
BULLETIN

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Affecting Calendar Numbers:

110-10-BZY 123 Beach 93rd Street, Queens

DOCKETS

New Case Filed Up to April 16, 2013

100-13-BZ

1352 East 34th Street, West side of East 24th Street between Avenue M and Avenue N, Block 7659, Lot(s) 69, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) proposed the enlargement of a single family residence located in a residential (R2) zoning district. R2 district.

101-13-BZ

1271 East 23rd Street, East side 190.0 feet north of Avenue "M", Block 7641, Lot(s) 15, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to the enlargement of an existing detached single home in and an R3-2 zoning district contrary to 23-141, 23-46 and 23-47. R2 district.

102-13-BZ

28-30 Avenue A, New York NY, East side of Avenue A , 79.5" north of East 2nd Street, Block 398, Lot(s) 2, Borough of **Manhattan, Community Board: 3M**. Special Permit (§73-36) to permit the operation of a physical culture establishment/health club on the second through fifth floors of a five-story and basement commercial building, contrary to Section §32-31. C2-5 (R7A/R8B) zoning district. C2-5 (R7A/R8B) district.

103-13-BZ

81 Jefferson Street, north side of Jefferson St.appox. 256 ft. west of intersection of Evergreen Avenue and Jefferson Street., Block 3162, Lot(s) 42, Borough of **Brooklyn, Community Board: 3**. Variance (§72-21) to permit the development of a cellar and four-story, eight-family residential building in an M1-1 zoning district contrary to §42-10 zoning resolution. M1-1 district.

104-13-BZ

1002 Gates Avenue, 62 feet east of intersection of Ralph Avenue and Gates Avenue, Block 1480, Lot(s) 10, Borough of **Brooklyn, Community Board: 3**. Special Permit (§73-36) to permit the operation of a physical culture establishment within a portion of an existing five-story commercial building. C2-4 (R6A) zoning district. C2-4 (R6A) district.

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

CALENDAR

MAY 7, 2013, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, May 7, 2013, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

30-02-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Trump Park Avenue, LLC, owner; Town Sports International dba New York Sports Club, lessee.

SUBJECT – Application January 28, 2013 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a physical culture establishment/health club (*New York City Sports Club*) which expired on July 23, 2012; Amendment to permit the modification of approved hours and signage; Waiver of the Rules. C5-3, C5-2.5(Mid) zoning district.

PREMISES AFFECTED – 502 Park Avenue, northwest corner of Park Avenue and East 59th Street, Block 1374, Lot 7502(36), Borough of Manhattan

COMMUNITY BOARD # 8M

328-02-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Park Avenue Building Co., LLP, owner; Town Sports International dba New York Sports Club, lessee.

SUBJECT – Application January 30, 2013 – Extension of Term of a previously granted Special Permit (ZR 73-36) for the continued operation of a Physical Culture Establishment/Health Club (*New York Sports Club*) which expired on January 1, 2013. C5-3/C1-9 zoning district.

PREMISES AFFECTED – 3 Park Avenue, southeast corner of Park Avenue and East 34th Street, Block 889, Lot 9001, Borough of Manhattan.

COMMUNITY BOARD # 5M

27-05-BZ

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

SUBJECT – Application February 4, 2013 – Extension of Term (§11-411) of an approved variance which permitted the operation of an automotive service station (UG 16B) with accessory uses, which expired on April 18, 2011; Amendment to permit the legalization of site layout and operational changes; Waiver of the Rules. C2-4/R6 zoning district.

PREMISES AFFECTED – 91-11 Roosevelt Avenue, north side of Roosevelt Avenue between 91st and 92nd Street, Block 1479, Lot 38, Borough of Queens.

COMMUNITY BOARD #3Q

APPEALS CALENDAR

317-12-A

APPLICANT – Eric Palatnik, P.C., for 4040 Management, LLC, owner.

SUBJECT – Application November 29, 2012 – Appeal seeking common law vested rights to continue construction commenced under the prior M1-3D zoning district regulations. M1-2/R5B zoning district.

PREMISES AFFECTED – 40-40 27th Street, between 40th Avenue and 41st Avenue, Block 406, Lot 40, Borough of Queens.

COMMUNITY BOARD #1Q

346-12-A

APPLICANT – Eric Palatnik, P.C., for Woodpoint Gardens, LLC, owners.

SUBJECT – Application December 12, 2012 – Appeal seeking common law vested rights to continue construction commenced under the prior R6 zoning district. R6B zoning district.

PREMISES AFFECTED – 179-181 Woodpoint Road, between Jackson Street and Skillman Avenue, Block 2884, Lot 4, Borough of Brooklyn

COMMUNITY BOARD #1BK

60-13-A

APPLICANT – NYC Department of Buildings.

OWNER OF PREMISES -71 Greene LLC, 75 Greene LLC, 370 Clermont LLC and Earle F. Alexander.

SUBJECT – Application February 6, 2013 – Appeal seeking to revoke Certificate of Occupancy Nos. 147007 & 172308 as they were issued in error.

PREMISES AFFECTED – 71 & 75 Greene Avenue, aka 370 & 378 Clermont Avenue, northwest corner of Greene and Clermont Avenues, Block 2121, Lots 44, 41, 36, 39, 105, Borough of Brooklyn.

COMMUNITY BOARD #2BK

CALENDAR

ZONING CALENDAR

113-12-BZ

APPLICANT – Mitchell S. Ross, Esq., for St. Paul CongHa-Sang R.C. Church, owners.

SUBJECT – Application April 23, 2012 – Variance (§72-21) to permit parapet wall to exceed 42", and resulting front wall height and related structure contrary to §24-521 & 24-51. R2A zoning district.

PREMISES AFFECTED – 32-05 Parsons Boulevard, northeast corner of Parsons Boulevard and 32nd Avenue, Block 4789, Lot 14, Borough of Queens.

COMMUNITY BOARD #7Q

206-12-BZ

APPLICANT – George Guttmann, for Dmitriy Kotlarsky, owner.

SUBJECT – Application July 2, 2012– Variance (72-21) to legalize the conversion of the garage into a recreation space totaling the increase of 200 square feet of additional floor area contrary to ZR §23-141. R3-1 zoning district.

PREMISES AFFECTED – 2373 East 70th Street, between Avenue W and Avenue X, Block 8447, Lot 67, Borough of Brooklyn.

COMMUNITY BOARD #18BK

13-13-BZ & 14-13-BZ

APPLICANT – Slater & Beckerman, P.C., for The Green Witch Project LLC, owners.

SUBJECT – Application January 25, 2013 – Variance (§72-21) to allow a single family residential building contrary to use regulations §42-00. M1-1 zoning district.

PREMISES AFFECTED – 98 & 96 DeGraw Street, north side of DeGraw Street, between Columbia and Van Brunt Streets, Block 329, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #6BK

63-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Cel-Net Holdings, Corp., owner; The Cliffs at Long Island City, LLC, lessee.

SUBJECT – Application February 11, 2013 – Special Permit (§73-36) to permit the operation of rock climbing gymnasium (*The Cliffs*), which is considered a physical culture establishment. M1-4/R7A (LIC) zoning district.

PREMISES AFFECTED – 11-11 44th Drive, north side of 44th Drive between 11th Street and 21st Street, Block 447, Lot 13, Borough of Queens.

COMMUNITY BOARD #2Q

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, APRIL 16, 2013
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

390-61-BZ

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

SUBJECT – Application January 5, 2013 – Extension of Time to obtain a Certificate of Occupancy of a previously approved variance permitting UG8 parking garage and an auto rental establishment (UG8) in the cellar level, which expired on December 13, 2012. 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

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to obtain a certificate of occupancy for a previously granted variance for a parking garage which expired on December 13, 2012; and

WHEREAS, a public hearing was held on this application on March 19, 2013, after due notice by publication in *The City Record*, and then to decision on April 16, 2013; and

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

WHEREAS, the site is located on the south side of East 33rd Street, approximately 151 feet east of Lexington Avenue; and

WHEREAS, the site is located in an R8B zoning district and is occupied with a four-story and cellar structure for use as a parking garage for not more than 149 cars; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 18, 1961, when, under the subject calendar number, the Board granted a variance for the construction of the parking garage for a term of 20 years; and

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

WHEREAS, on January 29, 2008, the term was extended for an additional ten years, to expire on March 3,

2018; and

WHEREAS, on December 13, 2011, the grant was amended to allow the conversion of the cellar level from a parking garage to an auto rental establishment; and

WHEREAS, one condition of the grant was that a new certificate of occupancy be obtained by December 13, 2012; and

WHEREAS, the applicant states that the work has been performed and inspected, but requests an additional 18 months to obtain the new certificate of occupancy; and

WHEREAS, the applicant confirmed that the roof stackers had been removed; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on July 18, 1961, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: “to extend the time to obtain a certificate of occupancy for a period of 18 months from the date of this grant, *on condition* that the use and operation shall substantially conform to the previously approved drawings; and *on further condition*:

THAT a new certificate of occupancy be obtained by October 16, 2014;

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)/configuration(s) not related to the relief granted.” (N.B. 46-61)

Adopted by the Board of Standards and Appeals, April 16, 2013.

167-95-BZ

APPLICANT – Walter T. Gorman, P.E., for Springfield L. I. Cemetery Society, owners.

SUBJECT – Application September 21, 2012 – Extension of Term of a previously approved variance (§72-21) which permitted the maintenance and repairs of motor-operated cemetery equipment and accessory parking and storage of motor vehicles which expired on February 4, 2012; amendment to reduce the size of the area covered by the variance. R3A zoning district.

PREMISES AFFECTED – 121-20 Springfield Boulevard, west side of Springfield Boulevard, 166/15’ south of 121st Avenue, Block 12695, Lot 1, Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

MINUTES

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of term for a variance to allow the repair and parking of cemetery equipment use to remain, which expired on February 4, 2012, and for an amendment to reduce the size of the site; and

WHEREAS, a public hearing was held on this application on February 5, 2013, after due notice by publication in *The City Record*, with a continued hearing on March 19, 2013, and then to decision on April 16, 2013; and

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

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

WHEREAS, the site is located on the west side of Springfield Boulevard, south of 121st Avenue, within an R3A zoning district; and

WHEREAS, the site is currently occupied by accessory uses to the Montefiore Cemetery; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 17, 1961 when, under BSA Cal. No. 416-60-BZ, the Board granted a variance to permit in a retail and residence use district, the construction of a one-story building to be used for the repair of motor operated cemetery equipment and a locker room for cemetery employees with the parking and storage of motor vehicles in an area partly within the retail district and partly in the residence district; and

WHEREAS, the grant was subsequently extended and amended at various times; and

WHEREAS, on February 4, 1997, under BSA Cal. No. 167-95-BZ, the Board granted an application to allow for the enlargement of the zoning lot to include Lot 15 and the continued use of Lot 21 and a substantial portion of Lot 1 (the remainder of Lot 1 became Lot 87) for the noted cemetery purposes; the grant was for a term of 15 years, to expire on February 4, 2012; and

WHEREAS, the applicant states that subsequent to the 1997 grant, it realized that its request for enlargement of the variance site was overly ambitious and the circumstances at the cemetery were changing; specifically, the number of visitors was diminishing and no additional parking space was required; and

WHEREAS, accordingly, the applicant seeks to reduce the area covered by the variance by eliminating Lots 15 and 21, and the majority of Lot 1 (tentative Lot 101); and

WHEREAS, the proposed change to the site reflects a reduction in the lot area from 122,219 sq. ft. to 36,602 sq. ft.; and

WHEREAS, the applicant seeks to revert the noted portions of the site to potential future conforming use; and

WHEREAS, the applicant also seeks a ten-year

extension of term for the remaining site that still requires the use variance for the maintenance of cemetery vehicles; and

WHEREAS, at hearing, the Board directed the applicant to perform necessary measures to comply with the conditions of the approval including (1) paving the drywell area; (2) replacing or repairing sidewalk flags; and (3) installing fencing at the perimeter of the site; and

WHEREAS, the applicant states that it has cleaned up the site including removing graffiti and fixing signs, and provided a timetable for the remainder of the site work; and

WHEREAS, specifically, the applicant states that the drywell installation and paving, the fence installation, and flag repair and replacement will all be completed within 12 weeks from the date of this grant; and

WHEREAS, at the Board's direction, the applicant also tabulated the floor area and described the uses of the buildings at the site; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of term and amendment are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated February 4, 1997, so that as amended this portion of the resolution shall read: "to extend the term for a period of ten years from the expiration of the prior grant and to allow amendments as described; *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 7, 2012'-(2) sheets and 'March 25, 2013'-(1) sheet; and *on further condition*:"

THAT the term of this grant will expire on February 4, 2022;

THAT the floor area of the buildings on the site will be limited to the existing 7,157 sq. ft.;

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

THAT the conditions above and the conditions from the prior resolutions will be noted on the certificate of occupancy;

THAT compliance with all conditions, namely drywell work and paving, fencing, and flag repair be completed by July 16, 2013;

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. 420616630)

Adopted by the Board of Standards and Appeals, April 16, 2013.

MINUTES

18-02-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 8610 Flatlands Realty, LLC, owner.

SUBJECT – Application August 17, 2012 – Extension of Term (§11-411) of an approved variance for the continued operation of an automotive laundry (UG 16B) which expired on August 13, 2012. C2-3/R5D zoning district.

PREMISES AFFECTED – 8610 Flatlands Avenue, southwest corner of intersection of Flatlands Avenue and 87th Street, Block 8023, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for an extension of term for an automotive laundry, which expired August 13, 2012; and

WHEREAS, a public hearing was held on this application on January 15, 2013, after due notice by publication in *The City Record*, with continued hearings on February 12, 2013 and March 3, 2013, and then to decision on April 16, 2013; and

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

WHEREAS, Community Board 18, Brooklyn, recommends approval of this application; and

WHEREAS, the site is located on the southwest corner of Flatlands Avenue and East 87th Street, within a C2-3 (R5D) zoning district; and

WHEREAS, the site is currently occupied by an automotive laundry; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 19, 1957 when, under BSA Cal. No. 652-54-BZ, the Board granted an application pursuant to § 7e of the 1916 Zoning Resolution to permit in a residence district the change of occupancy from garage and dead storage to garage, storage of roofing materials and sheet metal shop; and

WHEREAS, on September 24, 1957, under BSA Cal. No. 652-54-BZ, the Board granted an application pursuant to §§ 7e, 7f, 7i, and 7h of the 1916 Zoning Resolution to permit in a business and residence district the construction and maintenance of a gasoline service station, lubritorium, minor auto repairs, storage, office and sales, parking, and storage of motor vehicles; on October 31, 1972, the term of the 1957 grant was extended for ten years; and

WHEREAS, on August 13, 2002, under the current calendar number (BSA Cal. No. 18-02-BZ), the Board granted an application to permit the change from gasoline service station, lubritorium and automotive repair facility to

automotive laundry; the term of this grant was for ten years; and

WHEREAS, on August 13, 2012, the grant expired; and WHEREAS, the applicant now seeks to extend the term; and

WHEREAS, at hearing, the Board directed the applicant to restore landscaping to the site, properly stripe the parking lot, and remove signage (banners) that did not comply with the Zoning Resolution; and

WHEREAS, in response, the applicant submitted photographs demonstrating compliance with the Board's directions; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens*, and *amends* the resolution, dated August 13, 2002, so that as amended this portion of the resolution shall read: "to extend the term for a period of 10 years from the date of this grant; *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 August 17, 2012' - (1) sheet and 'March 15, 2013' - (1) sheet; and *on further condition*:

THAT the term of this grant shall expire on August 13, 2022;

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." (DOB Application No. 301230004)

Adopted by the Board of Standards and Appeals, April 16, 2013.

551-37-BZ

APPLICANT – Eric Palatnik, P.C., for Manocher M. Mehrfar, owner.

SUBJECT – Application October 12, 2012 – Extension of Term (§11-411) of approved variance for the continued operation of an automobile repair shop (*Red's Auto Repair*) which expired on July 15, 2012; Waiver of the Rules. R1-2 zoning district.

PREMISES AFFECTED – 233-02 Northern Boulevard, between 234th and 233rd Street, Block 8166, Lot 20, Borough of Queens.

COMMUNITY BOARD #11Q

ACTION OF THE BOARD – Laid over to May 7, 2013, at 10 A.M., for adjourned hearing.

MINUTES

135-46-BZ

APPLICANT – Eric Palatnik, P.C., for Arielle A. Jewels, Inc., owner.

SUBJECT – Application March 30, 2012 – Extension of Term (§11-411) of approved variance which permitted an automotive service station (UG 16B) with accessory uses, which expired on January 29, 2012, and an amendment (§11-413) to convert the use to auto laundry (UG 16B) hand car wash; waiver for the Rules. R4 zoning district.

PREMISES AFFECTED – 3802 Avenue U, southeast corner of East 38th Street, between Ryder Avenue and East 38th Street, Block 8555, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Laid over to May 7, 2013, at 10 A.M., for adjourned hearing.

11-80-BZ

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

SUBJECT – Application January 10, 2013 – Amendment of previously approved variance (§72-21) which allowed conversion of the third through seventh floor from commercial to residential use. Amendment would permit the additional 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

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 May 7, 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 May 7, 2013, at 10 A.M., for adjourned hearing.

326-02-BZ

APPLICANT – Sheldon Lobel, P.C., for 2230 Church Avenue Realty, LLC, owner; 2228 Church Avenue Fitness Group, LLC, lessee.

SUBJECT – Application November 27, 2012 – Extension of Term of a previously approved Special Permit (§73-36) for the continued operation of physical culture establishment (*Planet Fitness*) which expires on November 5, 2013; Amendment to allow the extension of use to the building's first floor, and change in ownership. C4-4A zoning district.

PREMISES AFFECTED – 2228-2238 Church Avenue, south side of Church Avenue between Flatbush Avenue and Bedford Avenue, Block 5103, Lot 36, 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 May 14, 2013, at 10 A.M., for decision, hearing closed.

341-02-BZ

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

SUBJECT – Application January 25, 2013 – Extension of Term of a previously approved Variance (§72-21) for the continued UG6 retail use on the first floor of a five-story building, which expired on April 8, 2013. R-8B zoning district.

PREMISES AFFECTED – 231 East 58th Street, northwest corner of the intersection of Second Avenue and East 58th Street, Block 1332, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #6M

ACTION OF THE BOARD – Laid over to May 14, 2013, at 10 A.M., for continued hearing.

150-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Shun K. and Oiyee Fung, owners.

SUBJECT – Application January 25, 2013 – Extension of Time to Complete Construction of a previously approved Variance (§72-21) to build a new four-story residential building with a retail store and one-car garage, which expired on March 29, 2009; Waiver of the Rules. C6-2G LI (*Special Little Italy*) zoning district.

PREMISES AFFECTED – 129 Elizabeth Street, west side of Elizabeth Street between Broome and Grand Street, Block 470, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

THE VOTE TO CLOSE HEARING –

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

MINUTES

ACTION OF THE BOARD – Laid over to May 14, 2013, at 10 A.M., for decision, hearing closed.

55-06-BZ

APPLICANT – Rampulla Associates Architects, for Nadine Street, LLC, owner.

SUBJECT – Application March 7, 2013 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the construction of a three-story with cellar, office building (UG 6B), which expired on January 23, 2011; Waiver of the Rules. C1-1(NA-1) zoning district. PREMISES AFFECTED – 31 Nadine Street, St. Andrews Road and Richmond Road, Block 2242, Lot 92, 93, 94, Borough of Staten Island.

COMMUNITY BOARD # 2SI

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 May 14, 2013, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

310-12-A

APPLICANT – Mitchell A. Korbey, Esq./Herrick, Feinstein, for 141 East 88th Street LLC, owners.

SUBJECT – Application December 12, 2012 – Appeal to the Multiple Dwelling Law section 310(2)(a) to permit the reclassification of a partially occupied residential building, a rehabilitation and a rooftop addition. C1-8X zoning district. PREMISES AFFECTED – 141 East 88th Street, south-east corner of East 88th Street and Lexington Avenue, Block 1517, Lot 20, 50, Borough of Manhattan.

COMMUNITY BOARD #8M

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 February 7, 2013, acting on Department of Buildings Application No. 121094289 reads, in pertinent part:

- 1) The existing building does not comply with MDL 26.5 which requires that every window shall open onto either:
 - 1- a lawful inner or outer court; [or]
 - 2- a side yard or rear yard with a depth of 30 feet in one direction. [MDL 26.5]

- 2) The existing courts do not comply with minimal dimensional requirements of MDL 26.7. [MDL 26.7]
- 3) The existing building does not comply with MDL 102.1 which requires that entrances to fire stairs be at least 15 feet apart. The entrances to the available stairs in the north portion of the building are less than 15 feet apart. [MDL 102.1]
- 4) The existing building does not comply with MDL 103.5 which prohibits egress from any dwelling unit from opening into any stair except through a vestibule or public hall. [MDL 103.5]
- 5) The proposed enlargement that increases the height to a height greater than 125 feet does not comply with MDL 102.2. [MDL 102.2]; and

WHEREAS, this is an application pursuant to Multiple Dwelling Law (“MDL”) § 310, to vary the noted sections of the MDL in order to allow for the proposed renovation, enlargement of existing penthouses to create a 12th story, and construction of a partial 13th level (new penthouse), contrary to MDL §§ 26.5, 26.7, 102.1, 103.5, and 102.2; and

WHEREAS, a public hearing was held on this application on March 12, 2013, after due notice by publication in *The City Record*, and then to decision on April 16, 2013; and

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

WHEREAS, the subject site is located on the east side of Lexington Avenue for the entire block between East 88th Street and East 89th Street, within a C1-8X zoning district; and

WHEREAS, the site has 201.42 feet of frontage on Lexington Avenue, 100 feet of frontage on East 88th Street, 91.58 feet of frontage on East 89th Street, and a total lot area of 19,294 sq. ft.; and

WHEREAS, the site is occupied by an 11-story fireproof New Law Tenement building, with retail space on the first story and a total of 96 dwelling units on the second story and above; the building has 167,297 sq. ft. of existing floor area (FAR 8.67) and a building height of 113.73 feet; the applicant notes that the subject building was constructed between 1928 and 1929 in two stages, resulting in a north section and a south section sharing a common lobby but having separate elevator banks, public stairs and Certificates of Occupancy; and

WHEREAS, the applicant proposes to: (1) enlarge the existing penthouses to create a 12th story, and create two new penthouses at the 13th level, which will increase the floor area from 167,297 sq. ft. of existing floor area (FAR 8.67) to 172,347 sq. ft. (FAR 8.93) and the building height from 113.73 feet to 137.14 feet; (2) reduce the number of dwelling units from 96 to 76; and (3) combine the existing building

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sections and obtain one Certificate of Occupancy for the entire building; and

WHEREAS, in addition, the applicant proposes to install new elevators, extend elevator service to the 12th story, install new sprinkler systems for the accessory residential spaces in the basement and the newly constructed areas on the 12th story and penthouses, enclose an existing open stairwell in the south portion of the building with a three-hour fire-rated partition and fireproof, self-closing doors, upgrade electric and HVAC services, and construct new common areas, including a roof terrace, club room, exercise room and children's play room; and

WHEREAS, the applicant notes that MDL § 211 prohibits the construction of a New Law Tenement beyond a height equal to one-and-one-half times the width of the street on which it fronts; and

WHEREAS, accordingly, the applicant states that the subject building would be limited not by the Zoning Resolution but by MDL § 211, to a maximum height of 112.5 feet, because Lexington Avenue measures 75 feet in width; and

WHEREAS, the applicant states that in order to accomplish the proposed height increase without triggering the height limitations per the MDL, it was necessary to reclassify the building from New Law Tenement to Hereafter Erected Class A Multiple Dwelling ("HAEA"), in accordance with DOB review; and

WHEREAS, the applicant states that as an HAEA, the maximum permitted height of the building is determined not by the MDL but by the applicable provisions of the Zoning Resolution; and

WHEREAS, the applicant states that the proposed enlargement is in compliance with the applicable provisions of the Zoning Resolution; however, as an HAEA, DOB determined that the building does not comply with MDL §§ 26.5, 26.7, 102.1, 103.5, and 102.2; thus, the proposed enlargement is not permitted unless the building is brought into compliance with these provisions or compliance is waived by the Board; and

WHEREAS, MDL § 26.5 requires that every required window open into either: (1) a lawful inner or outer court; or (2) a side or rear yard with a minimum width or depth of 30 feet in one direction; and

WHEREAS, MDL § 26.7 requires that an inner court have a minimum width of four inches per foot for each foot of height of such court, but in no event less than 15 feet in width at any point, and that the area of such inner court be twice the square of the width of the court dimension based on the height of such court, but in no event less than 350 square feet in area; however, the area of such court need not exceed 1,200 square feet provided that the minimum horizontal distance between any required window of a living room opening on an inner court is not less than 30 feet from any wall opposite such window; and

WHEREAS, MDL § 102.1 requires that entrances to fire-stairs be at least 15 feet distant from each other and from the entrance to every other fire-stair or fire-tower, except that

the distance between two such entrances may be less if they are on opposite sides of an elevator vestibule or other public hall or are separated by an elevator shaft; and

WHEREAS, MDL § 103.5 requires that no means of egress from any apartment open into any stair, fire-stair or fire-tower required under the provisions of this section except through a vestibule or public hall; and

WHEREAS, MDL § 102.2 requires that, in a dwelling exceeding 125 feet in height, every required fire-stair be at least 3'-8" in clear width from the entrance story up to a floor level not more than 100 feet below the ceiling of the highest story, that above such level every fire-stair be at least 3'-0" in clear width, and that every stair landing at every floor level be at least 3'-8" in clear width in every direction; and

WHEREAS, because the applicant sought to reclassify the subject building as an HAEA, the DOB determined that it is subject to all provisions relating to an HAEA and, as such, fails to comply with the requirements of MDL §§ 26.5, 26.7, 102.1, 103.5, and 102.2; and

WHEREAS, pursuant to MDL § 310(2)(a), the Board has the authority to vary or modify certain provisions of the MDL for multiple dwellings that existed on July 1, 1948, provided that the Board determines that strict compliance with such provisions would cause practical difficulties or unnecessary hardships, and that the spirit and intent of the MDL are maintained, public health, safety and welfare are preserved, and substantial justice is done; and

WHEREAS, as noted above, the subject building was constructed between 1928 and 1929; therefore the building is subject to MDL § 310(2)(a); and

WHEREAS, specifically, MDL § 310(2)(a) empowers the Board to vary or modify provisions or requirements related to: (1) height and bulk; (2) required open spaces; (3) minimum dimensions of yards or courts; (4) means of egress; and (5) basements and cellars in tenements converted to dwellings; and

WHEREAS, the Board notes that each of the noted conditions fits within one of the sections of MDL § 310(2)(a) – required open spaces, bulk and means of egress – which the Board has the express authority to vary; therefore the Board has the power to vary or modify the subject provisions pursuant to MDL § 310(2)(a); and

WHEREAS, the applicant represents that practical difficulty and unnecessary hardship would result from strict compliance with each of the noted provisions of the MDL; and

WHEREAS, the applicant states that complying with the requirement for every required window to open into either a lawful inner or outer court or a side or rear yard with a minimum width or depth of 30 feet in one direction under MDL §§ 26.5 and 26.7 is impractical and logistically and structurally difficult; and

WHEREAS, the applicant states that the existing courts have the following dimensions: a center court with a width of 17'-2" and an area of 952.2 sq. ft.; a north court with a width of 17'-0" and an area of 518.4 sq. ft.; and a south court with a width of 17'-0" and an area of 580 sq. ft.; and

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WHEREAS, the applicant represents that in order to comply with MDL §§ 26.5 and 26.7, the north and south courts would have to be eliminated and the center court would have to be expanded to a minimum of 34 feet wide and 2,312 sq. ft. in area; and

WHEREAS, the applicant states that where existing dwelling units have required windows opening upon the north and south courts, such units would have to be eliminated entirely or reconfigured to obtain the required light and ventilation from other windows; and

WHEREAS, the applicant states that where existing dwelling units are adjacent to the center court, such units would also have to be reconfigured; and

WHEREAS, the applicant represents that providing courts in compliance with MDL §§ 26.5 and 26.7 would require a substantial reconfiguration of at least 53 apartments at the rear of the subject building at all floor levels from the ground to the main roof; and

WHEREAS, further, the applicant states that providing courts in compliance with MDL §§ 26.5 and 26.7 would be so extensive structurally as to be effectively the same as constructing a new building; the applicant also notes that, because the building is occupied, virtually no portion of the court work could be done without relocating the existing tenants, at considerable expense; and

WHEREAS, the applicant represents that modifying the existing 11'-2" wide north fire stair to provide the required 15'-0" separation under MDL § 102.1 is impossible to satisfy without removing significant additional area from apartments in the north section of the subject building (to allow for the relocation of Stair E), and simultaneous reconfiguration of the "H"-line apartments on all stories; and

WHEREAS, the applicant further represents that, because the building is occupied, virtually no portion of the work necessary to create the required 15'-0" separation could be done without relocating the existing tenants, at considerable expense; and

WHEREAS, the applicant states that creating a vestibule or public hall to satisfy the requirements of MDL § 103.5 would necessitate the sealing or removal of five existing door openings upon stairs on every story; and

WHEREAS, the applicant represents that, because the building is occupied, the sealing and/or removal of doors on every floor would be significantly disruptive to the tenants; and

WHEREAS, finally, the applicant states that the required widening of stairs pursuant to MDL § 102.2 would necessitate the widening of existing 3'-3" wide stairs on the first through fourth stories by five inches and the widening of all existing 3'-3" wide stair landings by five inches; and

WHEREAS, the applicant represents that the stair widening work would reduce the rentable space on the affected stories, be enormously disruptive to the tenants, and, in the case of three of five stair systems, require structural modification due to the location of existing columns and mechanical shafts (resulting in some kind of adverse effect on every unit in the subject building); and

WHEREAS, the applicant also submitted a cost analysis from a real estate appraiser estimating that the cost of the fully-MDL compliant scenario for the subject building is \$63,342,127, including the cost of relocating tenants; and

WHEREAS, the applicant represents that because the proposed enlargement is not permitted due to the window, court and stairway non-compliances, the MDL restriction creates practical difficulty and unnecessary hardship in that it prevents the site from utilizing the development potential afforded by the subject zoning district; and

WHEREAS, specifically, the applicant notes that that the zoning district allows an addition of approximately 10,000 sq. ft. of floor area to the subject lot; and

WHEREAS, based on the above discussion of the hardship, the Board agrees that the applicant has established a sufficient level of practical difficulty and unnecessary hardship in complying with the requirements of the MDL; and

WHEREAS, the applicant states that the requested variance of MDL §§ 26.5, 26.7, 102.1, 103.5, and 102.2 is consistent with the spirit and intent of the MDL, and will preserve public health, safety and welfare, and substantial justice; and

WHEREAS, specifically, the applicant states that the proposal includes numerous fire safety improvements to mitigate the existing fire infirmities inherent in a building completed in 1929; and

WHEREAS, the applicant notes that MDL § 2 ("Legislative Finding") provides that the intent of the law is to protect against dangers such as "overcrowding of multiple dwelling rooms, inadequate provision for light and air, and insufficient protection against the defective provision for escape from fire"; and

WHEREAS, the applicant states that the objections cited by DOB are all existing conditions in a legally occupied building, and the proposal to convert the existing tenement to an HAEA and increase the height to accommodate a new penthouse level effectively triggers the retrofitting of the entire building; and

WHEREAS, the applicant represents that the proposed construction promotes the intent of the law because the number of dwelling units—and hence, the occupant load upon the stairs for the building as a whole—is being reduced from 96 to 76, the newly constructed spaces will be compliant with current fire safety norms, and the proposal will provide a number of significant fire safety improvements; the applicant also notes that the subject building is unlike most tenements constructed at the time, in that it is of fireproof construction, has elevators, and provides significantly more light and ventilation and larger courts than most New Law Tenements; and

WHEREAS, specifically, the applicant proposes to provide the following fire safety improvements: (1) the enclosure of an existing open stairwell in the southern portion of the subject building, (2) construction of a three-hour fire-rated partition in the same stairwell, including the installation of fireproof, self-closing doors; and (3) a new sprinkler system for the accessory residential spaces in the cellar; and

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WHEREAS, the applicant represents that the above-mentioned fire safety improvements provide a significant added level of fire protection beyond what presently exists in the subject building and improves the health, welfare, and safety of the building's occupants; and

WHEREAS, based on the above, the Board finds that the proposed variance to the requirements of MDL §§ 26.5, 26.7, 102.1, 103.5, and 102.2 will maintain the spirit and intent of the MDL, preserve public health, safety and welfare, and ensure that substantial justice is done; and

WHEREAS, accordingly, the Board finds that the Appellant has submitted adequate evidence in support of the findings required to be made under MDL § 310(2)(a) and that the requested variance of the requirements of MDL §§ 26.5, 26.7, 102.1, 103.5, and 102.2 is appropriate, with certain conditions set forth below.

Therefore it is Resolved, that the decision of the Manhattan Borough Commissioner, dated February 7, 2013, is modified and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the plans filed with the application marked, "Received April 15, 2013"- sixteen (16) sheets; and on further condition:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed Department of Buildings objections related to the MDL;

THAT the existing open staircase in the southern portion of the subject building is enclosed, provided with a three-hour fire-rated partition, and provided with fireproof, self-closing doors;

THAT a new sprinkler system is installed in the accessory residential spaces in the cellar and in the enlarged portions of the buildings;

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) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 16, 2013.

493-73-A

APPLICANT – Sheldon Lobel, P.C., for 83rd Street Associates LLC, owner.

SUBJECT – Application October 4, 2012 – Extension of Term of an approved appeal to Multiple Dwelling Law Section 310 to permit a superintendent's apartment in the cellar, which expired on March 20, 2004, an amendment to eliminate the term, an extension of time to obtain a Certificate of Occupancy, and a waiver of the Rules. R10A /R8B Zoning District.

PREMISES AFFECTED – 328 West 83rd Street, West 83rd Street, approx. 81'-6" east of Riverside Drive, Block 1245, Lot 40, Borough of Manhattan.

COMMUNITY BOARD #7M

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 May 14, 2013, at 10 A.M., for decision, hearing closed.

267-12-A

APPLICANT – Davidoff Hatcher & Citron LLP, for Robert McGivney, owner.

SUBJECT – Application September 5, 2012 – Appeal from Department of Buildings' determination that the sign is not entitled to continued non-conforming use status as an advertising sign. M1-2 & R6A zoning district.

PREMISES AFFECTED – 691 East 133rd Street, northeast corner of Cypress Avenue and East 133rd Street, Block 2562, Lot 94, Borough of Bronx.

COMMUNITY BOARD #1BX

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

79-13-A

APPLICANT – Law Offices of Howard B. Hornstein, for 813 Park Avenue holdings, LLC, owner.

SUBJECT – Application February 27, 2013 – Appeal from Department of Buildings' determination regarding the status of a zoning lot and reliance on the Certificate of Occupancy's recognition of the zoning lot. R10(P1) zoning district.

PREMISES AFFECTED – 807 Park Avenue, East side of Park Avenue, 77.17' south of intersection with East 75th Street, Block 1409, Lot 72, Borough of Manhattan.

COMMUNITY BOARD # 8M

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

Jeff Mulligan, Executive Director

Adjourned: P.M.

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ZONING CALENDAR

313-12-BZ

CEQR #13-BSA-055K

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

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 January 8, 2013, acting on Department of Buildings Application No. 320693905, reads in pertinent part:

The existing physical culture establishment (PCE) expired on September 14, 2009. Consequently, seek and obtain from the NYC Board of Standards and Appeals a new special permit, pursuant to Section 73-36 of the Zoning Resolution of the City of New York, to permit the continuation of the existing PCE at this site; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site partially located in a C4-2 zoning district and partially located in a C4-4A, the operation of a physical culture establishment (“PCE”) on the first story, mezzanine, cellar and lower cellar of a one-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on March 5, 2013, after due notice by publication in *The City Record*, and then to decision on April 16, 2013; and

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

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

WHEREAS, the subject site is located on the southeast corner of the intersection of Flatbush Avenue and Tilden Avenue; and

WHEREAS, the site has 63 feet of frontage on Flatbush Avenue, 491.61 feet of frontage on Tilden Avenue, and a total lot area of 107,142 sq. ft.; and

WHEREAS, the site is occupied by a one-story

commercial building with a mezzanine, a cellar and a sub-cellar and approximately 141,599 sq. ft. of floor area; and

WHEREAS, on September 14, 1999, the Board granted a special permit for the operation of a PCE at the subject site under BSA Cal. No. 48-99-BZ; this grant was for a term of ten years, and authorized the PCE to occupy 7,776 sq. ft. of floor area on the first story, 13,112 sq. ft. of floor space on the cellar level, 5,376 sq. ft. of floor area on the mezzanine level, and 4,704 sq. ft. of floor space on the lower cellar level, for a total of 30,968 sq. ft. of combined floor area and floor space; and

WHEREAS, on September 14, 2009, the prior grant expired; and

WHEREAS, accordingly, the applicant seeks a new special permit for the PCE;

WHEREAS, the applicant proposes certain changes which will result in 8,365 sq. ft. of floor area on the first story, 14,800 sq. ft. of floor space on the cellar level, 6,047 sq. ft. of floor area on the mezzanine level, and 6,464 sq. ft. of floor space on the lower cellar level, for a total of 35,676 sq. ft. of combined floor area and floor space; and

WHEREAS, the PCE will continue to be operated as Bally's; 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 Thursday, from 6:00 a.m. to 11:00 p.m., Friday, from 6:00 a.m. to 10:00 p.m., Saturday, from 8:00 a.m. to 8:00 p.m., and Sunday, from 8:00 a.m. to 6:00 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 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.13BSA055K, dated August

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16, 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 partially located in a C4-2 zoning district and partially located in a C4-4A, the operation of a physical culture establishment (“PCE”) in the first story, mezzanine, cellar and lower 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 February 8, 2013” – Five (5) sheets and *on further condition*:

THAT the term of this grant will expire on April 16, 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, April 16, 2013.

314-12-BZ

CEQR #13-BSA-056M

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

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 January 31, 2013, acting on Department of Buildings Application No. 121474984, reads in pertinent part:

Continued use as a physical culture establishment beyond the . . . expiration of the special permit granted by the Board of Standards and Appeals . . . requires a renewal of the existing permit or the issuance of a new special permit . . . 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 a C6-4 zoning district within the Special Clinton District, the operation of a physical culture establishment (“PCE”) on the ground floor and sub-cellars two and three of a 41-story residential and commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on March 5, 2013, after due notice by publication in *The City Record*, and then to decision on April 16, 2013; and

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

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

WHEREAS, the subject site is a 41-story residential and commercial building located within the World Wide Plaza development, which consists of 14 high- and low-rise residential and commercial buildings occupying the entire

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block bounded by West 49th Street, Ninth Avenue, West 50th Street and Eighth Avenue; and

WHEREAS, the entire development contains approximately 626,494 sq. ft. of floor area; and

WHEREAS, on January 10, 1989, the Board granted a special permit for the operation of a PCE at the subject site under BSA Cal. No. 421-88-BZ; this grant was for a term of ten years, and authorized the construction of a PCE on sub-cellar levels two and three of the building; and

WHEREAS, on January 10, 1999, the prior grant expired; and

WHEREAS, accordingly, the applicant seeks a new special permit for the PCE; and

WHEREAS, the PCE occupies a total of 35,676 sq. ft. of floor space and is located on the ground floor and sub-cellars two and three; and

WHEREAS, the PCE will be operated as Bally's; and

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

WHEREAS, the hours of operation for the PCE will be Monday through Friday, from 6:00 a.m. to 10:00 p.m., and Saturday and Sunday, from 8:00 a.m. to 9:00 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 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. 13BSA056M, dated August 16, 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 C6-4 zoning district within the Special Clinton District, the operation of a physical culture establishment ("PCE") on the ground floor and sub-cellars two and three of a 41-story residential and commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received February 8, 2013" – Five (5) sheets and *on further condition*:

THAT the term of this grant will expire on April 16, 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, April 16, 2013.

MINUTES

316-12-BZ

CEQR #13-BSA-058Q

APPLICANT – Eric Palatnik, P.C. for Prince Plaza LLC, owner; L'Essence de Vie LLC d/b/a Orient Retreat, lessee.

SUBJECT – Application November 21, 2012 – Special Permit (§73-36) to allow a proposed physical culture establishment (*Orient Retreat*). C4-2 zoning district.

PREMISES AFFECTED – 37-20 Prince Street, west side of Prince Street between 37th Avenue and 39th Avenue, Block 4972, Lot 43, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated October 25, 2012, acting on Department of Buildings Application No. 420598062, reads in pertinent part:

Proposed Physical Culture Establishment required to obtain special permit at BSA under ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C4-2 zoning district, the operation of a physical culture establishment (“PCE”) on the third story of a 15-story mixed residential and commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on March 12, 2013, after due notice by publication in *The City Record*, and then to decision on April 16, 2013; and

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

WHEREAS, the subject site is located on the west side of Prince Street, between 37th Avenue and 39th Avenue; and

WHEREAS, the site has 142.68 feet of frontage on Prince Street, and a total lot area of 22,453 sq. ft.; and

WHEREAS, the site is occupied by a 14-story mixed residential and commercial building with 107,266 sq. ft. of floor area; and

WHEREAS, the proposed PCE will occupy 6,563.20 sq. ft. of floor area on the third story; and

WHEREAS, the PCE will be operated as Orient Retreat; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; the PCE will specialize in therapeutic massage and body treatments; and

WHEREAS, the hours of operation for the proposed PCE will be Monday through Sunday, from 10:00 a.m. to 8:00 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 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.13BSA058Q, dated November 21, 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 C4-2 zoning district, the operation of a physical culture establishment (“PCE”) on the third story of a 15-story mixed residential and commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received February 26, 2013” – Three (3) sheets and *on further condition*:

MINUTES

THAT the term of this grant will expire on April 16, 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 hours of operation will be Monday through Sunday, from 10:00 a.m. to 8:00 p.m.;

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, April 16, 2013.

341-12-BZ

CEQR #13-BSA-069X

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

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 December 10, 2012, acting on Department of Buildings Application No. 220139918, reads in pertinent part:

Schools not permitted in M1 district. Provide

special permit from Board of Standards and Appeals per Article VII, Chapter 3 prior to approval of this application; and

WHEREAS, this is an application under ZR §§ 73-19 and 73-03 to permit, on a site in an M1-2 zoning district, the conversion of an existing three-story manufacturing building to a Use Group 3 school, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on March 5, 2013, after due notice by publication in the *City Record*, and then to decision on April 16, 2013; and

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

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

WHEREAS, the application is brought by the applicant on behalf of the Heketi Community Charter School (the “School”), a not-for-profit school; and

WHEREAS, the site is located on a corner lot bounded by East 144th Street to the north, and Concord Avenue to the east, in an M1-2 zoning district within the Port Morris Industrial Business Zone; and

WHEREAS, the site has a lot area of 10,000 sq. ft. and 100 feet of frontage on both East 144th Street and Concord Avenue; and

WHEREAS, the site is currently occupied by a three-story commercial and light manufacturing building with 28,551 sq. ft. of floor area (2.85 FAR); the first story is occupied by an electronic component distribution company and the second and third stories are vacant and were recently occupied by a woodworking company; and

WHEREAS, the applicant proposes to renovate all three stories of the existing building to allow a Use Group 3 school with 28,551 sq. ft. of floor area (2.85 FAR); and

WHEREAS, the applicant represents that the proposal meets the requirements of the special permit under ZR § 73-19 to permit a school in an M1-2 zoning district; and

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

WHEREAS, the applicant states that the renovated building will serve an estimated 150 kindergarten and first grade students and approximately 13 employees in the School’s inaugural year (2013-2014), with the intention of reaching full capacity by the 2016-2017 school year, at which point the School anticipates having approximately 305 students in kindergarten through fifth grade (depending on attrition) and approximately 30 employees; and

WHEREAS, the applicant states that the School’s program requires a building with approximately 100 sq. ft. of space per student, and that the subject building is an ideal size (28,500 sq. ft.) and number of stories (three) to accommodate

MINUTES

the School's target size of approximately 300 students; and

WHEREAS, the applicant states that School's program includes an extended day and extended year program with data-driven instruction, a focus on literacy and support for English language learners, and heavy investment in social and emotional support for students and families; the applicant notes that the mission of the School is to prepare its students for New York City's most competitive high schools; and

WHEREAS, the applicant states that based on its program, the School requires 12 classrooms, four small group rooms, a performing arts room, a 3,500 sq. ft. multipurpose room, and administrative offices and bathrooms throughout the building; and

WHEREAS, the applicant represents that it conducted a 20-month search within Community School District 7 in the Mott Haven section of the South Bronx with the following site criteria: (1) the presence of a usable existing structure to minimize costs; (2) a minimum 10,000 sq. ft. footprint for efficient classroom layouts; (3) a minimum of 30,000 sq. ft. of floor area; and (4) proximity to recreation (parks, playgrounds, and athletic facilities) and transportation; and

WHEREAS, the applicant states that during its search, it evaluated the feasibility of four buildings within Community School District 7: 300 East 140th Street; 3118 Third Avenue; 521 Bergen Avenue; and 3144 Third Avenue, all four of which, the applicant notes, are on lots where Use Group 3 is permitted as-of-right; and

WHEREAS, the applicant represents that each building was unsuitable for the School, in that: the landlord for 300 East 140th Street would only entertain a short-term lease; 3118 Third Avenue, a vacant lot with ample space, required new construction, which the School cannot afford; 521 Bergen Avenue required extensive work (installation of egress stairs, elevators and new mechanical, plumbing, electrical, and fire protection systems, and a new roof) that could not be completed with the School's timeline for occupancy; and 3144 Third Avenue lacked the desired footprint (it is only 6,000 sq. ft.), required significant renovations, and is located eight blocks from the subway, which is not ideal for student access; and

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

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

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

WHEREAS, the applicant submitted a radius diagram which reflects that the subject site is located directly across from an R7-1 zoning district, less than 100 feet to the north, where the proposed use would be permitted as-of-right; and

WHEREAS, therefore, the Board finds that the

requirements of ZR § 73-19 (b) are met; and

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

WHEREAS, the applicant states that an ambient noise survey was conducted at the site, which indicated that the predominant noise source in the area is vehicular traffic, which according to the survey conducted during peak, weekday travel periods, averaged between 65 and 70 dB(A), which is identified in the CEQR Technical Manual as marginally acceptable; therefore, the installation of sound-attenuating exterior wall and window construction is not required; and

WHEREAS, the applicant represents that the addition of floors, drop ceilings, furniture, window shades, and other interior renovations will further satisfy the requirement for a suitably quiet interior; and

WHEREAS, the Board finds that the conditions surrounding the site and the building's construction will adequately separate the proposed school from noise, traffic and other adverse effects of any of the uses within the surrounding M1-2 zoning district; thus, the Board finds that the requirements of ZR § 73-19 (c) are met; and

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

WHEREAS, the applicant states that based on its consultant's transportation analysis, 60 percent of the School's students will walk to school, 5 percent will take the subway or city bus, 30 percent will take the school bus and 5 percent will be dropped off by private automobile during peak hours; the School's faculty and staff are excepted to arrive by either subway, city bus or private auto; and

WHEREAS, the applicant also states that the transportation analysis indicated that traffic volumes on East 144th Street and Concord Avenue are "very low," and that the intersection of these streets is controlled by stop signs; the analysis also indicated that a crosswalk is marked across Concord Avenue; and

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

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

WHEREAS, by letter dated March 27, 2013, DOT states that it has no objection to the proposed construction and will, upon approval of the application, prepare a safe route to school map with signs and marking; and

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

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

MINUTES

WHEREAS, as to the site being within an Industrial Business Zone (“IBZ”), the applicant states that the proposed development will not negatively impact surrounding industrial uses or frustrate the policy goals of the IBZ; specifically, the School plans to maintain the existing manufacturing building envelope and perform interior renovations and minor façade work; as such, the building could fairly easily be returned to industrial use should the School decide to leave; the applicant further states that several industrial and manufacturing uses in the vicinity have submitted memoranda in support of the proposed school, including Miller Druck Specialty Construction, Inc. (located at 383 Concord Avenue) and I Move Green, LLC (located at 370 Concord Avenue); and

WHEREAS, the applicant notes that although the site is zoned M1-2, the surrounding area is primarily mixed-use, consisting of one- and two-family residences with limited local commercial and light manufacturing uses; that St. Mary’s Park (which the School hopes to utilize) is located to the immediate west of the site; that other uses in the area include wholesale distribution and light fabrication uses, as well as two high schools (Samuel Gompers High School and Bronx School for Career Development) just one block north of the site; and

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

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

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

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

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

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement (“EAS”) CEQR No. 13BSA069X, dated April 10, 2013; and

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

WHEREAS, 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 April 2013 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 requested that at the completion of the proposed renovation work additional air sampling be required, and that an Investigative Protocol summarizing the proposed sampling activities should be submitted to DEP for review and approval; and

WHEREAS, DEP reviewed the applicant’s February 2013 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 applicant’s noise assessment and determined that 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; and

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-19 and 73-03 and grants a special permit, to allow the proposed operation of a Use Group 3 school, on a site within an M1-2 zoning district; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received April 11, 2013” – eleven (11) sheets and *on further condition*:

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

THAT the school be limited to 28,551 sq. ft. of floor area (2.85 FAR);

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

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;

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

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

MINUTES

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

Adopted by the Board of Standards and Appeals, April 16, 2013.

135-11-BZ/136-11-A

APPLICANT – Eric Palatnik, P.C., for Block 3162 Land LLC, owner.

SUBJECT – Application September 7, 2011 – Variance (§72-21) to allow for the construction of a commercial use (UG6), contrary to use regulations (§22-00).

Proposed construction is also located within a mapped but not built portion of a street (Clove Road and Sheridan Avenue), contrary to General City Law Section 35. R3-2 zoning district.

PREMISES AFFECTED – 2080 Clove Road, southwest corner of Clove Road and Giles Place, Block 3162, Lot 22, Borough of Staten Island.

COMMUNITY BOARD #2 SI

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 June 11, 2013, at 10 A.M., for decision, hearing closed.

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

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 May 14, 2013, at 10 A.M., for decision, hearing closed.

59-12-BZ/60-12-A

APPLICANT – Mitchell S. Ross, Esq., for Ian Schindler, owner.

SUBJECT – Application March 15, 2012 – Variance (§72-21) to allow the enlargement of an existing home, contrary to front yard (§23-45) regulations.

Proposed construction is also located within a mapped but unbuilt portion of a street, contrary to General City Law Section 35. R1-2 zoning district.

PREMISES AFFECTED – 240-27 Depew Avenue, north side of Depew Avenue, 106.23' east of 40th Avenue, Block 8103, Lot 25, 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 May 21, 2013, at 10 A.M., for decision, hearing closed.

195-12-BZ

APPLICANT – The Law Offices of Eduardo J. Diaz, for Garnac Properties LLC, owner.

SUBJECT – Application June 15, 2012 – Re-instatement (§11-411) of a previously approved variance which allowed a two-story office building (UG6) and four parking spaces, which expired on May 13, 2000. Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 108-15 Crossbay Boulevard, between 108th and 109th Avenues. Block 9165, Lot 291. Borough of Queens.

COMMUNITY BOARD #10Q

ACTION OF THE BOARD – Laid over to June 4, 2013, at 10 A.M., for adjourned hearing.

250-12-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Carla Zeitouny and Raymond Zeitouny, owners.

SUBJECT – Application August 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 yards (§23-461); less than the required rear yard (§23-47) and perimeter wall height (§23-631). R3-2 zoning district.

PREMISES AFFECTED – 2410 Avenue S, south side of Avenue S, between East 24th and Bedford Avenue, Block 7303, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to May 14, 2013, at 10 A.M., for continued hearing.

MINUTES

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 (§23-141); perimeter wall height (§23-631) and rear yard (§23-47) regulations 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

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

324-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Taxiarnis Davanelos, Georgia Davanelos, Andy Mastoros, owners.

SUBJECT – Application December 7, 2012 – Special permit (§73-622) for the enlargement of an existing single family home, contrary to floor area regulations (23-141(b)). R3-1 zoning district.

PREMISES AFFECTED – 45 76th Street, north side of 76th Street between Narrows Avenue and Colonial Road, Block 5937, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #10BK

ACTION OF THE BOARD – Laid over to May 14, 2013, at 10 A.M., for continued hearing.

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

ACTION OF THE BOARD – Laid over to May 14, 2013, at 10 A.M., for deferred decision.

9-13-BZ

APPLICANT – Slater & Beckerman PC, for Alamo Drafthouse Cinemas, owners.

SUBJECT – Application January 18, 2013 – Special Permit (§73-201) to allow a Use Group 8 motion picture theater (*Alamo Drafthouse Cinema*), contrary to use regulations (§32-17). R9A/C1-5 zoning district.

PREMISES AFFECTED – 2626-2628 Broadway, east side

of Broadway between West 99th Street and West 100th Streets, Block 1871, Lot 22 and 44, Borough of Manhattan.

COMMUNITY BOARD #7M

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 May 14, 2013, at 10 A.M., for decision, hearing closed.

12-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Rosette Zeitoune and David Zeitoune, owners.

SUBJECT – Application January 22, 2013 – Special Permit (§73-622) for the enlargement of a single family home, contrary to side yards (§23-461) and rear yard (§23-47) regulations. R5/Ocean Parkway Special zoning district.

PREMISES AFFECTED – 2057 Ocean Parkway, east side of Ocean Parkway between Avenue T and Avenue U, Block 7109, Lot 66, 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 May 14, 2013, at 10 A.M., for decision, hearing closed.

52-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for LF Greenwich LLC c/o Centaur Properties LLC., owner; SoulCycle 609 Greenwich Street, LLC, lessee.

SUBJECT – Application January 31, 2013 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*SoulCycle*) within a portion of an existing building. M1-5 zoning district.

PREMISES AFFECTED – 126 Leroy Street, southeast corner of intersection of Leroy Street and Greenwich Street, Block 601, Lot 47, Borough of Manhattan.

COMMUNITY BOARD #2M

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 May 14, 2013, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

MINUTES

*CORRECTION

This resolution adopted on March 19, 2013, under Calendar No. 110-10-BZY and printed in Volume 98, Bulletin No. 12, is hereby corrected to read as follows:

110-10-BZY

APPLICANT – Sheldon Lobel, P.C., for Castle Hill Equities LLC, owner.

SUBJECT – Application November 19, 2012 – Extension of time to complete construction (§11-332) for an additional two years for a minor development, which expired on October 19, 2012. R5A zoning district.

PREMISES AFFECTED – 123 Beach 93rd Street, western side of Beach 93rd Street with frontage on Shore Front Parkway and Cross Bay Parkway, Block 16139, Lot 11, Borough of Queens.

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Application granted.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application under ZR § 11-332, to permit an extension of time to complete construction and obtain a certificate of occupancy for a minor development currently under construction at the subject site; and

WHEREAS, a public hearing was held on this application on February 26, 2013, after due notice by publication in *The City Record*, and then to decision on March 19, 2013; and

WHEREAS, the site was inspected by Commissioner Hinkson; and

WHEREAS, the subject site is located on the west side of Beach 93rd Street, approximately 211 feet south of Holland Avenue in Rockaway Beach, in an R5A zoning district; and

WHEREAS, the site has 175 feet of frontage along Beach 93rd Street, 167.13 feet of frontage along Beach 94th Street, 107.51 feet of frontage along Shore Front Boulevard (CrossBay Boulevard), and a total lot area of 18,488 sq. ft.; and

WHEREAS, the site is proposed to be developed with a six-story residential building with 57 dwelling units and 36 accessory parking spaces (the “Building”); and

WHEREAS, the Building complies with the parameters of the former R6 zoning district; and

WHEREAS, on January 8, 2007, New Building Permit No. 402483013-01-NB (hereinafter, the “New Building Permit”) was issued by the Department of Buildings (“DOB”) permitting construction of the Building; and

WHEREAS, however, on August 14, 2008 (hereinafter, the “Enactment Date”), the City Council voted to adopt the Rockaway Neighborhoods Rezoning, which rezoned the site from R6 to R5A; and

WHEREAS, accordingly, the Building, being neither a one- or two-family detached residence, nor having a floor to area ratio of 1.10 or less, nor a maximum height of 35 feet or less, does not comply with the current zoning; and

WHEREAS, as of the Enactment Date, the applicant had obtained permits for the development and had completed 100 percent of its foundations, such that the right to continue construction was vested pursuant to ZR § 11-331, which allows DOB to determine that construction may continue under such circumstances; and

WHEREAS, however, only two years are allowed for completion of construction and to obtain a certificate of occupancy; and

WHEREAS, in the two years subsequent to the Enactment Date, construction was not completed and a certificate of occupancy was not issued; and

WHEREAS, accordingly, an application was filed with the Board for an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, on October 19, 2010, the Board granted a two-year extension of time to complete construction and obtain a certificate of occupancy under the subject calendar number; and

WHEREAS, accordingly, the applicant had until October 19, 2012 to complete construction and obtain a certificate of occupancy; and

WHEREAS, because the two-year time limit has expired and construction is still ongoing, the applicant seeks relief pursuant to ZR § 11-30 *et seq.*, which sets forth the regulations that apply to a reinstatement of a permit that lapses due to a zoning change; and

WHEREAS, first, the Board notes that ZR § 11-31(c)(1) defines construction such as the proposed development, which involves the construction of a single building which is non-complying under an amendment to the Zoning Resolution, as a “minor development”; and

WHEREAS, for a “minor development,” an extension of time to complete construction, previously authorized under a grant for an extension made pursuant to ZR § 11-331, may be granted by the Board pursuant to ZR § 11-332; and

WHEREAS, ZR § 11-332 reads, in pertinent part: “[I]n the event that construction permitted in Section 11-331 (Right to construct if foundations completed) has not been completed and a certificate of occupancy including a temporary certificate of occupancy, issued therefore within two years after the effective date of any applicable amendment . . . the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew such building permit for two terms of not more than two years each for a minor development . . . In granting such an extension, the Board shall find that substantial construction has been completed and substantial expenditures made, subsequent to the granting of the permit, for work required by any applicable law for the use or development of the property pursuant to the permit.”; and

MINUTES

WHEREAS, as a threshold issue, the Board must determine that proper permits were issued, since ZR § 11-31(a) requires: “[F]or the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met.”; and

WHEREAS, the Board notes that the subject site was initially vested by DOB in 2008, granted an extension of time to complete construction and obtain a certificate of occupancy by the Board in 2010, and now seeks an additional extension under ZR § 11-332; and

WHEREAS, the applicant represents that all of the relevant DOB permits were lawfully issued to the owner of the subject premises; and

WHEREAS, by letter dated August 17, 2010, DOB stated that the New Building Permit was lawfully issued, authorizing construction of the proposed Building prior to the Enactment Date; and

WHEREAS, the Board has reviewed the record and agrees that the Permit was lawfully issued to the owner of the subject premises prior to the Enactment Date and was timely renewed until the expiration of the two-year term for construction; and

WHEREAS, turning to the substantive findings of ZR § 11-332, the Board notes that there is no fixed standard in an application made under this provision as to what constitutes substantial construction or substantial expenditure in the context of new development; and

WHEREAS, the Board also observes that the work to be measured under ZR § 11-332 must be performed after the issuance of the permit; and

WHEREAS, similarly, the expenditures to be assessed under ZR § 11-332 are those incurred after the permit is issued; and

WHEREAS, accordingly, as is reflected below, the Board only considered post-permit work and expenditures, as submitted by the applicant, and directed the applicant to exclude pre-permit expenditures; and

WHEREAS, the Board further notes that any work performed after the two-year time limit to complete construction and obtain a certificate of occupancy cannot be considered for vesting purposes; accordingly, only the work performed as of October 19, 2012 has been considered; and

WHEREAS, the applicant states that work on the Building subsequent to the issuance of the permits includes: 100 percent of the excavation; 100 percent of the foundation (including the installation of over 300 driven piles); and the installation of a complex drainage system; and

WHEREAS, in support of this statement, the applicant

has submitted the following: a breakdown of the construction costs by line item; a foundation survey; copies of cancelled checks; invoices; and photographs of the site; and

WHEREAS, the Board has reviewed all documentation and agrees that it establishes that the aforementioned work was completed subsequent to the issuance of the valid permits; and

WHEREAS, as to costs, the applicant represents that the total expenditure paid for the development is \$3,011,614 (including \$1,474,974 in hard costs), or 17 percent, out of the \$17,610,614 cost to complete; and

WHEREAS, as noted, the applicant has submitted invoices and copies of cancelled checks; and

WHEREAS, the applicant contends that this percentage constitutes a substantial expenditure sufficient to satisfy the finding in ZR § 11-332; and

WHEREAS, based upon its review of all the submitted evidence, the Board finds that substantial construction was completed and that substantial expenditures were made since the issuance of the permits; and

WHEREAS, therefore, the Board finds that the applicant has adequately satisfied all the requirements of ZR § 11-332, and that the owner is entitled to the requested reinstatement of the New Building Permit, and all other permits necessary to complete the proposed development; and

WHEREAS, accordingly, the Board, through this resolution, grants the owner of the site a two-year extension of time to complete construction, pursuant to ZR § 11-332.

Therefore it is Resolved that this application made pursuant to ZR § 11-332 to renew New Building Permit No. 402483013-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed development and obtain a certificate of occupancy for one term of two years from the date of this resolution, to expire on March 19, 2015.

Adopted by the Board of Standards and Appeals, March 19, 2013.

***The resolution has been amended to correct part of the 5th WHEREAS. Corrected in Bulletin No. 16, Vol. 98, dated April 24, 2013.**