – 1644 Madison Place, south side of Madison Place between Avenue P and Quentin Road, Block 7701, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #18BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, MARCH 5, 2013
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

364-82-BZ

APPLICANT – Troutman Sanders LLP, for Little Neck Commons LLC, owner; Bally's Total Fitness of Greater New York, lessee.

SUBJECT – Application December 13, 2012 – Extension of Term of a previously-granted Variance (§72-21) for the continued operation of a physical culture establishment (*Bally's Total Fitness*) which expired on January 18, 2013. C1-2/R3-2 zoning district.

PREMISES AFFECTED – 245-24 Horace Harding Expressway, Horace Harding Expressway, 140' west of Marathon Parkway, Block 8276, Lot 100, Borough of Queens.

COMMUNITY BOARD #11Q

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 April 9, 2013, at 10 A.M., for decision, hearing closed.

130-88-BZ

APPLICANT – Sheldon Lobel, P.C., for Cumberland Farms, Inc., owner.

SUBJECT – Application August 13, 2012 – Extension of Term of approved Special Permit (§73-211) for the continued operation of UG 16B gasoline service station (*Gulf*) which expired on January 24, 2009; Extension of Time to obtain a Certificate of Occupancy which expired on October 12, 2003; Waiver of the Rules. C2-2/R4 zoning district.

PREMISES AFFECTED – 1007 Brooklyn Avenue, aka 3602 Snyder Avenue, southeast corner of the intersection formed by Snyder and Brooklyn Avenues, Block 4907, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #17BK

ACTION OF THE BOARD – Laid over to April 16, 2013, at 10 A.M., for continued hearing.

62-99-BZ

APPLICANT – Akerman Senterfitt LLP, for Starlex LP, owner; Bliss World LLC, lessee.

SUBJECT – Application June 19, 2012 – Extension of Term of a previously-approved Special Permit (§73-36) for the continued operation of a physical cultural establishment (*Bliss*) which expired on January 31, 2009; Extension of Time to obtain a Certificate of Occupancy which expired on February 1, 2004; Waiver of Rules. C6-6 zoning district. PREMISES AFFECTED – 541 Lexington Avenue, east side of Lexington Avenue, between E. 49th Street and E. 50th Streets, Block 1304, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #6M

ACTION OF THE BOARD – Laid over to April 9, 2013, at 10 A.M., for continued hearing.

211-00-BZ

APPLICANT – Sheldon Lobel, P.C., for Hoffman & Hoffman, LLC, owner.

SUBJECT – Application August 10, 2012 – Extension of Time to complete construction of a previously approved variance (§72-21) which permitted the legalization of residential units on the second through fourth floors of a mixed use (UG 17 & 2) four-story building, which expired on April 17, 2005; Amendment for minor modification to the approved plans; Waiver of the Rules. M1-2 zoning district.

PREMISES AFFECTED – 252 Norman Avenue, southeast corner of the intersection of Norman Avenue and Monitor Street, Block 2657, Lot 1, Borough Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Laid over to April 9, 2013, at 10 A.M., for continued hearing.

APPEALS CALENDAR

292-12-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Marie & Kenneth Fuchs, lessees.

SUBJECT – Application October 10, 2012 – Proposed reconstruction and enlargement of the existing single family dwelling located partially in the bed of a mapped street, contrary to Article 3, Section 35 of the General City Law; proposed upgrade of the existing private disposal system in the bed of the mapped street, contrary to Article 3, Section 35 of the General City Law. R4 zoning district.

PREMISES AFFECTED – 19 Marion Walk, east side of Marion Walk, 125' north of Breezy Point, Block 16350, Lot p/o400, Borough of Queens.

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Laid over to March 19, 2013, at 10 A.M., for postponed hearing.

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326-12-A thru 337-12-A

APPLICANT – Gibson Dunn, for Contest Promotions-NY LLC by Jessica Cohen

OWNER OF PREMISES: Lily Fong, Michael A. Maidman, Thomas Young, George Aryeh, Lily Fong, Vincent J. Ponte, Hung Ling Yung, David R. Acosta, James B. Luu, Fred G. Eng.

SUBJECT – Applications December 11, 2012 – Appeals challenging the Department of Buildings determination to revoke 12 permits previously issued permitting business accessory signs on the basis that they appear to be advertising signs.

PREMISES AFFECTED –

52 Canal Street, Block 294, Lot 22, C6-2 zoning district, Manhattan

1560 2nd Avenue, Block 1543, Lot 49, C1-9 zoning district, Manhattan

2061 2nd Avenue, Block 1655, Lot 28, R8A zoning district, Manhattan

2240 1st Avenue, Block 1709, Lot 1, R7X zoning district, Manhattan

160 East 25th Street, Block 880, Lot 50, C2-8 zoning district, Manhattan

289 Hudson Street, Block 594, Lot 79, C6-2A zoning district, Manhattan

127 Ludlow Street, Block 410, Lot 17, C4-4A zoning district, Manhattan

1786 3rd Avenue, Block 1627, Lot 33, R8A zoning district, Manhattan

17 Avenue B, Block 385, Lot 1, R7A zoning district, Manhattan

173 Bowery, Block 424, Lot 12, C6-1 zoning district, Manhattan

240 Sullivan Street, Block 540, Lot 23, R7-2 zoning district, Manhattan

361 1st Avenue, Block 927, Lot 25, C1-6A zoning district, Manhattan

COMMUNITY BOARD #2/3/6/8/9/11M

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 April 23, 2013, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

ZONING CALENDAR

161-12-BZ

CEQR # 12-BSA-140K

APPLICANT – Francis R. Angelino, Esq., for Soly D. Bawabeh, for Global Health Clubs, LLC, owner.

SUBJECT – Application May 31, 2012 – Special Permit (§73-36) to allow a physical culture establishment (*Retro Fitness*) on the ground and second floor of an existing building. C8-2 zoning district.

PREMISES AFFECTED – 81 East 98th Street, corner of East 98th Street and Ralph Avenue, Block 3530, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #16BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 3, 2012, acting on Department of Buildings Application No. 301856631, reads in pertinent part:

Proposed Physical Culture Establishment is not permitted in C8-2 zoning district. This use is contrary to Section 32-10 of the New York City Zoning Resolution and requires a special permit from the Board of Standards and Appeals; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C8-2 zoning district, the operation of a physical culture establishment (PCE) at the cellar, first, and second floors of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 5, 2013, after due notice by publication in *The City Record*, and then to decision on March 5, 2013; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Montanez; and

WHEREAS, Community Board 16, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the corner of East 98th Street and Ralph Avenue, in a C8-2 zoning district; and

WHEREAS, the site is occupied by a two-story commercial building; and

WHEREAS, the proposed PCE will occupy a total of 10,010 sq. ft. of floor area with 2,089 sq. ft. on the first floor and 7,921 sq. ft. on the second floor and an additional 1,380 sq. ft. of space in the cellar; and

WHEREAS, the site has 192.95 feet of frontage on East 98th Street, 168.3 feet of frontage on Ralph Avenue, and a total lot area of 7,929 sq. ft.; and

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

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

WHEREAS, the hours of operation for the proposed PCE will be Monday through Friday, from 5:00 a.m. to 11:00 p.m. and Saturday/Sunday, from 7:00 a.m. to 7:00 p.m.; and

WHEREAS, the applicant states that since the PCE will be located on the second floor of a free-standing commercial building, it will be completely isolated from any nearby residential uses which are quite distant from the subject building; and

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

WHEREAS, the 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.12BSA140K, dated May 18, 2012; 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 in a C8-2 zoning district, the operation of a physical culture establishment at the cellar, first, and second floors of a two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received December 18, 2012" - Three (3) sheets and *on further condition*:

THAT the term of this grant will expire on March 5, 2023;

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 above conditions will appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance will be as reviewed and approved by DOB;

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

THAT 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 5, 2013.

241-12-BZ
CEQR # 13-BSA-013M

APPLICANT – Greenberg Traurig, LLP by Deidre A. Carson, Esq., for 8-12 Development Partners, owners; 10-12 Bond Street, lessee.

SUBJECT – Application August 2, 2012 – Variance (§72-21) to permit the construction of a new mixed residential and retail building, contrary to use regulations (§42-10 and 42-14D(2)(b)). M1-5B zoning district.

PREMISES AFFECTED – 8-12 Bond Street aka 358-364 Lafayette Street, northwest corner of the intersection of Bond and Lafayette Streets, Block 530, Lot 62, Borough of

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Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated July 11, 2012, acting on Department of Buildings Application No. 121183316, reads in pertinent part:

Proposed UG 6 below the floor level of the second story is not permitted; contrary to ZR 42-14D(2)(b)

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

WHEREAS, this is an application under ZR §72-21, to permit, in an M1-5B zoning district within the NoHo Historic District, the construction of a seven-story (including penthouse) mixed-use residential/commercial building with 11 dwelling units and retail use below the level of the second floor, contrary to ZR §§ 42-14 and 42-10; and

WHEREAS, a public hearing was held on this application on October 30, 2012, after due notice by publication in the *City Record*, with a continued hearing on December 11, 2012, and then to decision on March 5, 2013; and

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

WHEREAS, Community Board 2, Manhattan, recommends approval of the application, with the following conditions: (1) commercial use not be permitted above the ground floor or in the proposed open courts or rear yard; (2) an eating and drinking establishment not be permitted; and (3) the proposed accessory garage not be permitted; and

WHEREAS, a representative of the NoHo-Bowery Stakeholders, Inc., provided testimony in support of the application; and

WHEREAS, the site is located on the northwest corner of the intersection of Bond Street and Lafayette Street, in an M1-5B zoning district within the NoHo Historic District; and

WHEREAS, the site has 60'-3½" of frontage along Bond Street, 100'-6¼" of frontage along Lafayette Street, and a total lot area of 6,471 sq. ft.; and

WHEREAS, on February 9, 2010, under BSA Cal. No. 195-07-BZ, the Board granted a variance to permit the construction of a seven-story 50-room hotel building with hotel and retail uses below the level of the second floor; and

WHEREAS, the applicant represents that the prior owner was unable to develop the hotel building, in part due to additional hardship costs that were not discovered at the time of the previous grant and which made the use of the site for a hotel building unviable; and

WHEREAS, the site is currently occupied by a two-

story and mezzanine building, a one-story structure formerly used as an automotive service station, an open parking lot, and an advertising sign, all of which will be demolished or replaced; and

WHEREAS, the proposed seven-story (including penthouse) building will have a total floor area of 32,227 sq. ft. (4.98 FAR), with 29,459 sq. ft. (4.55 FAR) of residential floor area and 2,768 sq. ft. (0.43 FAR) of commercial floor area on the first floor, an additional 5,910 sq. ft. of floor space in the cellar, a wall height of 76'-0", and a total height of 84'-9"; and

WHEREAS, the proposal provides for the following uses: (1) retail space, an accessory fitness center, accessory residential storage, and mechanical use at the cellar level; (2) retail space, residential space, a residential lobby, an open court, and an accessory garage for one vehicle at the first floor; and (3) residential units at the second through seventh floors; and

WHEREAS, because general residential use is not permitted as-of-right in the subject M1-5B zoning district and retail use is not permitted below the level of the second floor, the subject use variance is requested; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the combined effect of the site's adjacency to an existing 30-inch gas main, the Lexington Avenue subway line, and adjacent buildings; (2) the site's unusual depth to bedrock; and (3) the historic use of the site as an automotive service station, which has resulted in soil contamination; and

WHEREAS, the applicant submitted a letter from a geotechnical engineering consultant which states that a settlement analysis was performed based on a review of collected boring data and that the predicted settlements for the proposed building would be "unacceptable for the 30-inch gas main and subway structure located beneath Lafayette Street"; and

WHEREAS, the applicant states that based on the settlement analysis, the foundation for the proposed building has been designed for caisson support with piles drilled to bedrock, as driven piles are not permitted under applicable New York City Transit Authority ("NYCTA") regulations due to the adjacent subway line; and

WHEREAS, the applicant represents that collectively, the location of the 30-inch gas main and subway structure result in additional construction costs of \$748,816, which includes special monitoring and inspection costs required under NYCTA regulations; and

WHEREAS, the applicant further represents that an additional \$238,218 of construction costs is attributable to the cost of underpinning the adjacent buildings, which have unusual foundation conditions; and

WHEREAS, the applicant notes that in the variance approved under BSA Cal. No. 195-07-BZ, it proposed a hotel building with two cellar levels excavated to a depth of 20 feet (as opposed to the current proposal for a one-cellar building) in order to provide a sound subsurface base for a mat

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foundation, due to the presence of uncontrolled fill and loose sand throughout much of the site and the efficiency gains associated with locating certain accessory hotel uses below grade; and

WHEREAS, the applicant represents that for the proposed mixed-use residential/commercial building there are few uses that can be located below grade, reducing the efficiencies gained from the additional excavation, and that employing a caisson support system allows the owner to avoid any of the extra bracing and shoring costs that would have been associated with deeper excavation; and

WHEREAS, at hearing the Board asked the applicant to compare the costs associated with building a foundation for the two-cellar alternative that was proposed for the hotel building with the currently proposed one-cellar building; and

WHEREAS, in response, the applicant submitted a cost schedule which shows that the two-cellar alternative would be approximately \$364,181 more costly to construct; and

WHEREAS, the applicant notes that the project engineer also does not recommend the two-cellar alternative from a safety point of view because of the adjacency to the subway and gas line and the relative amount of settlement that it would produce; and

WHEREAS, the Board also requested that the applicant provide a comparison between the cost to build the proposed foundation with the cost of a "normal" foundation if the site was not encumbered with the aforementioned physical conditions; and

WHEREAS, in response, the applicant submitted a comparison prepared by its construction consultant which reflects that a standard foundation for a building of this type and size without the special conditions would be built on spread footings and the difference between the proposed foundation and the spread footing foundation is approximately \$1,510,663; and

WHEREAS, as to the depth of the bedrock on the site, the applicant submitted another letter from the geotechnical consultant stating that the bedrock in the area surrounding the site is typically 50 to 60 feet below grade, while the boring logs show that the depth to bedrock for the subject site is between 80 and 90 feet below street grade, approximately 30 feet below the local bedrock elevation; and

WHEREAS, the applicant represents that the unusual depth of bedrock results in additional construction costs of \$895,482; and

WHEREAS, as to the soil contamination, the applicant represents that remedial work will be required due to the industrial character of the historic uses on the lot, which included processes and businesses that used lead, mercury, and petroleum products; and

WHEREAS, the applicant states that three underground storage tanks associated with the former automotive service station located on the site were legally closed in 2006, and that the results of testing that was performed at that time confirmed the presence of elevated mercury and semi-volatile organic compound levels in the soil on the site; and

WHEREAS, the applicant submitted an environmental

report and cost estimates documenting the expected testing and remediation of the soil, including the removal and disposal of one underground storage tank and the removal and disposal of soil (assuming it is substantially contaminated), and the potential inclusion of a vapor barrier and ventilation system, due to its historic use as an automotive service station; and

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

WHEREAS, the applicant submitted a feasibility study that analyzed: (1) a lesser variance seven-story 50-room hotel as approved in the prior variance, but without a sub-cellar; and (2) the proposed residential building with ground floor retail use; and

WHEREAS, the Board notes that conforming hotel and office scenarios were previously analyzed under BSA Cal. No. 195-07-BZ and it was determined that they would not realize a reasonable return; and

WHEREAS, accordingly, the applicant concludes that the conforming and lesser variance scenarios would not result in a reasonable return, due to the unique physical conditions of the site and the resulting premium construction costs, but that the proposed hotel building would realize a reasonable return and has submitted evidence in support of that assertion; and

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

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

WHEREAS, as to bulk, the applicant notes that the proposed 4.98 FAR complies with the maximum 5.0 FAR permitted for an as-of-right hotel building in the subject zoning district, and that no bulk waivers are requested; and

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

WHEREAS, specifically, the applicant states that the immediate adjacent uses are largely comprised of ground floor and cellar retail uses with residential uses above; and

WHEREAS, in support of the above statements, the applicant submitted a 400-ft. radius diagram, showing the various uses in the immediate vicinity of the site; and

WHEREAS, as to the Community Board's requested conditions, the applicant is not proposing any commercial uses above the level of the second floor or in the open courts or rear yard, and has agreed that an eating and drinking establishment will not be permitted in the commercial space; and

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WHEREAS, as to the Community Board's request that the curb cut and accessory parking garage be removed, the applicant seeks to maintain the proposed curb cut and accessory garage and notes that the proposed curb cut already exists as the current use of the site is as an open parking lot, and that four other curb cuts are being eliminated on the site; and

WHEREAS, the applicant notes that the proposed accessory garage is small and accommodates only one vehicle, and represents that the space would not be viable as additional retail space; and

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

WHEREAS, the applicant submitted a Certificate of Appropriateness from the Landmarks Preservation Commission (LPC), dated February 12, 2013; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is the result of the site's unique subsurface soil conditions; and

WHEREAS, the Board finds that this proposal is the minimum necessary to compensate for the additional construction costs associated with the uniqueness of the site and to afford the owner relief; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 13BSA013M dated January 3, 2013; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; 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, the New York City Department of Environmental Protection's (DEP) Bureau of Environmental Planning and Analysis reviewed the project for potential hazardous materials, air quality and noise impacts; and

WHEREAS, DEP reviewed and accepted the July 2012 Remedial Action Plan site-specific Construction Health and Safety Plan; and

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

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

WHEREAS, DEP reviewed the results of noise monitoring and determined that a minimum of 31 dBA window-wall noise attenuation is required for both the windows and the walls of the proposed building and an alternate means of ventilation should be provided in order to achieve an interior noise level of 45 dBA; and

WHEREAS, DEP determined that, with these noise measures, the proposed project is not anticipated to result in significant noise impacts; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, in an M1-5B zoning district within the NoHo Historic District, the construction of a seven-story (including penthouse) mixed-use residential/commercial building with 11 dwelling units and retail use below the level of the second floor, contrary to ZR §§ 42-14 and 42-10, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 21, 2012" – nineteen (19) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: seven stories; a maximum total floor area of 32,227 sq. ft. (4.98 FAR); a maximum residential floor area of 29,459 sq. ft. (4.55 FAR); a maximum commercial floor area of 2,768 sq. ft. (0.43 FAR); a wall height of 76'-0"; and a total height of 84'-9", as illustrated on the BSA-approved plans;

THAT no eating and drinking establishment (Use Group 6 or Use Group 12) will be permitted on the site;

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

THAT the proposed building's windows and walls will have a noise attenuation rating of 31 dBA OITC and that an alternate means of ventilation will be provided throughout the building;

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

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

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

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

Adopted by the Board of Standards and Appeals, March 5, 2013.

257-12-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Birta Hanono and Elie Hanono, owners.

SUBJECT – Application August 29, 2012 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (§23-141); side yard (§23-461) and less than the required rear yard (§23-47). R4 (OP) zoning district.

PREMISES AFFECTED – 2359 East 5th Street, east side of East 5th Street between Avenue W and Angela Drive, Block 7181, Lot 44, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 1, 2012, acting on Department of Buildings Application No. 320500757, reads in pertinent part:

Proposed enlargement of the existing one-family residence in an R4 zoning district:

1. Creates non-compliance with respect to the rear yard by not meeting the minimum requirements of Section 23-47 of the Zoning Resolution.
2. Creates non-compliance with respect to the side yards by not meeting the minimum requirements of Section 23-461 of the Zoning Resolution.
3. Creates non-compliance with respect to the floor area by exceeding the allowable floor area ratio and is contrary to Section 23-141 of the Zoning Resolution.
4. Creates non-compliance with respect to the lot coverage and is contrary to Section 23-141 of the Zoning Resolution.
5. Creates non-compliance with respect to the open space and is contrary to Section 23-141 of the Zoning Resolution; and

WHEREAS, this is an application under ZR §§73-622 and 73-03, to permit, within an R4 zoning district within the

Special Ocean Parkway District (OP), the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space, lot coverage, rear yard, and side yard contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on January 15, 2013, after due notice by publication in *The City Record*, with a continued hearing on February 5, 2013, and then to decision on March 5, 2013; 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 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of East 5th Street, between Avenue W and Angela Drive, within an R4 zoning district within the Special Ocean Parkway District (OP); and

WHEREAS, the subject site has a total lot area of 3,200 sq. ft., and is occupied by a single-family home with a floor area of 2,877 sq. ft. (0.90 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 2,877 sq. ft. (0.90 FAR) to 4,174 sq. ft. (1.30 FAR); the maximum permitted floor area is 2,400 sq. ft. (0.75 FAR); and

WHEREAS, the applicant proposes an open space of 1,667 sq. ft.; the minimum required open space is 1,760 sq. ft.; and

WHEREAS, the applicant proposes a lot coverage of 48 percent; the maximum permitted lot coverage is 45 percent; and

WHEREAS, the applicant proposes to maintain the pre-existing non-complying rear yard with a depth of 14’-10 ¼”; the minimum required rear yard depth is 30 feet; and

WHEREAS, the applicant proposes to maintain the pre-existing non-complying side yard with a width of 2’-4 ½” and to provide a second side yard with a width of 8’-7 ¾”; side yards with a minimum width of 5’-0” each are 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, 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

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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 within the Special Ocean Parkway District, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space, lot coverage, rear yard, and side 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 August 29, 2012"-(6) sheets and "December 20, 2012"-(5) sheets; and on further condition:

THAT the following will be the bulk parameters of the building: a maximum floor area of 4,174 sq. ft. (1.30 FAR), a minimum open space of 1,667 sq. ft., a maximum lot coverage of 48 percent, a rear yard with a minimum depth of 14'-10 1/4", and side yards with minimum widths of 2'-4 1/2" and 8'-7 3/4", 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 will be considered approved only for the portions related to the specific relief granted;

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

THAT 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 5, 2013.

280-12-BZ

CEQR #13-BSA-035K

APPLICANT – Law Office of Fredrick A. Becker, for Sheila Weiss and Jacob Weiss, owners.

SUBJECT – Application September 21, 2012 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space (§23-141); side yards (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1249 East 28th Street, east side of 28th Street, Block 7646, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 21, 2012, acting on Department of Buildings Application No. 320519426, reads in pertinent part:

Proposed plans are contrary to ZR 23-141(a) 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 ratio 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.

Proposed plans are contrary to ZR 23-461(a) in that the proposed side yard straight-line extension is less than the 5 foot minimum side yard permitted; and

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

WHEREAS, a public hearing was held on this application on January 8, 2013, after due notice by publication in *The City Record*, with a continued hearing on February 5, 2013, and then to decision on March 5, 2013; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by 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 east side of East 28th Street, between Avenue M and Avenue L, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 3,900 sq. ft., and is occupied by a single-family home with a floor area of 2,348.66 sq. ft. (0.60 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 2,348.66 sq. ft. (0.60 FAR) to 3,919.48 sq. ft. (1.01 FAR); the maximum permitted floor area is 1,950 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes an open space ratio of 53 percent; the minimum required open space ratio

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is 150 percent; and

WHEREAS, the applicant proposes a rear yard with a depth of 20 feet; the minimum required rear yard depth is 30 feet; and

WHEREAS, the applicant proposes to maintain the pre-existing non-complying side yard with a width of 2'-10" and to provide a second side yard with a width of 8'-4"; side yards with a minimum width of 5'-0" each are 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, 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 proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear yard, and side 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 September 21, 2013"-(6) sheets and "February 20, 2013"-(6) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 3,919.48 sq. ft. (1.01 FAR), a minimum open space ratio of 53 percent, a rear yard with a minimum depth of 20 feet, and side yards with minimum widths of 2'-10" and 8'-4", as illustrated on the BSA-approved plans;

THAT the floor area in the attic will be limited to 339.7 sq. ft., 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 will be considered approved

only for the portions related to the specific relief granted;

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

THAT 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 5, 2013.

296-12-BZ

CEQR #13-BSA-046X

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 2374 Concourse Associates LLC, owner; Blink 2374 Grand Concourse Inc., lessee.

SUBJECT – Application October 16, 2012 – Special Permit (§73-36) to allow a physical culture establishment (*Blink Fitness*) within existing building. C4-4 zoning district.

PREMISES AFFECTED – 2374 Grand Concourse, northeast corner of intersection of Grand Concourse and East 184th Street, Block 3152, Lot 36, Borough of Bronx.

COMMUNITY BOARD #5BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough Commissioner, dated October 10, 2012, acting on Department of Buildings Application No. 220229429, reads in pertinent part:

Proposed Physical Culture Establishment in a C4-4(C) district is contrary to 32-10 ZR and requires a special permit from the BSA pursuant to Section 73-36 ZR; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C4-4 zoning district within the Special Grand Concourse Preservation District (C), the operation of a physical culture establishment (PCE) at the first through third floors of a three-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 5, 2013, after due notice by publication in *The City Record*, and then to decision on March 5, 2013; and

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

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

WHEREAS, the subject site is located at the northeast

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corner of East 184th Street and the Grand Concourse, in a C4-4 zoning district within the Special Grand Concourse Preservation District (C); and

WHEREAS, the site is occupied by a three-story commercial building; and

WHEREAS, the proposed PCE will occupy a total of 14,190 sq. ft. of floor area with 3,180 sq. ft. on the first floor, 9,860 sq. ft. on the second floor, and 1,150 sq. ft. on the third floor; and

WHEREAS, the site has 130.88 feet of frontage on the Grand Concourse, 78.39 feet of frontage on East 184th Street, and 140.1 feet of frontage on Ryer Avenue, and a total lot area of 10,032 sq. ft.; and

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

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

WHEREAS, the hours of operation for the proposed PCE will be Monday through Saturday, from 5:30 a.m. to 11:00 p.m. and Sunday, from 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the applicant notes that the other uses in the building are all commercial; and

WHEREAS, the applicant states that although the site is located within the Special Grand Concourse Preservation District, pursuant to ZR § 122-80, the regulations of the special district do not apply to C4-4 districts within its boundaries; and

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

WHEREAS, the 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 a 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.13BSA046X, dated October 15, 2012; 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 in a C4-4 zoning district within the Special Grand Concourse Preservation District (C), the operation of a physical culture establishment at the first and first through third floors of a three-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received February 20, 2013" - Four (4) sheets and *on further condition*:

THAT the term of this grant will expire on March 5, 2023;

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 above conditions will appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance will be as reviewed and approved by DOB;

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

THAT 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,

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March 5, 2013.

306-12-BZ

CEQR #13-BSA-052R

APPLICANT – Eric Palatnik, P.C., for Vincent Passarelli, owner; 2 Roars Restored Inc aka La Vida Massage, lessee. SUBJECT – Application November 5, 2012 – Special Permit (§73-36) to allow a physical culture establishment (*La Vida Massage*). M1-1 zoning district.

PREMISES AFFECTED – 2955 Veterans Road West, Cross Streets Tyrellan Avenue and W Shore Expressway, Block 7511, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated October 4, 2012, acting on Department of Buildings Application No. 520111209, reads in pertinent part:

Proposed change of use from existing office (use group 6 per CO# 500834500F) to . . . a Physical Culture Establishment (Massage La Vida N.Y.) requires a special permit from the Board of Standards and Appeals pursuant to ZR 73-36 ; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in an M1-1 zoning district within the Special South Richmond Development District (SRD), the operation of a physical culture establishment (PCE) on a portion of the second floor of a two-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on February 12, 2013, after due notice by publication in *The City Record*, and then to decision on March 5, 2013; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Montanez; and

WHEREAS, Community Board 3, Staten Island, recommends approval of this application; and

WHEREAS, the subject site is located on the south side of Veterans Road West between West Shore Parkway and Tyrellan Avenue, within an M1-1 zoning district within the Special South Richmond Development District (SRD); and

WHEREAS, the site is occupied by a two-story commercial building; and

WHEREAS, the site has a total lot area of 335,780 sq. ft.; and

WHEREAS, on August 18, 2009, the Board approved a special permit for a PCE on another portion of the second floor of the building pursuant to BSA Cal. No. 288-08-BZ for a martial arts studio (Costanzo’s Martial Arts) that continues to operate; and

WHEREAS, the proposed PCE will occupy a total of 2,699 sq. ft. of floor area on the second floor; and

WHEREAS, the proposed PCE will be operated as La Vida Massage; and

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

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

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

WHEREAS, the 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.13BSA052R, dated November 5, 2012; 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.

MINUTES

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 in an M1-1 zoning district within the Special South Richmond Development District (SRD), the operation of a physical culture establishment on a portion of the second floor of a two-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received January 29, 2013" - Three (3) sheets and *on further condition*:

THAT the term of this grant will expire on March 5, 2023;

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 above conditions will appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance will be as reviewed and approved by DOB;

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

THAT 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 5, 2013.

56-12-BZ

APPLICANT – Eric Palatnik, P.C., for Alexander Grinberg, owner.

SUBJECT – Application March 13, 2012 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141); side yard (§23-461); and rear yard (§23-47) regulations. R3-1 zoning district.

PREMISES AFFECTED – 168 Norfolk Street, between Shore Boulevard and Oriental Boulevard, Block 8756, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #4BK

ACTION OF THE BOARD – Laid over to March 19, 2013, at 10 A.M., for continued hearing.

57-12-BZ

APPLICANT – Eric Palatnik, P.C., for Mykola Volynsky, owner.

SUBJECT – Application March 13, 2012 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (§23-141); side yards (§23-461); less than the required rear yard (§23-37). R4 zoning district.

PREMISES AFFECTED – 2670 East 12th Street, between Shore Parkway and Gilmore Court, Block 7455, Lot 85, Borough of Brooklyn.

COMMUNITY BOARD #15BK

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 April 9, 2013, at 10 A.M., for decision, hearing closed.

148-12-BZ

APPLICANT – Eric Palatnik, P.C., for Esther Kuessous, owner.

SUBJECT – Application May 8, 2012 – Special Permit (§73-621) for the enlargement of an existing single family semi-detached residence, contrary to floor area, lot coverage and open space (ZR23-141(b)). R4 zoning district.

PREMISES AFFECTED – 981 East 29th Street, between Avenue I and Avenue J, Block 7593, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to April 9, 2013, at 10 A.M., for continued hearing.

MINUTES

235-12-BZ

APPLICANT – Slater & Beckerman, LLP, for NBR LLC, owner.

SUBJECT – Application July 30, 2012 – Special Permit (§73-242) to allow a one-story building to be used as four eating and drinking establishments (Use Group 6), contrary to use regulations (§32-00). C3 zoning district.

PREMISES AFFECTED – 2771 Knapp Street, East side of Knapp Street, between Harkness Avenue to the south and Plumb Beach Channel to the north. Block 8839, Lots 33, 38, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to May 21, 2013, at 10 A.M., for deferred decision.

284-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Jack Cayre, owner. SUBJECT – Application September 25, 2012 – Special Permit (§73-622) for the enlargement of an existing single-family home, contrary to floor area (§23-141) and perimeter wall height (§23-631) requirements. R2X (OP) zoning district.

PREMISES AFFECTED – 2047 East 3rd Street, eastern side of East 3rd Street, between Avenue S and Avenue T, Block 7106, Lot 122, Borough of Brooklyn.

ACTION OF THE BOARD – Laid over to April 9, 2013, at 10 A.M., for continued hearing.

294-12-BZ

APPLICANT – Eric Palatnik, P.C., for David Katzive, owner; Thomas Anthony, lessee.

SUBJECT – Application October 11, 2012 – Special Permit (§73-36) to allow a physical culture establishment (*Everyday Athlete*). C5-2A/DB special zoning district.

PREMISES AFFECTED – 130 Clinton Street, aka 124 Clinton Street, between Joralemon Street and Aitken Place, Block 264, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #2BK

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 April 9, 2013, at 10 A.M., for decision, hearing closed.

313-12-BZ

APPLICANT – Troutman Sanders LLP, for Flatbush Delaware Holding LLC, owner; Bally's Total Fitness of Greater New York, lessee.

SUBJECT – Application November 20, 2012 – Special permit (§73-36) to allow the continued operation of the existing physical culture establishment (*Bally's Total Fitness*). C4-2/C4-4A zoning district.

PREMISES AFFECTED – 1009 Flatbush Avenue, block bounded by Flatbush Avenue, Albermarle Road, Bedford Avenue and Tilden Avenue, Block 5126, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #14BK

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 April 16, 2013, at 10 A.M., for decision, hearing closed.

314-12-BZ

APPLICANT – Troutman Sanders LLP, for New York Communications Center Associates, L.P. c/o George Comfort & Sons Inc., owner; Bally's Total Fitness of Greater New York, lessee.

SUBJECT – Application November 20, 2012 – Special permit (§73-36) to allow the continued operation of the existing physical culture establishment (*Bally's Total Fitness*). C6-4 (CL) zoning district.

PREMISES AFFECTED – 350 West 50th Street, block bounded by West 49th Street, Ninth Avenue, West 50th Street and Eighth Avenue, Block 1040, Lot p/1 Condo Lot 1003, Borough of Manhattan.

COMMUNITY BOARD #4M

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 April 16, 2013, at 10 A.M., for decision, hearing closed.

325-12-BZ

APPLICANT – Bryan Cave LLP by Margery Perlmutter, for Royal Charter Properties, Inc., for New York Presbyterian Hospital, owner.

SUBJECT – Application December 10, 2012 – Variance (§72-21) to permit a new Use Group 4 maternity hospital and ambulatory diagnostic or treatment health care facility (*New York Presbyterian Hospital*), contrary to modification of height and setback, lot coverage, rear yard, floor area and parking. R10/R9/R8 zoning districts.

PREMISES AFFECTED – 1273-1285 York Avenue, west side of York Avenue bounded by East 68th and 69th Streets, Block 1463, Lot 21, 31, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to April 16,

MINUTES

2013, at 10 A.M., for decision, hearing closed.

341-12-BZ

APPLICANT – Sheldon Lobel, P.C., for 403 Concord Avenue, Inc., owner.

SUBJECT – Application December 17, 2012 – Special Permit (§73-19) to permit a Use Group 3 school to occupy an existing building, contrary to use regulations (§42-00).

M1-2 zoning district.

PREMISES AFFECTED – 403 Concord Avenue, southwest corner of the intersection formed by Concord Avenue and East 144th Street, Block 2573, Lot 87, Borough of Bronx.

COMMUNITY BOARD #1BX

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 April 16, 2013, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.