
BULLETIN

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80-13-BZ	200 Park Avenue South, Manhattan

DOCKETS

New Case Filed Up to May 21, 2013

155-13-BZ

1782-1784 East 28th Street, west side of East 28th Street between Quentin road and Avenue R, Block 06810, Lot(s) 40 & 41, Borough of **Brooklyn, Community Board: 15**. Variance (§72-21) to permit the enlargement of an existing synagogue and Rabbi's residence (UG 4) and the legalization of a mikvah contrary to zoning requirements. R3-2 zoning district. R3-2 district.

156-13-A

450 West 31 street, West 31 street between Tenth Avenue Lincoln Tunnel Expressway, Block 728, Lot(s) 60, Borough of **Manhattan, Community Board: 10**. Appeal of DOB determination that the subject advertising sign is not entitled to non-conforming use status. C6-4 HY district.

157-13-BZ

1368 & 1374 East 23rd Street, "West side of East 23rd Street, approximately 180' north of Avenue N, Block 7658, Lot(s) 78&80, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to the enlargement of a single home contrary to floor area and open space (§23-141(a)); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district. R2 district.

158-13-BZ

883 Avenue of the Americas, Southwest corner of the Avenue of the Americas and west 32nd Street., Block 807, Lot(s) 1102(DOBNo7502), Borough of **Manhattan, Community Board: 5**. Special Permit (§73-36) to permit the operation of a physical culture establishment (Gof & Body) within a portion of an existing building. C6-6(MID) zoning district. C6-6(MID) 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

JUNE 11, 2013, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, June 11, 2013, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

207-86-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP by Paul Selver, for NYC Industrial Development Agency, owner; Nightingale-Bamford School, lessee.

SUBJECT – Application April 11, 2013 – Amendment of a previously approved Variance (72-21) for an existing Community Use Facility (*The Nightingale-Bamford School*) to enlarge the existing zoning lot (Lot 59) to include two adjacent parcel (Lots 57 and 58) and to alter the buildings located on the zoning lot to create a single combined school building. C1-5 (R-10) and R8B zoning districts.

PREMISES AFFECTED – 20, 28 & 30 East 92nd Street, northern mid-block portion of block bounded by East 91st and East 92nd Street and Madison and Fifth Avenues, Block 1503, Lot 57, 58, 59, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEALS CALENDAR

143-11-A thru 146-11-A

APPLICANT – Philip L. Rampulla, for Joseph LiBassi, owner.

SUBJECT – Application September 16, 2011 – Appeal challenging the Fire Department determination denying a waiver of the requirement that the grade of the fire apparatus road shall not exceed 10 percent as per NYC Fire Code Section FC 503.2.7. R-2 Zoning District.

PREMISES AFFECTED – 20, 25, 35, 40 Harborlights Court, east side of Harborlights Court, east of Howard Avenue, Block 615, Lot 36, 25, 35, 40, Borough of Staten Island.

COMMUNITY BOARD #1SI

268-12-A thru 271-12-A

APPLICANT – Eric Palatnik, P.C., for Mr. Frank Naso, owner.

SUBJECT – Application September 6, 2012 – Proposed construction of a four single family semi-detached building not fronting a mapped street is contrary to General City Law Section 36. R3-1 zoning district.

PREMISES AFFECTED – 8/10/16/18 Pavillion Hill Terrace, corner of Homer Street and Swan Street, Block 569, Lot 318, 317, 316, 285, Borough of Staten Island.

COMMUNITY BOARD #1SI

ZONING CALENDAR

263-12-BZ & 264-12-A

APPLICANT – Sheldon Lobel, P.C., for Luke Company LLC, owner.

SUBJECT – Application September 4, 2012– Variance (§72-21) to permit senior housing (UG 2), contrary to use regulations (§42-00). Also, an administrative appeal filed pursuant to Section 666(7) of the New York City Charter and Appendix G, Section BC G107 of the New York City Administrative Code, to permit a proposed assisted living facility partially in a flood hazard area which does not comply with Appendix G, Section G304.1.2 of the Building Code. M1-1 zoning district.

PREMISES AFFECTED – 232 & 222 City Island Avenue, site bounded by Schofield Street and City Island Avenue, Block 5641, Lots 10, 296, Borough of Bronx.

COMMUNITY BOARD #10 & 13BX

282-12-BZ

APPLICANT – Eric Palatnik, P.C., for Izhak Lati, owner.

SUBJECT – Application September 24, 2012 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to side yard requirements (§23-461), and a variance (§72-21), contrary to front yard requirements (§23-45). R5 zoning district.

PREMISES AFFECTED – 1995 East 14th Street, northeast corner of East 14th Street and Avenue T, Block 7293, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #15BK

91-13-BZ

APPLICANT – Eric Palatnik, P.C., for ELAD LLC, owner; Spa Castle Premier 57, Inc., lessee.

SUBJECT – Application March 19, 2013 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Spa Castle*) to be located on the 7th, 8th and 9th floor of a 57 story mixed use building. C5-3,C5-2.5(MiD) zoning district.

PREMISES AFFECTED – 115 East 57th Street, north side, between Park and Lexington Avenues, Block 1312, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #5M

CALENDAR

104-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Gates Avenue Properties, LLC, owner; Blink Gates, Inc., lessee.

SUBJECT – Application April 16, 2013 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Blink*) within a portion of an existing five-story commercial building. C2-4 (R6A) zoning district.

PREMISES AFFECTED – 1002 Gates Avenue, 62' east of intersection of Ralph Avenue and Gates Avenue, Block 1480, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #3BK

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, MAY 21, 2013
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

718-68-BZ

APPLICANT – Sheldon Lobel, P.C., for Zinc Realty LLC, owner.

SUBJECT – Application May 31, 2011 – Amendment to a previously-granted Special Permit (§73-211) for an automotive service station. The amendment proposes additional fuel dispensing islands and conversion of existing service bays to an accessory convenience store. C2-2/R5 zoning district.

PREMISES AFFECTED – 71-08 Northern Boulevard, South side of Northern Boulevard between 71st and 72nd Street, Block 1244, Lot 1, Borough of Queens.

COMMUNITY BOARD #3Q

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 to amend a special permit which permitted the operation of an automotive service station; and

WHEREAS, a public hearing was held on this application on April 23, 2013, after due notice by publication in *The City Record*, and then to decision on May 21, 2013; and

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

WHEREAS, Community Board 3, Queens, recommends disapproval of the application; initially, the Community Board’s Land Use Committee recommended a conditional approval if a full service pump be provided, no long-term parking be provide, no alcohol be sold in the convenience store, and the term be limited to five years but, after Hurricane Sandy, the full Community Board voted not to support the proposal finding that the applicant had not been a good neighbor during the storm and had not fairly distributed gas during the shortage; and

WHEREAS, the subject site is located on the southwest corner of Northern Boulevard and 72nd Street, within a C2-2 (R5) zoning district; and

WHEREAS, the site has been under the Board’s

jurisdiction since 1954, when the Board granted a variance, pursuant to BSA Cal. No. 865-54-BZ, to allow for an automotive service station; and

WHEREAS, on December 17, 1968, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-211 to permit the reconstruction of the automotive service station with accessory uses; and

WHEREAS, the grant was amended on several occasions, most recently on July 16, 1996 to allow for the installation of a metal canopy over three new concrete pump islands; and

WHEREAS, the applicant states that the site is currently occupied by a one-story service station building that has four repair bays and an accessory office area, with a total of 2,521 sq. ft. of floor area; the site is also occupied by three gasoline dispensing pump islands and a metal canopy; and

WHEREAS, the station has three curb cuts along Northern Boulevard, one on 71st Street, and one on 72nd Street, and ten parking spaces available for cars awaiting service; and

WHEREAS, the gasoline sales use operates 24 hours per day, seven days a week; and

WHEREAS, the applicant now seeks to add two gasoline pump islands and convert the existing repair bays to an accessory convenience store; and

WHEREAS, specifically, the applicant seeks to (1) increase the number of pump islands and extend the existing metal canopy; (2) convert the existing repair bays to accessory convenience and retail stores; and (3) construct an enclosure on the southeastern portion of the site for the storage of compressed natural gas fuel dispensing equipment; and

WHEREAS, the applicant proposes to install two additional multi-product fuel dispensers on the northern portion of the site and the existing metal canopy will then be extended to cover both of the new pump islands; and

WHEREAS, further, the existing repair building will be converted to an accessory convenience store with 2,250 sq. ft. of sales area; and

WHEREAS, the applicant states that the service station will have eight parking spaces on the 71st Street side of the site and three spaces on the 72nd Street side of the site; and

WHEREAS, the applicant describes how it satisfies the requirements of ZR § 73-211 as follows: (1) the finding that any facilities for lubrication, minor repairs or washing be completely enclosed does not apply as those uses will be removed with the conversion of the repair space; (2) the site is able to accommodate in excess of five waiting automobiles; (3) there are not any changes in the conditions that affect the Board’s prior finding that the curb cuts are located so that vehicular movement into and out of the service station will cause minimum obstruction on the surrounding streets and sidewalks; (4) a stockade fence with a height of 6’-0” will be installed and existing evergreens with a height of 10’-0” will be maintained to provide screening along the rear lot line adjacent to the residential zoning district; and (5) each of the frontages has less than 150 sq. ft. of signage; and

WHEREAS, the applicant represents that the site

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complies with all prior Board conditions; and

WHEREAS, the applicant does not propose any long-term parking; and

WHEREAS, the Board notes that the approval has not had a term limit historically and does not find a basis to impose a term now; and

WHEREAS, based on its review of the record, the Board finds that the proposed changes do not implicate any of the special permit findings are appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, dated July 16, 1996, so that as amended this portion of the resolution shall read: “to permit the noted changes to the site; *on condition* that the use and operation of the site shall substantially conform to BSA-approved plans, *on condition* that all work and site conditions shall comply with drawings marked “Received February 8, 2013”–(3) sheets; and *on further condition*:

THAT landscaping and fencing be installed in accordance with BSA-approved plans;

THAT no long-term parking be permitted at the site;

THAT the above conditions and all other conditions from prior resolutions not specifically waived by the Board remain in effect and be noted on the certificate of occupancy;

THAT substantial completion of construction be performed 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) 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. 420341856)

Adopted by the Board of Standards and Appeals, May 21, 2013.

58-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Eckford II Realty Corp., owner; Eckford II Realty Corp., lessee.

SUBJECT – Application March 18, 2013 – Extension of Time to obtain a Certificate of Occupancy for a previously-granted Special Permit (§73-36) for a physical culture establishment (*Quick Fitness*), which expired on February 14, 2013. M1-2/R6A zoning district.

PREMISES AFFECTED – 16 Eckford Street, east side of Eckford Street, between Engert Avenue and Newton Street, Block 2714, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

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 time to obtain a certificate of occupancy for a previously granted physical culture establishment (“PCE”), which expired on February 14, 2013; and

WHEREAS, a public hearing was held on this application on April 23, 2013, after due notice by publication in *The City Record*, and then to decision on May 21, 2013; and

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

WHEREAS, the subject site is located on the east side of Eckford Street, between Engert Avenue and Newton Street, in an M1-2/R6A zoning district within the MX8 special purpose district; and

WHEREAS, on August 3, 2010, the Board granted a special permit pursuant to ZR § 73-36 to allow the operation of a PCE at the site; a condition of the grant was that a certificate of occupancy be obtained by August 3, 2011; and

WHEREAS, on February 14, 2012, the Board extended the time to obtain a certificate of occupancy to February 14, 2013; and

WHEREAS, the applicant represents that all work is complete but that it awaits DOB sign-off on its fire alarm system; and

WHEREAS, the applicant now requests an additional four months to obtain a certificate of occupancy; and

WHEREAS, based on its review of the record, the Board finds that the requested extension of time to obtain a certificate of occupancy is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, dated August 3, 2010, so that as amended this portion of the resolution shall read: “to extend the time to obtain a certificate of occupancy for six months from the date of this grant; *on condition* that the use and operation of the PCE shall substantially conform to BSA-approved plans, and *on further condition*:

THAT a certificate of occupancy be obtained by November 21, 2013;

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

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

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

(DOB Application No. 320134662)

Adopted by the Board of Standards and Appeals, May 21, 2013.

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853-53-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Knapp, LLC, owner; Bolla Management Corp., owners.

SUBJECT – Application January 18, 2013 – Amendment (§11-412) to a previously-granted Automotive Service Station (*Mobil*) (UG 16B), with accessory uses, to enlarge the use and convert service bays to an accessory convenience store. C2-2/R3-2 zoning district.

PREMISES AFFECTED – 2402/16 Knapp Street, southwest corner of Avenue X, Block 7429, Lot 10, 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 June 18, 2013, at 10 A.M., for decision, hearing closed.

799-62-BZ

APPLICANT – Sahn Ward Coschignano & Baker, PLLC, for 350 Condominium Association, owners.

SUBJECT – Application March 28, 2013 – Extension of Term permitting the use tenant parking spaces within an accessory garage for transient parking pursuant to §60 (3) of the Multiple Dwelling Law (MDL) which expired on November 9, 2012; Waiver of the Rules. C2-5/R8, R7B zoning district.

PREMISES AFFECTED – 501 First Avenue aka 350 East 30th Street, below-grade parking garage along the west side of First Avenue between East 29th Street and 30th Street, Block 935, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD # 6M

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.

410-68-BZ

APPLICANT – Eric Palatnik, P.C., for Alessandro Bartellino, owner.

SUBJECT – Application May 22, 2012 – Extension of Term (§11-411) of approved variance which permitted the operation of (UG16B) automotive service station (*Citgo*) with accessory uses, which expired on November 26, 2008; Extension of Time to obtain a Certificate of Occupancy which expired on January 11, 2008; Waiver of the Rules. R3-2 zoning district.

AFFECTED PREMISES – 85-05 Astoria Boulevard, east corner of 85th Street. Block 1097, Lot 1. Borough of Queens.

COMMUNITY BOARD #3Q

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.

200-00-BZ

APPLICANT – Eric Palatnik, P.C., for Blans Development Corporation, owners.

SUBJECT – Application April 18, 2013 – Extension of Time to obtain a Certificate of Occupancy of a variance (§72-21) to operate a Physical Culture Establishment (*Squash Fitness Center*) which expired on April 25, 2013. C1-4(R6B) zoning district.

PREMISES AFFECTED – 107-24 37th Avenue, southwest corner of 37th Avenue and 108th Street, aka 37-16 108th Street, Block 1773, Lot 10, Borough of Queens.

COMMUNITY BOARD #3Q

ACTION OF THE BOARD – Laid over to June 18, 2013, at 10 A.M., for continued hearing.

292-01-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Villa Mosconi Restaurant, owner.

SUBJECT – Application January 17, 2013 – Extension of Term of a previously-granted Variance (§72-21) which permitted the legalization of a new dining room and accessory storage for a UG6 eating and drinking establishment (*Villa Mosconi*), which expired on January 7, 2013. R7-2 zoning district.

PREMISES AFFECTED – 69/71 MacDougal Street, west side of MacDougal Street between Bleecker Street and West Houston Street, Block 526, Lot 33, 34, 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 June 4, 2013, at 10 A.M., for decision, hearing closed.

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93-08-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Worlds fair Development LLC, owner.

SUBJECT – Application February 5, 2013 – Extension of Time to Complete Construction of a Variance (§72-21) for the construction of a six-story transient hotel (UG 5) which expired on January 13, 2013; Amendment to construct a sub-cellar. R6A zoning district.

PREMISES AFFECTED – 112-12/24 Astoria Boulevard, southwest corner of intersection of Astoria Boulevard and 112th Place, Block 1706, Lot 5, 9, 11, Borough of Queens.

COMMUNITY BOARD #3Q

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 4, 2013, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

60-13-A

APPLICANT – NYC Department of Buildings.

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

SUBJECT – Application February 6, 2013 – Appeal filed by the Department of Buildings seeking to revoke Certificate of Occupancy nos. 147007 & 172308 as they were issued in error. R6B zoning district.

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, Borough of Brooklyn.

COMMUNITY BOARD #2BK

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 from the Department of Buildings (“DOB”) seeking to revoke Certificate of Occupancy (“CO”) No. 147007 and CO No. 172308; both COs authorize accessory parking for the building located at 75 Greene Avenue, Brooklyn (Block 2121, Lot 41), contrary to the Zoning Resolution (“ZR”); and

WHEREAS, a public hearing was held on this application on May 7, 2013, after due notice by publication in *The City Record*, and then to decision on May 21, 2013; and

WHEREAS, the premises and surrounding area had site

and neighborhood examinations by Chair Srinivasan, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, a representative of the owner of the subject site testified in support of the application at hearing; and

WHEREAS, the subject site comprises four lots: Lot 41 (75 Greene Avenue), a corner lot located at the northwest intersection of Greene Avenue and Clermont Avenue, with 71.42 feet of frontage along Greene Avenue and 53.58 feet of frontage along Clermont Avenue and a lot area of 3,844 sq. ft.; Lot 44 (71 Greene Avenue), an interior lot with 21.42 feet of frontage along the north side of Greene Avenue between Adelphi Street and Clermont Avenue and a lot area of 1,530 sq. ft.; Lot 39 (378 Clermont Avenue), an interior lot with 41.42 feet of frontage along the west side of Clermont Avenue between Greene Avenue and Lafayette Avenue and a lot area of 3,367 sq. ft.; and Lot 36 (370 Clermont Avenue), an interior lot with 63 feet of frontage along the west side of Clermont Avenue between Greene Avenue and Lafayette Avenue and a lot area of 5,891 sq. ft.; and

WHEREAS, DOB states that Lot 41 is occupied by a seven-story chancery (an office for priests) and currently has three COs associated with it: CO No. 90840, dated January 24, 1939 authorizes an “office building chancery” at “73/79 Greene Avenue, Block 2121, Lot 41”; CO No. 147007, dated January 17, 1956, authorizes a “private parking lot for twelve (12) automobiles (accessory to existing chancery buildings on lot)” at “75 Greene Avenue, northwest corner of Greene Avenue and Clermont Avenue, Block 2121, Lot 41”; and CO No. 172308, dated September 8, 1960, authorizes “parking lot for more than five (5) passenger vehicles (for use of chancery building only)” for “370-374 Clermont Avenue, northwest corner of Greene Avenue, Block 2121 Lot 41”; and

WHEREAS, DOB states that Lot 39 is occupied by a four-story residence and has one CO associated with it: CO No. 95379, dated January 25, 1940; this CO authorizes the residence only and does not indicate the existence of any accessory parking; and

WHEREAS, DOB states that Lots 36 and 44 are paved parking areas that have no COs associated with them; and

WHEREAS, as to the development history of the chancery—which demonstrates the erroneous nature of the accessory parking COs—DOB asserts that the chancery was originally constructed as a five-story building in 1930 under New Building Application No. 11292-29, which resulted in CO No. 62299, dated November 12, 1930; and

WHEREAS, DOB notes that in 1929, Lot 41 was located in a Residence and Class 1½ District; and DOB records do not indicate how the office use would have been permitted in the residence district under the applicable provisions of the 1916 Zoning Resolution; and

WHEREAS, DOB states that on May 3, 1938, under BSA Cal. No. 228-38-BZ, the Board granted a variance pursuant to Section 7(c) of the 1916 Zoning Resolution from use district regulations under Section 3; specifically, the Board varied the use district regulations to permit the two-story

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enlargement of the chancery (office) use; and

WHEREAS, DOB states that the enlargement was completed pursuant to the variance and resulted in the issuance of the 1939 CO mentioned above (CO No. 90840); and

WHEREAS, DOB states that of the three COs associated with Lot 41, only one, CO No. 90840, dated January 24, 1939, which reflects the enlargement of the chancery, allowed a use that was permitted (pursuant to the Board's grant); the other two CO No. 147007, dated January 17, 1956, and CO No. 172308, dated September 8, 1960, erroneously authorized parking accessory to the chancery; accordingly, DOB seeks revocation of CO Nos. 147007 and 172308; and

WHEREAS, as to CO No. 147007, DOB states that it was issued in connection with Alteration Application No. 292-54, which authorized the demolition of an existing building and the construction of a parking lot on Lot 44 and the rear of Lots 39 and 36; and

WHEREAS, as to CO No. 172308, DOB states that it was issued in connection with Alteration Application No. 1400-60, which authorized seven parking spaces on Lot 44 and the rear of Lot 39 and fourteen parking spaces on Lot 36; and

WHEREAS, DOB asserts that the expansion of the chancery use contrary to the use regulations of the 1916 Zoning Resolution was (and only could have been) authorized by a variance; and

WHEREAS, similarly, DOB states that the construction of accessory parking for the chancery use was also contrary to the use regulations of the 1916 Zoning Resolution and also required a variance; thus, Alteration Application Nos. 292-54 and 1400-60 should not have been approved; and

WHEREAS, DOB notes that the Board did not approve the construction of the parking by a separate variance or by an amendment to BSA Cal. No. 228-38-BZ, and that these would be the only mechanisms by which accessory parking could have been approved for the chancery, given its non-conformance with the underlying zoning; and

WHEREAS, accordingly, DOB asserts that absent the Board's approval of the accessory parking for the chancery, the alteration permits were approved in error and the resulting COs should never have been issued; and

WHEREAS, the Board agrees with DOB that the parking lots approved under Alteration Application Nos. 292-54 and 1400-60 as accessory to the chancery on Lot 41, but located on portions of Lots 44, 39 and 36, were an unlawful expansion of an existing commercial use authorized by a variance in a residence district, and were contrary to 1916 ZR § 3; and

WHEREAS, the Board confirms that BSA Cal. No. 228-38-BZ was never amended to authorize accessory parking for the chancery; and

WHEREAS, in addition, the Board finds that DOB's approval of Alteration Application Nos. 292-54 and 1400-60 was inconsistent with the Board's condition in BSA Cal. No. 228-38-BZ that the chancery "not be further increased

in area"; and

WHEREAS, accordingly, the Board finds that the CO Nos. 147007 and 172308, which resulted from erroneously-approved alteration applications, were issued in error and must be revoked; and

Therefore it is Resolved that the application of the Commissioner of the Department of Buildings seeking the revocation of Certificate of Occupancy Nos. 147007 and 172308, is granted.

Adopted by the Board of Standards and Appeals, May 21, 2013.

10-10-A

APPLICANT – Law Office of Fredrick A. Becker, for Joseph Durzieh, owner.

SUBJECT – Application September 5, 2012 – Reopening for a court remand to review the validity of the permit at issue in a prior vested rights application.

PREMISES AFFECTED – 1882 East 12th Street, west side of East 12th Street approx. 75' north of Avenue S, Block 6817, Lot 41, 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 July 23, 2013, at 10 A.M., for decision, hearing closed.

245-12-A & 246-12-A

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

SUBJECT – Application August 9, 2012 – Appeal pursuant to Section 310(2) of the Multiple Dwelling Law. Application seeking a determination that the owner of the property has acquired a common law vested right to complete construction under the prior R7-2 zoning. R7B zoning district.

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

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to July 23, 2013, at 10 A.M., for continued hearing.

256-12-A

APPLICANT – Davidoff Hutcher & Citron LLP, City Outdoor.

OWNER OF PREMISES: 195 Havemeyer Corporation.

SUBJECT – Application August 28, 2012 – Appeal challenging Department of Buildings' determination that a sign is not entitled to continued non-conforming use status as an advertising sign. C4-3 zoning district.

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PREMISES AFFECTED – 195 Havemeyer Street, southeast corner of Havemeyer and South 4th Street, Block 2447, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #1BK

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 4, 2013, at 10 A.M., for decision, hearing closed.

267-12-A

APPLICANT – Davidoff Hutcher & 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

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 4, 2013, at 10 A.M., for decision, hearing closed.

345-12-A

APPLICANT – Barry Mallin, Esq./Mallin & Cha, P.C., for 150 Charles Street Holdings LLC c/o Withroff Group, owners.

SUBJECT – Application December 21, 2012 – Appeal challenging DOB's determination that developer is in compliance with §15-41 (Enlargement of Converted Buildings). C6-2 zoning district.

PREMISES AFFECTED – 303 West Tenth Street aka 150 Charles Street, West Tenth, Charles Street, Washington and West Streets, Block 636, Lot 70, 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 July 23, 2013, at 10 A.M., for decision, hearing closed.

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

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

Jeff Mulligan, Executive Director

Adjourned: P.M.

ZONING CALENDAR

63-12-BZ

CEQR #12-BSA-095K

APPLICANT – Sheldon Lobel, P.C., for Harris and Marceline Gindi, owner; Khai Bneu Avrohom Yaakov, Inc. c/o Allen Konstam, lessee.

SUBJECT – Application March 19, 2012 – Variance (§72-21) to permit the construction of a Use Group 4A House of Worship (*Khal Bnei Avrohom Yaakov*), which is contrary to floor area (24-11), lot coverage, front yard (24-34), side yard (24-35a) parking (25-31), height (24-521), and setback requirements. R2 zoning district.

PREMISES AFFECTED – 2701 Avenue N, Rectangular lot on the northeast corner of the intersection of East 27th Street and Avenue N. Block 7663, Lot 6. 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 Executive Zoning Specialist, dated February 17, 2012, acting on Department of Buildings Application No. 320373449 reads, in pertinent part:

1. Proposed Floor Area Ratio (FAR) exceeds that permitted by ZR Section 24-11.
2. Proposed lot coverage is contrary to ZR

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Section 24-11.

3. Proposed minimum required front yards is contrary to ZR Section 24-34.
4. Proposed minimum required side yards are contrary to ZR Section 24-35(a).
5. Proposed maximum height of front wall and required front setback is contrary to ZR Section 24-521.
6. Required parking is not being provided; contrary to ZR Section 25-31; and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21 to permit, on a site in an R2 zoning district, the construction of a two-story building to be occupied by a synagogue, which does not comply with the zoning district regulations for floor area ratio, lot coverage, front yards, side yards, height, setback, and parking, contrary to ZR §§ 24-11, 24-34, 24-35, 24-521, and 25-31; and

WHEREAS, a public hearing was held on this application on October 23, 2012, after due notice by publication in *The City Record*, with continued hearings on January 8, 2013, February 26, 2013, and April 9, 2013, and then to decision on May 21, 2013; and

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

WHEREAS, Community Board 14, Brooklyn, recommends approval of the application on condition that the simcha hall use be reserved for use only by the members of the Synagogue; and

WHEREAS, the adjacent property owner on Avenue N provided a letter in support of the application; and

WHEREAS, the applicant submitted a petition signed by 376 community members in support of the application; and

WHEREAS, certain members of the community, represented by counsel, provided written and oral testimony in opposition to the application (the "Opposition"); the Opposition's primary concerns are that (1) the applicant has not reliably described the program and the congregant body; (2) the applicant has not established the need for the waivers; (3) the bulk of the building is not compatible with the surrounding area; (4) no parking is being provided (19-22 parking spaces are required); (5) the environmental analysis is flawed; and (6) any benefit to the community is outweighed by the detriment to the community;

WHEREAS, the Opposition submitted a petition signed by 100 community members opposed to the building proposal and a note saying that more signators were available; and

WHEREAS, this application is being brought on behalf of Congregation Khal Bnei Avrohom Yaakov (the "Synagogue"); and

WHEREAS, the site is located on the northeast corner of East 27th Street and Avenue N in an R2 zoning district with 60 feet of frontage along East 27th Street and 100 feet of frontage along Avenue N; and

WHEREAS, the subject site has a lot area of 6,000 sq. ft. and is currently occupied by a residential building with

3,623 sq. ft. of floor area (0.6 FAR); and

WHEREAS, the applicant initially proposed to construct a new building with the following parameters: a floor area of 9,000 sq. ft. (1.5 FAR) (a maximum of 0.5 FAR is permitted or 1.0 FAR by City Planning special permit under ZR § 74-901); a lot coverage of 75 percent (a maximum lot coverage of 60 percent is permitted); front yards with depths of 10'-0" on East 27th Street and Avenue N (front yards with minimum depths of 15'-0" are required); and no side yards (side yards with minimum widths of 8'-0" and 9'-0" are required); and

WHEREAS, at the Board's direction, the applicant revised the plans to provide side yards along the northern and eastern lot lines; the applicant ultimately reduced the width of the building along Avenue N from 90 feet to 85 feet; and included a side yard with a width of 2'-0" along the northern lot line and a side yard along the eastern lot line with a width of 5'-0"; the applicant reduced the front yard along the southern property line from a depth of 10'-0" to 8'-0"; and

WHEREAS, the addition of the yards resulted in a reduced floor area to 8,500 sq. ft. (1.41 FAR); a reduced lot coverage to 71 percent; and a reduced parking requirement from 22 spaces to 19 spaces; and

WHEREAS, the applicant proposes the following additional non-complying conditions: a perimeter wall height of 29 feet (a maximum wall height of 25 feet is permitted); no setback of the street wall (a front setback within the 1:1 sky exposure plane are required); and no parking spaces (a minimum of 19 parking spaces are required); and

WHEREAS, the proposal provides for the following uses: (1) a simcha hall, restrooms, lobbies, storage, coat rooms, and a pantry at the cellar level; (2) men's sanctuary, men's and women's lobbies, a washing station, a coffee room, and a coat room at the first story; and (3) women's sanctuary, lobbies, conference room, rabbi's office, and children's library at the second story; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Synagogue which necessitate the requested variances: (1) to accommodate a congregation with a desire to expand and currently consists of approximately 250 adults and 280 children; (2) to provide separate worship and study spaces for male and female congregants; (3) to provide the necessary space for offering weekly classes; (4) to provide a children's library; and (5) to satisfy the religious requirement that members of the congregation be within walking distance of the residences of the congregants; and

WHEREAS, the applicant also seeks to provide community and religious lectures on weekends, expand its educational programming for children, and offer Talmud classes twice daily; and

WHEREAS, the applicant states that for the past five years, it has leased a synagogue building located at 1249 East 18th Street, which accommodates only approximately 110 people; it has approximately 1,600 sq. ft. of floor area; and

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WHEREAS, the applicant states that the leased building is located approximately 0.7 miles from the proposed synagogue location; and

WHEREAS, the applicant states that the Synagogue has been unable to establish a permanent synagogue in the past five years, having looked at many sites in its search to find a site of the appropriate size and central location to suit its programmatic needs; the site is centrally located within the neighborhood of the Synagogue, allowing congregants to walk to services, as required for religious observance; and

WHEREAS, the applicant initially determined that it requires approximately 9,000 sq. ft. of floor area and an additional 6,000 sq. ft. in the cellar but, ultimately, through redesign, was able to reduce the number to 8,500 sq. ft. of floor area; and

WHEREAS, as to the need for a floor area waiver, the applicant notes that a conforming development would be limited to 3,000 sq. ft. of floor area, and 6,000 sq. ft. by City Planning Commission special permit, both significantly less floor area than needed to fulfill the programmatic need; and

WHEREAS, specifically, the applicant notes that in a conforming development, the men's sanctuary would only accommodate 52 people and the women's sanctuary would only accommodate 48 people, whereas the proposed men's sanctuary would accommodate 187 people and the women's would accommodate 141 people; (the original proposal would have accommodated 216 people in the men's sanctuary and 153 people in the women's sanctuary); and

WHEREAS, the applicant asserts that a conforming development would eliminate the main women's lobby and children's library on the second floor; and that there would not be sufficient space to accommodate Talmud classes and other lectures; and

WHEREAS, as to the need for waivers to the front and side yards, and lot coverage, the applicant states a conforming development would result in a floor plate of 1,500 sq. ft. (50 feet by 30 feet), as opposed to the 4,250 sq. ft. of floor area proposed, and therefore would be insufficient to satisfy the Synagogue's programmatic needs to accommodate its congregation; and

WHEREAS, the applicant states that the proposed building will accommodate more congregants, which is essential considering the current number of congregants who attend the synagogue on weekends and holidays and the anticipated increase in membership; and

WHEREAS, as to the need for height and setback waivers, the applicant represents that the proposal will provided (1) the double-height ceiling of the main sanctuary which is necessary to create a space for worship and respect and an adequate ceiling height for the second floor women's balcony; and (2) other required uses on the second floor; and

WHEREAS, the applicant states that the parking waiver is necessary because providing the required 19 parking spaces would render the site wholly inadequate to support the proposed building and such parking spaces are not necessary because congregants must live within walking distance of their synagogue and must walk to the synagogue on the Sabbath

and on high holidays; and

WHEREAS, the applicant states that 57 percent of the congregation lives within a three-quarter-mile radius of the site, which is less than the 75 percent required under ZR § 25-35 to satisfy the City Planning Commission certification for a locally-oriented house of worship and waiver the parking requirement, but still a significant portion of the congregation; and

WHEREAS, the applicant states that the requested waivers enable the Synagogue to construct a building that can accommodate its growing congregation as well as provide a separate worship space for men and women, as required by religious doctrine, space for studying and meeting, and a children's library and other lecture space; and

WHEREAS, the Opposition raised several concerns regarding the applicants stated programmatic need including (1) justification for the floor area increase based on the number of congregants; and (2) the need for the height and setback waiver; and

WHEREAS, the Opposition raised a concern that the request for floor area is not supported by the actual number of congregants who attend the Synagogue; and

WHEREAS, the Opposition questioned the veracity of the applicant's congregant numbers, stating that the applicant conflates the terms "congregants" and "members," which is problematic because the synagogue may have many members but fewer regular congregants; and

WHEREAS, the applicant produced a congregant list for the record which the Opposition contested; and

WHEREAS, the Board notes that the Opposition's concerns about the congregant list are unprecedented in the religious use context; the Board understands that congregant numbers may fluctuate and may not always correspond with the membership lists, but that Board sees no basis to reject the applicant's list because the Opposition has questions about whether a few of the noted people actual attend another synagogue; further, the Board accepts that the congregation is growing and that the Synagogue seeks to accommodate such growth; and

WHEREAS, as to height, the Opposition asserts that there is no basis for the requested height for the first floor (13'-4" in the area below the women's balcony and greater than 27'-0" in the double-height portion) as it is not required by religious law nor does it improve acoustics; and

WHEREAS, the Board notes that it has approved many applications from religious institutions seeking additional height for sanctuary space and accepts the applicant's representation that the height is necessary for its meaningful sacred space and to accommodate the second floor balcony; and

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

WHEREAS, specifically, as held in Westchester Reform Temple v. Brown, 22 NY2d 488 (1968), a religious

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institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

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

WHEREAS, the applicant need not address ZR § 72-21(b) since the Synagogue is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; and

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

WHEREAS, the applicant states that the proposed use is permitted in the subject R2 zoning district; and

WHEREAS, as to bulk, the applicant represents that the proposed FAR and all other bulk regulations are consistent with the character of the neighborhood; and

WHEREAS, in support of its assertions, the applicant provided a study of existing FAR's of larger buildings in the area, which reflects that there are numerous buildings of similar bulk to that proposed; and

WHEREAS, specifically, the applicant identified 15 homes within 600 feet of the subject site that have 1.25 FAR or greater (the range is from 1.25 to 3.17 FAR); and

WHEREAS, the applicant states that there are a number of educational and religious institutions in the area with comparable bulk, including four community facilities in the area with FAR ranging from 1.18 to 8.52; and

WHEREAS, the Board notes that the proposed 1.4 FAR falls within the range of FAR's of the larger buildings; and

WHEREAS, the applicant states that the site is currently occupied by a home that exceeds the maximum permitted floor area, has a noncomplying front yard along East 27th Street, a minimal side yard along its northern lot line, and its garage is built nearly to the eastern lot line; thus, the proposed yards are comparable to the existing and provide more space along the portion of the side lot line occupied by the garage; and

WHEREAS, the applicant notes that the proposed side yard with a width of 2'-0" along the northern lot line allows for a distance of 10'-0" from the adjacent home; and similarly, the proposed side yard with a width of 5'-0" along the eastern lot line allows for a distance of 8'-0" from the adjacent home; and

WHEREAS, at hearing, the Board directed the applicant (1) to analyze alternatives that would provide greater side yards than initially proposed and (2) to provide information about the yard context in the area; and

WHEREAS, in response, the applicant increased the side yards from no side yards in their initial application to widths of two and five feet; the front yard was reduced to eight feet along Avenue N and remained at ten feet along East 27th

Street; and

WHEREAS, the applicant submitted a study that identified a significant number of sites in the surrounding area that have front yards with depths of less than eight feet and provide less than ten feet of open area between buildings on adjacent lots; and

WHEREAS, the applicant's study reflects that the three adjacent homes to the east on Avenue N have front yards with depths of less than eight feet and provide less than ten feet of open area between buildings on adjacent lots, a comparable condition to the proposed; and

WHEREAS, the opposition raised concerns regarding the accuracy and reliability of the data used for bulk and yard study; and

WHEREAS, with regard to the Opposition's questions about the reliability of the applicant's bulk and yards analyses, the Board accepts that the applicant relied on publicly available building and land use data and that any inaccurate bulk conditions were not intentional; and

WHEREAS, the Board concludes that even if the sites with disputed data were eliminated from the analysis, the applicant has still established that the Synagogue is compatible with the surrounding context; and

WHEREAS, as noted, during the hearing process, the Board directed the applicant to provide side yards along the northern and eastern lot lines, even though the adjacent neighbor to the east supported the proposal prior to the inclusion of the side yard with a width of 5'-0" on its shared lot line; and

WHEREAS, as to height, the applicant provided a streetscape which reflects that the adjacent row of homes along Avenue N all have heights of 35'-0" as do the homes on East 27th Street; the adjacent home on East 27th Street has a total height of 37'-0"; and

WHEREAS, the applicant represents that the height in excess of 27 feet for portions of the first floor is required in order to promote the metaphysical and physical significance of Judaism in that the ceiling metaphorically reaches to Heaven and gives importance to the space while providing acoustical advantages befitting a place of worship; and

WHEREAS, the applicant asserts that high ceilings have historically been an important element of synagogue architecture; and

WHEREAS, the applicant states that the conforming development would reduce the height of the building and the floor area devoted to sanctuary space; and

WHEREAS, the Board notes that the proposed total height of the building of 35'-0" does not require a waiver and is contemplated by the zoning district regulations; and

WHEREAS, the Board notes that four commissioners visited the site on repeated occasions and personally observed and confirmed that the proposal is compatible with the existing context of the surrounding neighborhood; and

WHEREAS, the applicant states that the parking waiver requested will not result in a material increase in street parking in the surrounding area due to the close proximity to the congregants' homes, which allows congregants to walk to the

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site in observance of religious law; and

WHEREAS, further, as noted above, the applicant represents that 57 percent (fewer than the 75 percent minimum threshold), of congregants live within a three-quarter-mile radius of the site, thus do not meet the minimum threshold for the parking waiver, but are still within the spirit of City Planning's parking waiver for houses of worship; and

WHEREAS, the applicant performed a parking study which reflects that during the times of day when attendance is greatest and most area residents are at home, there were 369 vacant spaces on one day and 342 and 325 vacant spaces on two other days when the study was repeated; and

WHEREAS, accordingly, the applicant concludes that there is ample curbside parking to accommodate any demand; and

WHEREAS, the applicant notes that the study was conducted within an approximately one-quarter-mile radius of the subject site, consistent with CEQR Technical Manual methodology; and

WHEREAS, the applicant also notes that the trip generation falls below the CEQR Technical Manual threshold size, but, still, it assessed the trip generation based on occupancy and found it would not exceed threshold levels of vehicular traffic generation, even at its peak attendance level of 350 people during the high holidays; and

WHEREAS, the Opposition raises supplemental concerns about the sufficiency of the applicant's environmental review including that the conclusion that no potential for emissions exists is based on the assumption that the heating flue stacks will be more than 50 feet from the nearest building; and

WHEREAS, in response to the Opposition's assertions about the environmental review being insufficient, the applicant supplemented the record with an Environmental Assessment Statement (EAS) Full Form, including the following narratives: (1) Introduction, Land Use, Zoning, and Public Policy; (2) Urban Design and Visual Resources; (3) Transportation; and (4) Air Quality; and clearly identified the location of the heating flue stacks on the roof and their distance from the lot lines; and

WHEREAS, as to the Opposition's concerns about the environmental review, the Board has carefully considered both parties' environmental analyses, including the areas of traffic/parking, open space, air quality, and construction impacts, and agrees that the applicant has correctly applied the CEQR methodology to conclude that the incremental effect of the proposal versus the no build does not trigger any of the CEQR threshold requirements; and

WHEREAS, the Board notes that the required distance of the heating ducts from adjacent buildings in order to screen the HVAC system is 30 feet, rather than the 50 feet the Opposition alleges and the applicant proposes to locate its rooftop flues 30 feet from its property line, thus, more than 30 feet from adjacent buildings; and

WHEREAS, the applicant submitted responses adequately addressing the concerns raised by the opposition regarding the environmental review; and

WHEREAS, the Opposition asserts that the Board must balance the interests of the community and the Synagogue and deny an application when "the (presumed) beneficial effect may be rebutted with evidence of a significant impact on traffic congestion, property values, municipal services and the like" Cornell Univ. v. Bagnardi, 68 N.Y.2d 583, (1986); and

WHEREAS, the Opposition asserts that the Board cannot grant a variance until it is assured that the proposed use is not contrary to public health, safety, or welfare; and

WHEREAS, the Opposition asserts that in order to appropriately analyze the application, the applicant must define the project fully and accurately including its programmatic needs, the number of people it will service, the hours and days of operation and to analyze each through the application of various strictly defined methodologies prescribed in the CEQR manuals; and

WHEREAS, the Opposition also asserts that the traffic study is flawed and that the impact on parking and traffic will be significant to the surrounding area to the extent of diminishing property values; and

WHEREAS, the applicant responded that the Synagogue will have a beneficial impact on the community surrounding the site and will provide a place of worship for many local residents; the applicant asserts that the Synagogue's beneficial effect has not been rebutted with any "evidence of a significant impact on traffic congestion, property values, municipal service, [or] the like," citing to Cornell; and

WHEREAS, the applicant submitted a petition signed by nearly 400 community members in support of the application; and

WHEREAS, further, in response to the Opposition's concerns about the operation of the Synagogue, the applicant revised its application to note that (1) there will be no onsite catering; (2) the simcha hall will be used primarily for Kiddush ceremonies following Sabbath prayer services; and (3) there will be no simultaneous use of the simcha hall and worship areas anytime there is a near-capacity crowd at the synagogue, but they may be used together when neither is at near capacity; and

WHEREAS, the Board agrees with the applicant that it has submitted (1) a full and complete description of the proposal including programmatic needs, number of people it will serve, and hours and days of operation; and (2) the Opposition has failed to provide any evidence of a significant negative impact caused by the proposal as required by the New York State courts to deny a variance for a religious institution; and

WHEREAS, the Board has reviewed the Opposition's concerns and notes the following: (1) the requirements of ZR § 72-21(a) are met by the demonstration of legitimate programmatic needs and the limitations of the site in meeting those goals; and (2) the case law does not recognize concerns about potential traffic and disruption of residential character of the neighborhood as basis for rejecting a variance request; and

WHEREAS, accordingly, the Board finds that this

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action will neither alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the applicant analyzed a lesser variance scenario with a side yard with a width of 5'-0" along the eastern lot line and a side yard with a width of 5'-0" along the northern lot line and asserts that a lesser variance would compromise the programmatic needs of the Synagogue; and

WHEREAS, specifically, a lesser variance scenario that could only accommodate 175 men, as opposed to the 216 in the initial proposal (187 in the current proposal) and 137 women, as opposed to the 153 in the initial proposal (141 in the current proposal) for the women's sanctuary would be insufficient; and

WHEREAS, the applicant asserts that the addition of the proposed yards is the most possible without further limiting its ability to accommodate its congregation; and

WHEREAS, additionally, the applicant asserts that many of the rooms on the first and second floors, including the rabbi's office, children's library, and conference room would be greatly reduced under the lesser variance scenario; and

WHEREAS, the Board finds the requested waivers to be the minimum necessary to afford the Synagogue the relief needed to meet its programmatic needs; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to 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 (EAS) CEQR No. 12BSA095K, dated March 12, 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, 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, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site in an R2 zoning district, the construction of a two-story building to be occupied by a synagogue, which does not comply with the zoning district regulations for floor area ratio, lot coverage, front yards, side yards, height, setback, and parking, contrary to ZR §§ 24-11, 24-34, 24-35, 24-521; *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 15, 2013" – Fourteen (14) sheets and "Received May 17, 2013" – One (1) sheet; and *on further condition*:

THAT the building parameters will be: three stories; a maximum floor area of 8,500 sq. ft. (1.41 FAR); front yards with depths of 8'-0" on the southern lot line and 10'-0" on the western lot line; side yards with widths of 2'-0" on the northern lot line and 5'-0" on the eastern lot line; a maximum lot coverage of 71 percent; a maximum building height of 35'-0"; and a maximum street wall height of 29'-0", as illustrated on the BSA-approved plans;

THAT any change in control or ownership of the building will require the prior approval of the Board;

THAT the use will be limited to a house of worship (Use Group 4) and any classes will be accessory to this use;

THAT the use of the cellar kitchen will be limited to warming;

THAT no commercial catering will take place onsite;

THAT there will be no simultaneous use of the simcha hall and worship areas anytime there is more than half capacity in either space;

THAT the site, during construction and under regular operation, will be maintained safe and free of debris;

THAT garbage will be stored inside the building except when in the designated area for pick-up;

THAT any and all lighting will be directed downward and away from adjacent residences;

THAT the above conditions will be listed on the certificate of occupancy;

THAT rooftop mechanicals will comply with all applicable Building Code and other legal requirements, including noise guidelines, as reviewed and approved by the Department of Buildings and that the flue stacks be located at least 30 feet from adjacent buildings, as reflected on the BSA-approved plans;

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

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

THAT construction will proceed in accordance with ZR

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§ 72-23;

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

Adopted by the Board of Standards and Appeals, May 21, 2013.

235-12-BZ

CEQR #13-BSA-009K

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

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

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

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – 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 June 29, 2012, acting on Department of Buildings Application No. 320499322, reads, in pertinent part:

Store 1 – Proposed Use Group 6 eating and drinking establishment not permitted in C3 district, pursuant to ZR § 32-15

Store 2 – Proposed Use Group 6 eating and drinking establishment not permitted in C3 district, pursuant to ZR § 32-15

Store 3 – Proposed Use Group 6 eating and drinking establishment not permitted in C3 district, pursuant to ZR § 32-15

Store 4 – Proposed Use Group 6 eating and drinking establishment not permitted in C3 district, pursuant to ZR § 32-15

Obtain New York City Board of Standards and Appeals special permit, pursuant to ZR § 73-242; and

WHEREAS, this is an application under ZR § 73-242, to permit, in a C3 zoning district, the operation of four Use Group 6 eating and drinking establishments occupying a total floor area of 7,907 sq. ft. (0.30 FAR), which requires a special permit pursuant to ZR § 32-15; and

WHEREAS, a public hearing was held on this application on November 20, 2012, after due notice by

publication in the *City Record*, with continued hearings on January 8, 2013 and February 5, 2013, and then to decision on May 21, 2013; and

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

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

WHEREAS, the subject site is a rectangular zoning lot comprising Tax Lots 33 & 38, with approximately 26,131 sq. ft. of lot area, and frontages along Plumb Beach Channel and three streets: 176.16 feet of frontage along the east side of Knapp Street, 200 feet of frontage along the north side of Harkness Avenue and 175.41 feet of frontage along the west side of Plumb First Street; and

WHEREAS, the applicant states that the site is occupied by a one-story building with 6,696 sq. ft. of floor area (0.26 FAR), and three separate commercial establishments (a delicatessen, a beauty supply store and an eating and drinking establishment); and

WHEREAS, the site has been under the Board's jurisdiction since August 10, 1993; on that date, under BSA Cal. No. 96-92-BZ, the Board granted, for a term of five years, a special permit pursuant to ZR § 73-242 authorizing in a C3 zoning district, the operation of three Use Group 6 eating and drinking establishments with musical entertainment but not dancing and with a capacity of 200 persons or less within an existing one-story building; and

WHEREAS, on December 19, 2000, the Board renewed the special permit for a term of five years retroactive to its expiration on August 10, 1998; accordingly, the renewed special permit expired on August 10, 2003; and

WHEREAS, a new application is required for the instant proposal because the prior grant expired more than nine years ago and because the proposal includes a 1,210 sq. ft. enlargement to accommodate a fourth Use Group 6 eating and drinking establishment at the site; and

WHEREAS, the applicant states that the enlargement will increase the floor area from 6,696 sq. ft. (0.26 FAR) to 7,907 (0.30 FAR) and increase the number of required parking spaces from 34 to 40; and

WHEREAS, the applicant notes that, of the three Use Group 6 eating and drinking establishments authorized under the prior grant, one is currently active and has been operating since 2010; as such, this application seeks legalization of that use; the other two commercial spaces are currently occupied as a delicatessen and an beauty supply and, in connection with this application, are to be converted back to eating and drinking establishments; and

WHEREAS, the applicant represents that, in accordance with ZR § 73-242, the proposal will not impair the essential character or the future use or development of the nearby residential neighborhood; and

WHEREAS, the applicant states that the proposed establishments are consistent with the commercial nature of the surrounding uses, which include a parking lot to the east of

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the site (and an ice cream shop to the east of the parking lot), a large multiplex theater and retail stores to the south of the site across Harkness Avenue on Block 8840, an independent pre-kindergarten through 12th Grade educational facility known as the Amity School across Knapp Avenue to the west and the Belt Parkway, a major arterial highway; and

WHEREAS, the applicants notes that there are vacant lots directly north of the Plumb Beach Channel and that the nearest residential uses are located more than 400 feet from the site; and

WHEREAS, the applicant also notes that Knapp Street is a busy, four-lane thoroughfare measuring 100 feet in width, making it an appropriate location for a cluster of restaurants; and

WHEREAS, as to bulk, the applicant states that the proposal complies in all respects with the applicable bulk regulations; and

WHEREAS, the applicant represents that there will be a minimum of (or no) increase in vehicular traffic to and through local streets in nearby residential areas to be generated by the proposal; and

WHEREAS, specifically, the applicant states the existing building is accessed by entrances located on a Plumb First Street, which is essentially a court, serving only the subject site and a parking lot for the theater across the street; Plumb First Street is accessed by Harkness Avenue, a two-lane, two-way street and it is anticipated that the majority of patrons will access Harkness Avenue via Knapp Street, which is accessible from the Belt Parkway service drive; as such, there is minimal traffic generated in the surrounding local streets in residential areas; and

WHEREAS, the Board finds that the proposal will generate a minimum of vehicular traffic to and through local streets in nearby residential areas; and

WHEREAS, at hearing the Board expressed concerns over excessive accessory signage, an unlawful advertising roof sign, the adequacy of the landscaping, the configuration of the accessory parking, and the site's current compliance with the conditions imposed by the Board in BSA Cal. No. 96-92-BZ; and

WHEREAS, in response, the applicant: (1) stated that it will bring all signage at the site into compliance with the applicable zoning regulations; (2) provided a revised landscaping plan that, to the fullest extent feasible, complies with current landscaping requirements; (3) revised the original parking layout and indicated that it will backfill the rear of the site in order to provide the required number of parking spaces; and (4) demonstrated that the site complies with the prior conditions of the grant, including the requirements to provide an adequately paved and drained parking lot, keep the site free of debris and graffiti and store garbage in the designated enclosure until immediately prior to pick-up; and

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

WHEREAS, the Board finds that under the conditions and safeguards imposed, the hazards or disadvantages to the

community at large of such special permit use at the particular site are outweighed by the advantages to be derived by the community by the grant of such special permit; and

WHEREAS, therefore, the Board finds that the subject application meets the findings set forth at Z.R. §73-242; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 13BSA009K dated July 30, 2012; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a 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 and grants a special permit under ZR §§ 73-03 and 73-242, to permit, in a C3 zoning district, the operation of four Use Group 6 eating and drinking establishments occupying a total floor area of 7,907 sq. ft. (0.30 FAR), which requires a special permit pursuant to ZR § 32-15, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received May 17, 2013"- four (4) sheets; and *on further condition*;

THAT the accessory sign for the existing restaurant shall be limited to 50 sq. ft. in surface area and that DOB shall not issue any permits for work at the site unless and until the restaurant sign is reduced to 50 sq. ft.;

THAT any illuminated accessory sign constructed at the premises shall be at least 150 feet from the boundary of any residence district;

THAT this permit shall be granted for a term of five years from May 21, 2013 to expire on May 21, 2018;

THAT the site shall comply with the conditions set forth in BSA Cal. No. 92-96-BZ;

THAT the above conditions and all other relevant conditions from prior grants be noted on the certificate of

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occupancy;

THAT compliance with Local Law 58/87 shall be as approved by the Department of Buildings;

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

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

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

Adopted by the Board of Standards and Appeals, May 21, 2013.

238-12-BZ

APPLICANT – Harold Weinberg, for Stuart Ditchek, owner.

SUBJECT – Application August 1, 2012 – Special Permit (§73-622) for the enlargement of single family home contrary floor area and lot coverage (§23-141); side yards (§23-461) and less than the required rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 1713 East 23rd Street, between Quentin Road and Avenue R, Block 6806, Lot 86, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 1, 2012, acting on Department of Buildings Application No. 320529512, reads in pertinent part:

1. The proposed enlargement increases the degree of non-compliance with respect to floor area and floor area ratio and is contrary to Section 23-141 and Section 54-31 of the Zoning Resolution;
2. The proposed enlargement creates a new non-compliance with respect to lot coverage and is contrary to Section 23-141;
3. The proposed enlargement [increases] the degree of non-compliance with respect to an existing deficient side yard and is contrary to Section 23-461 and to Section 54-31 of the ZR;
4. The proposed enlargement creates a new non-compliance with respect to the rear yard and is contrary to Section 23-47; and

WHEREAS, this is an application under ZR §§ 73-622

and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), lot coverage, side yards and rear yard contrary to ZR §§ 23-141, 23-46, 23-47, and 54-31; and

WHEREAS, a public hearing was held on this application on February 5, 2012, after due notice by publication in *The City Record*, with continued hearings on March 12, 2013, April 9, 2013, and April 23, 2013, and then to decision on May 21, 2013; and

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

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

WHEREAS, the subject site is located on the west side of East 23rd Street, between Quentin Road and Avenue R, within an R3-2 zoning district; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft. and is occupied by a single-family home with a floor area of 2,674.2 sq. ft. (0.67 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from of 2,674.2 sq. ft. (0.67 FAR) to 4,120 sq. ft. (1.03 FAR); the maximum permitted floor area is 2,400 sq. ft. (0.60 FAR); and

WHEREAS, the applicant proposes a lot coverage of 43.7 percent; the maximum permitted lot coverage is 35 percent; and

WHEREAS, the applicant proposes to maintain the existing non-complying side yards, which have widths of 2'-10" and 8'-5"; the requirement is two side yards with a minimum total width of 13'-0" and a minimum width of 5'-0" each; and

WHEREAS, the applicant proposes a rear yard with a depth of 20'-2"; the minimum required rear yard depth is 30 feet; and

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

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

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), lot coverage, side yards and rear yard contrary to ZR §§ 23-141, 23-46, 23-47, and 54-31; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received March 25, 2013"- (5) sheets and "April 17, 2013"-(4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 4,120 sq. ft. (1.03 FAR), a maximum lot coverage of 43.7 percent, a minimum open space ratio of 73.5 percent, side yards with minimum widths of 2'-10" and 8'-5", and a rear yard with a minimum depth of 20'-2", as illustrated on the BSA-approved plans;

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

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

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

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

Adopted by the Board of Standards and Appeals, May 21, 2013.

284-12-BZ

CEQR #13-BSA-039K

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

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

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 27, 2012, acting on Department of Buildings Application No. 320502238, reads in pertinent part:

1. Proposed plans are contrary to ZR § 23-141 in that the proposed floor area ratio exceeds the maximum permitted
2. Proposed plans are contrary to ZR § 23-631 in that the proposed perimeter wall height exceeds the maximum permitted; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R2X zoning district within the Special Ocean Parkway District, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR") and maximum perimeter wall height, contrary to ZR §§ 23-141 and 23-631; and

WHEREAS, a public hearing was held on this application on March 5, 2013, after due notice by publication in *The City Record*, with continued hearings on April 9, 2013 and May 7, 2013, and then to decision on May 21, 2013; and

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

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

WHEREAS, the subject site is located on the east side of East Third Street, between Avenue S and Avenue T, within an R2X zoning district within the Special Ocean Parkway District; and

WHEREAS, the subject site has a total lot area of 5,000 sq. ft., and is occupied by a single-family home with a floor area of 2,989 sq. ft. (0.60 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from of 2,989 sq. ft. (0.60 FAR) to 6,108 sq. ft. (1.23 FAR); the maximum permitted floor area is 4,250 sq. ft. (0.85 FAR); and

WHEREAS, the applicant proposes a perimeter wall height of 23'-7¼"; the maximum permitted perimeter wall height is 21'-0"; and

WHEREAS, the Board notes that ZR § 73-622(3) allows the Board to waive the perimeter wall height only in instances where the proposed perimeter wall height is equal to or less than the height of the adjacent building's non-complying perimeter wall facing the street; and

WHEREAS, the applicant represents that the proposed perimeter wall height is less than the height of the adjacent

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building's non-complying perimeter wall facing the street; and

WHEREAS, at hearing, the Board raised a concern over the calculation of the proposed perimeter wall height; and

WHEREAS, in response, the applicant's architect submitted a letter, an eave diagram, and revised plans that, together, adequately explain how the perimeter wall height for the proposed building and the adjacent building were calculated; and

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

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

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2X zoning district within the Special Ocean Parkway District, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR and maximum perimeter wall height, contrary to ZR §§ 23-141 and 23-631; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received May 15, 2013"-(12) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 6,108 sq. ft. (FAR 1.23), and a maximum perimeter wall height of 23'-7¼", as illustrated on the BSA-approved plans;

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

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

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

THAT the DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, including

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

Adopted by the Board of Standards and Appeals, May 21, 2013.

315-12-BZ

CEQR #13-BSA-057Q

APPLICANT – Akerman Senterfitt, LLP, for Pali Realty LLC, owner.

SUBJECT – Application November 20, 2012 – Special Permit (§73-50) to allow for a community facility building, contrary to rear yard requirements (§33-29). C4-3 zoning district.

PREMISES AFFECTED – 23-25 31st Street, east side of 31st Street, between 23rd Avenue and 23rd Road, Block 835, Lot 27 & 31, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....5

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated October 22, 2012, acting on Department of Buildings Application No. 420229194, reads in pertinent part:

[t]he rear lot line of this zoning lot coincides with the residential district boundary. Provide 30 ft. rear yard as per ZR 33-292; and

WHEREAS, this is an application under ZR §§ 73-50 and 73-03, to legalize, on a site in a C4-3 zoning district abutting an R5B zoning district, the construction of an eight-story community facility building with an open area 23 feet above curb level with a minimum depth of 20 feet, contrary to ZR § 33-292; and

WHEREAS a public hearing was held on this application on February 26, 2013 after due notice by publication in *The City Record*, with continued hearings on March 19, 2013 and April 23, 2013, and then to decision on May 21, 2013; and

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

WHEREAS, Community Board 1, Queens, recommends approval of the application on condition that (1) the rear wall with a height of 23 feet be completely finished with stucco; (2) the mechanical equipment on the roof setback at the rear be installed on vibration pads and encased with sound-attenuating materials to reduce noise and vibrations; (3) the entire parapet wall at the rear setback be high enough to conceal rooftop

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mechanical equipment; (4) the front of the building and setback area be well-lit when the building is not in operation; and (5) the applicant remedy damages to the adjacent owners on 31st and 32nd streets by agreeing to pay repair costs; and

WHEREAS, certain members of the surrounding community provided written and oral testimony in support of the application; and

WHEREAS, certain members of the surrounding community provided written and oral testimony in opposition to the application (“the Opposition”); and

WHEREAS, the Opposition’s primary concerns are that: (1) no grant should be given until all damage to adjacent properties has been repaired and owners’ costs recouped; (2) the insurance claims process has been unsatisfactory; (3) the applicant has not provided evidence of the need for the special permit; and (4) the potential nuisance of light and noise on the adjacent properties; and

WHEREAS, the subject site is an interior zoning lot (comprising Tax Lots 27 and 31) located on the east side of 31st Street between 23rd Avenue and 23rd Road, with 125 feet of frontage on 31st Street, a depth of 90 feet, and a total lot area of 11,250 sq. ft.; and

WHEREAS, the site is located within a C4-3 zoning district that abuts an R5B zoning district to its rear; and

WHEREAS, pursuant to ZR § 33-292, an open area 23 feet above curb level with a minimum depth of 30 feet is required on a zoning lot within a C4-3 district with a rear lot line that abuts the rear lot line of a zoning lot in a residence district; and

WHEREAS, the applicant proposes to legalize a partially-constructed eight-story community facility building that provides an open area along the rear lot line beginning above the roof of the first story (23 feet above curb level), with a depth of 20 feet (the “20-foot yard”), rather than the required 30 feet; and

WHEREAS, the applicant represents that the building complies in all other respects with the applicable provisions of the Zoning Resolution; and

WHEREAS, under ZR § 73-50, the Board may grant a waiver of the rear yard (open area) requirements set forth in ZR § 33-29 in appropriate cases; and

WHEREAS, the applicant states that the instant application is an appropriate case for a waiver of the requirements set forth in ZR § 33-29; and

WHEREAS, the applicant states that the non-complying 20-foot yard is attributable to a design error by the project architect and that the error was discovered after approximately 80 percent of the building was completed; and

WHEREAS, the applicant states that in order to comply with ZR § 33-292 at this stage of construction, the rearmost 10-foot portion of the building at the first seven stories would have to be demolished by hand and reconstructed with a completely redesigned structural system; the applicant represents that such work is infeasible; and

WHEREAS, as to the infeasibility, the applicant

represents that the line of columns at the rear of the building begin below ground at the foundation and continue to the roof level, and cannot practically be moved without the construction of new footings and the removal of the parking ramps; and

WHEREAS, additionally, the roof water tanks would have to be relocated to a different portion of the roof and such portion would have to be structurally reinforced to carry the additional loads, at significant design and construction costs; and

WHEREAS, lastly, the removal of 10 feet of building depth would result in a building depth of 45 feet at the fourth through eighth stories, which the applicant asserts is inadequate to provide an efficient floor plate for a modern medical office use; and

WHEREAS, the applicant asserts that the waiver will not have an adverse effect on the surrounding area; and

WHEREAS, the applicant represents that of the seven other zoning lots located on the 31st Street frontage, six extend to the rear lot line; and

WHEREAS, the applicant also notes that prior to the construction of the subject building, Lot 27 was occupied by a one-story commercial building that extended to its rear lot line and Lot 31 was occupied by a three-story residential building that provided an approximately 20-foot rear yard consistent with the proposed; and

WHEREAS, the applicant notes that there is a lack of adequate medical facilities in the neighborhood and states that the proposed facility is desired by the community at large; and

WHEREAS, the applicant notes that the proposed tenants include University Orthopedics of NYC, Metropolitan Gastroenterology and Endoscopy Center of Queens; and

WHEREAS, the applicant notes that if the building were redesigned to comply with ZR § 33-292, the building height would be increased from 158 feet to 182 feet; such increase in height would be as of right and result in longer shadows being cast on neighboring buildings; further, the decreased floor plates would be detrimental to the proposed medical use, which the applicant states requires large floor plates so as to minimize the movement of patients from floor to floor; and

WHEREAS, the applicant submitted a shadow study demonstrating the increased neighborhood impact of a taller building; and

WHEREAS, during the public review and hearing process, the Opposition raised concerns about the impact of the building on the residences directly abutting the site; specifically, the Opposition raised concerns regarding: (1) the visibility, noise and potential contamination from exhaust and intake vents and stair pressurization fans at the rear first story roof; (2) glass blocks within the rear wall at the first story and basement, which would allow light to transfer outside the building; (3) open violations from the Department of Buildings (“DOB”); and (4) damages allegedly sustained by the adjacent properties during the

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course of construction of the subject building and related DOB violations; and

WHEREAS, accordingly, the Board directed the applicant to (1) redesign the exhaust and vent system so that it was further from the adjacent residents at the rear; (2) remove the glass blocks in the rear wall and replace with concrete block and stucco that will be opaque; (3) describe the nature of any outstanding violations; and (4) address the Opposition's concerns about property damage; and

WHEREAS, in response, the applicant: (1) relocated exhaust vents from the rear of the building to the front setback; (2) relocated intake vents and stair pressurization fans to be as far as functionally possible from the rear parapet; (3) provided a detailed statement from the project engineer certifying the make, model, size, functionality and necessity of the intake vents and stair pressurization fans; (4) submitted a visibility study indicating that the intake vents and stair pressurization fans will not be visible from the tallest of the residences abutting the rear lot line (23-26 32nd Street); (5) amended the plans to show the replacement of glass blocks with solid masonry; and (6) submitted evidence of a request from the project architect to the Queens DOB Commissioner for permission to perform work in order to remove the conditions that gave rise to the violations; and

WHEREAS, as to the damages allegedly sustained by the adjacent properties during the course of construction at the subject building and related DOB violations, the applicant asserts that such matters are under the purview of the general contractor and its insurance company and that it is prohibited, by contract, from intervening in the insurance negotiations; and

WHEREAS, further, the applicant represents that the violations were all issued in response to the neighbors' complaints and, thus, cannot be resolved absent the neighbors' cooperation, particularly given that a number of the violations are not actually issued to the subject lot, but to the neighbors', and that other violations require access to the neighbors' property; and

WHEREAS, a search of the Buildings Information System reflects that there are three outstanding violations on the site: (1) ECB Violation No. 34959031Y was issued on September 18, 2012 and alleged a failure to safeguard persons and property affected by construction operations, contrary to New York City Building Code § 3301.2; the respondent was found in violation on January 22, 2013, and no certificate of correction has been approved by DOB; (2) ECB Violation No. 34959207Z was issued on January 15, 2013 and alleged a failure to safeguard persons and property affected by construction operations, contrary to BC § 3301.2; the respondent was found in violation on April 30, 2013, and no certificate of correction has been approved by DOB; and (3) DOB Violation No. 073112C0101SA was issued on July 31, 2012 and alleged that the borough commissioner had issued an intent to revoke the permit and approval for Job No. 420229194 and a Stop Work Order, pursuant to New York City Administrative Code § 28-207.2;

and

WHEREAS, the Board notes that disputes between neighbors and the resolution of property damage caused by construction are beyond its purview and it cannot get involved in such disputes; however, it strongly encourages the parties to work together to achieve a resolution fairly and expeditiously; and

WHEREAS, the applicant represents that the negotiations between the contractor's insurance company and the neighbors' insurance companies are ongoing; and

WHEREAS, the applicant also notes that, on April 15, 2013, one of the neighbors has commenced an action in New York State Supreme Court, Sesumi v. Pali Realty, LLC et al., Index No. 7428/13, Queens County, for alleged property damages; and

WHEREAS, the Opposition also raised additional concerns regarding light pollution from the building, the sufficiency of the roof drains, the functioning of the electrical and mechanical systems and equipment, the general contractor's means and methods of construction, and the completeness of plans submitted in connection with this application; and

WHEREAS, as to these concerns, the Board finds that the applicant adequately addressed them and that all construction methods and plans are subject to DOB review and approval; and

WHEREAS, the Board notes that the construction activities have given rise to certain damage to property and disputes with adjacent property owners, but that such effects are the result of physical construction work and not the land use and planning effects that the Board considers in determining whether or not the open area required by ZR § 33-292 must be provided; and

WHEREAS, further, the Board notes that the use and building are permitted as of right but for the rear ten feet of building depth above a height of 23 feet; and

WHEREAS, the Board notes that the portion of the new building which appears to have created the most conflict with the adjacent property owners is actually the portion of the building (and its rear wall) within the rear yard *below* 23 feet, which is permitted as-of-right pursuant to ZR § 33-292; and

WHEREAS, the Board finds that the extra ten feet of building depth at the rear above a height of 23 feet has not led to the adjacent property owners' concerns in the short-term and is compatible with the adjacent uses in the long-term, pursuant to ZR §§ 73-03 and 73-50; however, the impact of the physical construction work upon adjacent properties may be considered by the Board in determining the appropriate conditions and safeguards to impose along with the grant of a special permit pursuant to ZR § 73-03; and

WHEREAS, the Board notes that the applicant has satisfied all of the Community Board's requests related to building design and site conditions, in that: (1) the rear wall will be completely finished with stucco; (2) the mechanical equipment on the roof setback at the rear will be installed on

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vibration pads and encased with sound-attenuating materials to reduce noise and vibrations; (3) the entire parapet wall at the rear setback is high enough to conceal rooftop mechanical equipment; and (4) the front of the building and setback area will be well-lit when the building is not in operation; and

WHEREAS, as to the Community Board's additional request that the applicant remedy damages to the adjacent owners on 31st and 32nd streets, the Board notes that both parties have testified that there are ongoing negotiations between the property owners' and contractor's insurance companies to resolve the damages; and

WHEREAS, based on the record, the Board finds that the application meets the requirements of ZR § 73-03(a) in that the disadvantages to the community at large are outweighed by the advantages derived from such special permit; and that the adverse effect, if any, will be minimized by appropriate conditions; and

WHEREAS, the proposed project will not interfere with any pending public improvement project and therefore satisfies the requirements of ZR § 73-03(b); and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-50 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR §§ 73-50 and 73-03, to permit, on a site in a C4-3 zoning district abutting an R5B zoning district, the construction of an eight-story community facility building with an open area 23 feet above curb level with a minimum depth of 20 feet, contrary to ZR § 33-292, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received April 2, 2013" – sixteen (16) sheets; and *on further condition*;

THAT the vents atop the rear first story roof will be for intake only;

THAT the stair pressurization fans atop the rear first story roof will be operated only in an emergency;

THAT all lighting will be directed away from adjacent residences, as reflected on the plans;

THAT the glass blocks at the rear wall will be replaced by masonry and stucco;

THAT the mechanical equipment on the roof setback at the rear will be installed on vibration pads and encased with sound-attenuating materials to reduce noise and vibrations;

THAT the entire parapet wall at the rear setback will be built to a sufficient height, as reflected on the BSA-approved plans and approved by DOB, to conceal rooftop mechanical equipment;

THAT the front of the building and setback area will be well-lit when the building is not in operation;

THAT the above conditions be noted on the Certificate of Occupancy;

THAT DOB will not issue a Temporary Certificate of

Occupancy (or Final Certificate of Occupancy) and the building will not be occupied until all violations on the site have been cured to DOB's satisfaction;

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

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

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

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

Adopted by the Board of Standards and Appeals, May 21, 2013.

8-13-BZ CEQR #13-BSA-081K

APPLICANT – Lewis E. Garfinkel, for Jerry Rozenberg, owner.

SUBJECT – Application January 17, 2013 – Special Permit (§73-622) for the enlargement of an existing single family residence, contrary to floor area and open space (§23-141(a)); and side yard (§23-461) regulations. R2 zoning district.

PREMISES AFFECTED – 2523 Avenue N, corner formed by the intersection of the north side of Avenue N and west of East 28th Street, Block 7661, 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 9, 2013, acting on Department of Buildings Application No. 320513850, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141(a) in that the proposed floor area ratio exceeds the permitted 0.50;
2. Proposed plans are contrary to ZR 23-141(a) in that the proposed open space ratio is less than the required 50 percent;
3. Plans are contrary to ZR 23-461(a) in that the existing minimum side yard is less than the required minimum [of] 5'-0"; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio

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("FAR"), open space ratio, and side yards, contrary to ZR §§ 23-141 and 23-461; and

WHEREAS, a public hearing was held on this application on April 23, 2013, after due notice by publication in *The City Record*, and then to decision on May 21, 2013; and

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

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

WHEREAS, the subject site is a corner lot located at the northwest intersection of East 23th Street and Avenue N, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 5,000 sq. ft. and is occupied by a single-family home with a floor area of 3,354 sq. ft. (0.67 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from of 3,354 sq. ft. (0.67 FAR) to 4,740 sq. ft. (0.95 FAR); the maximum permitted floor area is 2,500 sq. ft. (0.50 FAR); and

WHEREAS, the existing open space ratio is 61 percent and the applicant proposes an open space ratio of 38 percent; the minimum permitted open space ratio is 150 percent; and

WHEREAS, the building has one complying side yard with a width of 5'-8" and one non-complying side yard with a width of 18'-7"; the applicant proposes to reduce the complying side yard to 5'-0" (a minimum of 5'-0" is required) and maintain the non-complying side yard at 18'-7" (a minimum of 20'-0" is required); and

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

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

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

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

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

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

N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), open space ratio, and side yards, contrary to ZR §§ 23-141 and 23-461; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received March 20, 2013"-(5) sheets and "May 7, 2013"-(7) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 4,740 sq. ft. (0.95 FAR), a minimum open space ratio of 38 percent, and side yards with minimum widths of 5'-0" and 18'-7", as illustrated on the BSA-approved plans;

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

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

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

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

Adopted by the Board of Standards and Appeals, May 21, 2013.

**10-13-BZ
CEQR #13-BSA-083M**

APPLICANT – Friedman & Gotbaum LLP, by Shelly Friedman, Esq., for Stephen Gaynor School and Cocodrilo Development Corporation, owners.

SUBJECT – Application January 18, 2013 – Variance (§72-21) to permit an enlargement to an existing school (*Stephen Gaynor School*), contrary to lot coverage (§24-11), rear yard (§24-36/33-26), and height and setback (§24-522) regulations. C1-9 & R7-2 zoning districts.

PREMISES AFFECTED – 175 West 89th Street (South Building) and 148 West 90th Street (North Building), between West 89th Street and West 90th Street, 80ft easterly from the corner formed by the intersection of the northerly side of West 89th Street and the easterly side of Amsterdam Avenue, Block 1220, Lots 5 and 7506, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins,

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Commissioner Ottley-Brown, Commissioner Hinkson and
Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough
Commissioner, dated December 21, 2012, acting on
Department of Buildings Application No. 120406131, reads
in pertinent part:

1. ZR 24-11 Proposed bridge connection at the 4th story level in R7-2 district does not qualify as a permitted obstruction pursuant to ZR 24-33 and therefore increases the degree of non-compliance with respect to lot coverage, contrary to ZR 24-11 and ZR 54-31;
2. ZR 24-36 Proposed vertical extension of building portion exceeding 23 ft above curb level and the proposed bridge connection at the 4th story level in R7-2 district does not qualify as permitted obstruction pursuant to ZR 24-33 and therefore increases the degree of rear yard non-compliance, contrary to ZR 24-36 and ZR 54-31;
3. ZR 24-522 Portion of proposed vertical extension of building at the 5th and 6th story levels penetrates the sky exposure plane and increases degree of front setback non-compliance, contrary to ZR 24-522 and ZR 54-31;
4. ZR 33-26 Proposed vertical extension of building portion exceeding 23 ft above curb level in C1-9 district does not qualify as permitted obstruction pursuant to ZR 33-23 and therefore increases degree of rear yard non-compliance, contrary to ZR 33-26 and ZR 54-31; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within an R7-2 zoning district and partially within a C1-9 zoning district, the enlargement of an existing school building to accommodate classrooms and an exercise and activity space (“the Enlargement”), and the construction of a bridge (“the Bridge”) between the subject building located at 175 West 89th Street (“the South Building”) and the building located 148 West 90th Street (“the North Building”), which do not comply with zoning regulations for lot coverage, minimum required rear yard, permitted obstructions in a rear yard, and sky exposure plane, contrary to ZR §§ 24-11, 24-33, 24-36, 24-522, 33-23, 33-26 and 54-31; and

WHEREAS, a public hearing was held on this application on April 23, 2013, after due notice by publication in the *City Record*, and then to decision on May 21, 2013; and

WHEREAS, a companion variance application to allow the Bridge construction within the rear yard of the North Building has been filed under BSA Cal. No. 11-13-BZ and decided at the same hearing; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Vice-

Chair Collins, Commissioner Hinkson, and Commissioner Montanez; and

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

WHEREAS, Councilmember Gail Brewer submitted a letter in support of the application; and

WHEREAS, certain members of the community testified at the hearing in support of the application; and

WHEREAS, this application is brought on behalf of the Stephen Gaynor School (the “School”), a nonprofit educational institution founded in 1962, which serves approximately 300 students with various special needs ranging in age from three to 14; and

WHEREAS, the subject site is an interior lot located on the north side of West 89th Street between Amsterdam Avenue and Columbus Avenue, partially within an R7-2 zoning district and partially within a C1-9 zoning district; and

WHEREAS, the site has 75 feet of frontage along West 89th Street and a lot area of 7,553 sq. ft.; and

WHEREAS, the site is currently occupied by the South Building, a five-story building that was originally constructed in 1892 as a boarding stable and came to be known as the Claremont Stables; the South Building was designated as an individual landmark by the Landmarks Preservation Commission in 1990, and it is also on the National Register of Historic Places; and

WHEREAS, the applicant states that the School purchased the South Building in 2009 and currently utilizes a portion of the first story and the entire second story as its Early Childhood Center; and

WHEREAS, the applicant notes that the campus of the School currently includes seven stories of the 11-story North Building and two stories of the five-story South Building; there is another School-owned building under construction at 171 West 89th Street; each building is a separate tax and zoning lot; and

WHEREAS, the applicant states that the South Building has a height of 79.18 feet, including mechanicals and a total floor area of 34,404 sq. ft., with 9,255 sq. ft. (4.60 FAR) located within the C1-9 portion of the lot and 25,149 sq. ft. (4.54 FAR) located within the R7-2 portion of the lot; and

WHEREAS, the applicant proposes to enlarge the South Building and construct a bridge in the rear yard to connect to the North Building, which would increase the floor area to 38,412 sq. ft. and result in an FAR increase from 4.60 FAR to 5.34 FAR within the C1-9 portion of the lot and 4.54 FAR to 4.99 FAR within the R7-2 portion of the lot; and

WHEREAS, the applicant represents that the South Building has the following existing, non-compliances: (1) the lot coverage within the R7-2 portion of the lot is 95 percent (per ZR § 24-11, the maximum lot coverage is 65 percent); (2) the rear yard is 5.04 feet (per ZR § 24-36, a minimum rear yard depth of 30 feet is required; per ZR § 33-26, a minimum rear yard depth of 20 feet is required); (3) the portion of the building within the R7-2 district does not provide the required 20-foot front setback, exceeds the 60-foot maximum height, and violates the sky exposure plane, contrary to ZR § 24-522;

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and (4) the projecting blade sign located above the main entrance exceeds the maximum size permitted by ZR § 22-341; the applicant notes that the degree of non-compliance with respect to (3) and (4) will not change under the application; and

WHEREAS, the applicant states that, contrary to ZR § 54-31, the proposal will increase the degree of non-compliance with respect to: (1) lot coverage, which will increase by one percent; (2) required rear yard within the R7-2 district, which, as a result of the Bridge, will be decreased by an area of approximately 1,372 sq. ft. (the Bridge is not a permitted obstruction, per ZR § 24-33); (3) sky exposure plane, which will be penetrated by the 170.5 sq. ft. portion of the Enlargement that is located at the front of the South Building; and (4) required rear yard within the C1-9 district, which, as a result of the Enlargement, will be decreased by an area of approximately 300 sq. ft. (this portion of the South Building is not a permitted obstruction, per ZR § 33-23); and

WHEREAS, the applicant states that the Enlargement will accommodate three new academic/science classrooms on the fifth story, an expanded cafeteria, and a multifunctional activity space on the sixth story and rooftop; the proposed Bridge will integrate the South Building with the North Building; and

WHEREAS, because neither the Enlargement, nor the Bridge comply with the applicable bulk regulations in the subject zoning districts, the applicant seeks the requested variance; and

WHEREAS, the applicant states that the variance is necessary to meet the School's programmatic needs of: (1) providing sufficient space to carry out its specialized curriculum, which is heavily infused with exercise, art, and photography; and (2) minimizing travel time between the South Building and the North Building in order to maximize instruction and learning times; and

WHEREAS, as to the specialized curriculum of the School, the applicant states that because the School specializes in educating children with special needs and certain learning differences, it emphasizes physical education and the arts to a much greater degree than mainstream schools, because these subjects help the students with both confidence and focus; and

WHEREAS, the applicant states that due to the relationship between physical activity and creating an effective learning environment for the School's students, the proposed activity space on the sixth story—which includes a synthetic floor that accommodates a multitude of activities—is neither recreational nor elective, but rather an important component of the School's highly-specialized educational program; and

WHEREAS, the applicant states that the proposal would allow for the creation of several new spaces to effectively conduct the curriculum; specifically, the Enlargement would result in new seminar rooms, a multi-media arts room, a state-of-the-art digital photography lab, an expanded cafeteria, and physical activity space, as mentioned above; and

WHEREAS, thus, the applicant states that the Enlargement effectively addresses the School's programmatic need to provide sufficient space to carry out its specialized

curriculum and create a learning environment that is tailored to the particular needs of its student body; and

WHEREAS, as to the need to minimize travel time between the South Building and the North Building, the applicant represents that, currently, students, faculty and staff who must travel between the buildings must exit the front of their building on either West 89th Street (the subject building) or West 90th Street (the North Building), walk west to Amsterdam Avenue and travel either north or south for an entire block before turning east toward the other front door, a trip that takes approximately 15 minutes; and

WHEREAS, the applicant states that the School has determined that, on average, a student travels between the two buildings seven times per week, for a total weekly travel time of approximately 105 minutes; the applicant notes that this is the equivalent of more than two full class periods; in addition, because the walk takes the students past an active garage, traveling students are required to be accompanied by a faculty member; and

WHEREAS, the applicant states that the travel between the buildings is necessary because the School has a variety of educational specialists throughout the two buildings who provide one-on-one assistance to students; and

WHEREAS, in addition, the applicant states that several classes attended by most students are only offered in one building; for example, Music, Gym and Library are currently offered only in the North Building; and although there are cafeterias in both buildings, there is insufficient space for all students to eat, and Middle School students from the North Building must travel to the South Building for lunch; and

WHEREAS, the applicant also notes that student arrivals and dismissals are located in the North Building, so students taking all or most of their instruction in the subject building would benefit from the construction of the Bridge; and

WHEREAS, accordingly, the applicant states that the Bridge most effectively meets the School's programmatic need to minimize travel time and maximize instruction and learning times; and

WHEREAS, as to the selection of the fourth story for the location of the Bridge, the applicant states that such placement will enable the overlap and access of two similar programs between the Lower School in the North Building and the Middle School in the South Building; in particular, the North Building students will have access to Mixed Media and Digital Arts program and the physical activity space created by the Enlargement; and

WHEREAS, the applicant asserts that there is no as-of-right alternative for the proposed development because the building already exceeds the maximum permitted lot coverage, eclipses the sky exposure plane, and does not provide the required rear yard at all stories above the first story; and

WHEREAS, the applicant represents that the location of the stair and elevator bulkheads prevent the construction of the proposed activity space at the fifth story; and

WHEREAS, the applicant represents that the Bridge

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could not be located at the cellar, first, second, third or fifth stories without significantly disrupting existing program or mechanical spaces; and

WHEREAS, specifically, the applicant states that: (1) a connection at the cellar level would interfere with well-established program and support space; (2) a connection at the first story would interfere with a planned performing arts classroom at the South Building; (3) a bridge at the second story would interfere with a portion of the South Building's Early Childhood Center, whose program requires isolation due to the age of the students; (4) a bridge at the third story would interfere with program space in both buildings and create an elevational challenge for mechanical stacks located at the second story play yard at the South Building; and (5) a bridge at the fifth story would adversely affect the proposed classrooms in the South Building and significantly increase travel times for the North Building's third story students; and

WHEREAS, the applicant states that satisfying the School's programmatic needs without the Bridge and the Enlargement would require enlargement of one or both buildings (with new height and setback waiver requests) and the creation of redundant facilities, at significant cost; and

WHEREAS, the applicant notes that the width and height of the Bridge have been minimized to those dimensions necessary to further the School's mission and provide safe egress; and

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

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

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

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

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

WHEREAS, the applicant states that the block on which the building is located within the West Side Urban Renewal Area and as such there has been considerable eclectic community facility development over the past half century; and

WHEREAS, the applicant states that the midblock is largely developed with religious, educational, and cultural institutions; the North Building is shared with Ballet Hispanico, an internationally-renowned dance company, the block to the south (Block 1219) is largely occupied by P.S. 166, and a large NYCHA development is located on the block to the north of the subject block (Block 1221); and

WHEREAS, the applicant represents that both the Enlargement and the Bridge will be minimally visible to the public; the Bridge will only be obliquely visible from West 89th Street and will be visible to—and approximately 80 feet from—only the northernmost windows on the rear elevation of The Sagamore, a residential building located at 189 West 89th Street; and

WHEREAS, the applicant states that approximately 45 percent of the new floor area will be within the rear yards of the South Building and the North Building, which minimizes the impact of the expansion on adjacent properties; and

WHEREAS, finally, the applicant notes that the proposed use is permitted in the subject zoning district and that the general welfare of any community is furthered by the strengthening of educational facilities; and

WHEREAS, the Board notes that on April 30, 2013, the Landmarks Preservation Commission issued a Certificate of Appropriateness with respect to the proposal; and

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

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

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

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

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

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

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR Part 617.2; 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. 13BSA083M dated January 17, 2013; and

WHEREAS, the EAS documents that the operation of the School would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space;

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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 § 72-21 and grants a variance to permit, on a site partially within an R7-2 zoning district and partially within a C1-9 zoning district, the enlargement of an existing school building to accommodate classrooms and an exercise and activity space, and the construction of a bridge between the subject building located at 175 West 89th Street and the building located 148 West 90th Street, which do not comply with zoning regulations for lot coverage, minimum required rear yard, permitted obstructions in a rear yard, and sky exposure plane, contrary to ZR §§ 24-11, 24-33, 24-36, 24-522, 33-23, 33-26 and 54-31, *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 1, 2013” – seventeen (17) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the South Building: a total floor area of 38,412 (4.99 FAR in the R7-2 district and 5.34 FAR in the C1-9 district), a maximum building height of 95’-7/8”, a maximum street wall height without setback of 72’-0”, and 96 percent lot coverage in the R7-2 district and 95 percent lot coverage in the C1-9 district, as illustrated on the BSA-approved plans;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, May 21, 2013.

11-13-BZ

CEQR #13-BSA-083M

APPLICANT – Friedman & Gotbaum LLP, by Shelly Friedman, Esq., for Stephen Gaynor School and Cocodrilo Development Corporation, owners.

SUBJECT – Application January 18, 2013 – Variance (§72-21) to permit an enlargement to an existing school (*Stephen Gaynor School*), contrary to lot coverage (§24-11), rear yard (§24-36/33-26), and height and setback (§24-522) regulations. C1-9 & R7-2 zoning districts.

PREMISES AFFECTED – 175 West 89th Street (South Building) and 148 West 90th Street (North Building), between West 89th Street and West 90th Street, 80ft easterly from the corner formed by the intersection of the northerly side of West 89th Street and the easterly side of Amsterdam Avenue, Block 1220, Lots 5 and 7506, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....5

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated December 21, 2012, acting on Department of Buildings Application No. 121397201, reads in pertinent part:

1. ZR 24-11 24-33 Proposed bridge connection at the 4th story level in R7-2 district does not comply with lot coverage requirements because the proposed bridge does not qualify as a permitted obstruction pursuant to ZR 24-33, contrary to ZR 24-11
2. ZR 24-33 24-36 Proposed bridge connection at the 4th story level in R7-2 district does not comply with rear yard requirements because the proposed bridge does not qualify as a permitted obstruction pursuant to ZR 24-33, contrary to ZR 24-36; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R7-2 zoning district, the construction of a bridge (“the Bridge”) between the subject building located at 148 West 90th Street (“the North Building”) and the building located 175 West 89th Street (“the South Building”), which does not comply with zoning regulations for lot coverage, minimum required rear yard, and permitted obstructions in a rear yard, contrary to ZR §§ 24-11, 24-33 and 24-36; and

WHEREAS, a public hearing was held on this application on April 23, 2013, after due notice by publication in the *City Record*, and then to decision on May 21, 2013; and

WHEREAS, a companion variance application to allow

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enlargement of the South Building and construction of the Bridge within its rear yard has been filed under BSA Cal. No. 10-13-BZ and decided at the same hearing; and

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

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

WHEREAS, Councilmember Gail Brewer submitted a letter in support of the application; and

WHEREAS, certain members of the community testified at the hearing in support of the application; and

WHEREAS, this application is brought on behalf of Stephen Gaynor School (the "School"), a nonprofit educational institution founded in 1962, which serves approximately 300 students with various special needs ranging in age from three to 14; and

WHEREAS, the subject site is an interior lot located on the south side of West 90th Street between Amsterdam Avenue and Columbus Avenue, within an R7-2 zoning district; and

WHEREAS, the site has 65 feet of frontage along West 90th Street and a lot area of 6,546 sq. ft.; and

WHEREAS, the site, which is Tax Lot 7506, was merged into a single zoning lot with Tax Lot 107 in 2004; Lot 107 has 47.5 feet of frontage along West 89th Street and a total lot area of 4,783; together the lots have a combined lot area of 11,329 sq. ft. and a total floor area of 50,050 sq. ft. (4.42 FAR); and

WHEREAS, the applicant states that the site is currently occupied by the 11-story North Building; the School occupies the first through seventh stories, Ballet Hispanico occupies the eighth through tenth stories, and the 11th story comprises mechanical space shared by both the School and Ballet Hispanico; and

WHEREAS, the applicant notes that Ballet Hispanico also occupies the two-story building on Lot 107; and

WHEREAS, the applicant notes that the campus of the School currently includes seven stories of the 11-story North Building and two stories of the five-story South Building; there is another School-owned building under construction at Lot 7 (171 West 89th Street); each building is a separate tax and zoning lot; and

WHEREAS, the applicant states that the North Building complies in all respects with the zoning resolution; and

WHEREAS, the applicant proposes to create a bridge between the North Building and the South Building ("the Bridge"), which will increase the floor area from 50,050 sq. ft. (4.42 FAR) to 50,263 sq. ft. (4.43 FAR) and create new non-compliances with respect to rear yard, lot coverage, and permitted obstructions, contrary to ZR §§ 24-11, 24-33 and 24-36; specifically, the Bridge will: (1) encroach upon the required 30-foot rear yard for the full depth of the yard, a width of seven feet, and an area of 213 sq. ft.; (2) increase lot coverage from 65 percent, which complies, to 67 percent, which does not comply; and (3) violate ZR § 24-33, because

the Bridge is not a permitted obstruction in the required rear yard, which begins above 23 feet; and

WHEREAS, the applicant states that the proposed Bridge will integrate the North Building with the South Building; and

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

WHEREAS, the applicant states that the variance is necessary to meet the School's programmatic need to minimize travel time between the North Building and the South Building in order to maximize instruction and learning times; and

WHEREAS, as to the need to minimize travel time between the North Building and the South Building, the applicant represents that, currently, students, faculty and staff who must travel between the buildings must exit the front of their building on either West 90th Street (the North Building) or West 89th Street (the South Building), walk west to Amsterdam Avenue and travel either north or south for an entire block before turning east toward the other front door, a trip that takes approximately 15 minutes; and

WHEREAS, the applicant states that the School has determined that, on average, a student travels between the two buildings seven times per week, for a total weekly travel time of approximately 105 minutes; the applicant notes that this is the equivalent of more than two full class periods; in addition, because the walk takes the students past an active garage, traveling students are required to be accompanied by a faculty member; and

WHEREAS, the applicant states the travel between the buildings is necessary because the School has a variety of educational specialists throughout the two buildings who provided one-on-one assistance to students; and

WHEREAS, in addition, the applicant states that several classes attended by most students are only offered in one building; for example, Music, Gym and Library are currently offered only in the North Building; and although there are cafeterias in both buildings, there is insufficient space for all students to eat, and Middle School students from the North Building must travel to the South Building for lunch; and

WHEREAS, the applicant also notes that student arrivals and dismissals are located in the North Building, so students taking all or most of their instruction in the subject building would benefit from the construction of the Bridge; and

WHEREAS, accordingly, the applicant states that the Bridge most effectively meets the School's programmatic need to minimize travel time and maximize instruction and learning times; and

WHEREAS, as to the selection of the fourth story for the location of the Bridge, the applicant states that such placement will enable the overlap and access of two similar programs between the Lower School in the North Building and the Middle School in the South Building; in particular, the North Building students will have access to the Mixed Media and Digital Arts program and the physical activity space

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created by the Enlargement; and

WHEREAS, the applicant represents that the Bridge could not be located at the cellar, first, second, third or fifth stories without significantly disrupting existing program or mechanical spaces; and

WHEREAS, specifically, the applicant states that: (1) a connection at the cellar level would interfere with well-established program and support space; (2) a connection at the first story would interfere with a planned performing arts classroom at the South Building; (3) a bridge at the second story would interfere with a portion of the South Building's Early Childhood Center, whose program requires isolation due to the age of the students; (4) a bridge at the third story would interfere with program space in both buildings and create an elevational challenge for mechanical stacks located at the second story play yard at the South Building; and (5) a bridge at the fifth story would adversely affect the proposed classrooms in the South Building and significantly increase travel times for the North Building's third story students; and

WHEREAS, the applicant states that satisfying the School's programmatic needs without the Bridge would require enlargement of one or both buildings (with new height and setback waiver requests) and the creation of redundant facilities, at significant cost; and

WHEREAS, the applicant notes that the width and height of the Bridge have been minimized to those dimensions necessary to further the School's mission and provide safe egress; and

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

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

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

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

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

WHEREAS, the applicant states that the block on which the North Building is located within the West Side Urban Renewal Area and as such there has been considerable eclectic

community facility development over the past half century; and

WHEREAS, the applicant states that the midblock is largely developed with religious, educational, and cultural institutions; the North Building is shared with Ballet Hispanico, an internationally-renowned dance company, the block to the south (Block 1219) is largely occupied by P.S. 166, and a large NYCHA development is located on the block to the north of the subject block (Block 1221); and

WHEREAS, the applicant represents that the Bridge will be minimally visible to the public; the Bridge will only be obliquely visible from West 89th Street and will be visible to—and approximately 80 feet from—only the northernmost windows on the rear elevation of The Sagamore, a residential building located at 189 West 89th Street; and

WHEREAS, finally, the applicant notes that the proposed use is permitted in the subject zoning district and that the general welfare of any community is furthered by the strengthening of educational facilities; and

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

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

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

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

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

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

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR Part 617.2; 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, 13BSA083M dated January 17, 2013; and

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

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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 § 72-21 and grants a variance to permit, on a site within an R7-2 zoning district, the construction of a bridge between the building located at 148 West 90th Street and the building located 175 West 89th Street, which does not comply with zoning regulations for lot coverage, minimum required rear yard, and permitted obstructions in a rear yard, contrary to ZR §§ 24-11, 24-33 and 24-36, *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 1, 2013" – twenty (20) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the North Building: a floor area of 50,263 sq. ft. (4.43 FAR) and 67 percent lot coverage, as illustrated on the BSA-approved plans;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, May 21, 2013.

53-13-BZ

CEQR #13-BSA-088X

APPLICANT – Sheldon Lobel, P.C., for Walker Memorial Baptist Church, Inc., owner; Grand Concourse Academy Charter School, lessee.

SUBJECT – Application January 31, 2013 – Variance (§72-21) to permit the enlargement of an existing UG 3 school (*Grand Concourse Academy Charter School*), contrary to rear yard regulations (§§24-36 and 24-33(b). R8 zoning district.

PREMISES AFFECTED – 116-118 East 169th Street,

corner of Walton Avenue and East 169th Street with approx. 198.7' of frontage along East 169th Street and 145.7' along Walton Avenue, Block 2466, Lots 11, 16, & 17, Borough of Bronx.

COMMUNITY BOARD #4BX

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 January 23, 2013, acting on Department of Buildings Application No. 220246437, reads in pertinent part:

Proposed 2-story rear enlargement of existing UG-3 school building in R8 zoning district is not a permitted obstruction in the required rear yard and is contrary to ZR Sections 24-36 and 24-33(b); and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R8 zoning district, the legalization of an enlargement to an existing three-story school building that does not comply with regulations regarding minimum required rear yard and permitted obstructions in a required rear yard, contrary to ZR §§ 24-36 and 24-33(b); and

WHEREAS, the application is brought on behalf of the Grand Concourse Academy Charter School (the "School"), a non-profit educational institution; and

WHEREAS, a public hearing was held on this application on April 23, 2013, after due notice by publication in the *City Record*, and then to decision on May 21, 2013; and

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

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

WHEREAS, the subject site is a corner lot located at the intersection of Walton Avenue and East 169th Street within an R8 zoning district; and

WHEREAS, the site has 145.75 feet of frontage along Walton Avenue, 198.69 feet of frontage along East 169th Street, and a lot area of approximately 25,750 sq. ft.; and

WHEREAS, the site is occupied by a basement and three-story Use Group 3 school and church building with 27,846 sq. ft. of floor area (1.08 FAR), and 30 on-grade parking spaces; and

WHEREAS, the applicant seeks to legalize an enlargement of the school that was filed with the Department of Buildings ("DOB") in 2010 and completed in 2011; the applicant represents that subsequent to the completion of construction, but prior to the issuance of a final certificate of occupancy, DOB audited the application and determined that it did not comply with ZR §§ 24-36 and 24-33(b); and

WHEREAS, the applicant notes that, per ZR § 24-36, a

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rear yard with a minimum depth of 30 feet is required; however, per ZR § 24-33(b), any portion of the building used for community facility uses is a permitted obstruction within the required rear yard, provided such building portion does not exceed one story and a maximum height of 23 feet above curb level; and

WHEREAS, the applicant states that the enlargement it seeks to legalize is a double-height space spanning the second and third stories and located 39'-9" above curb level; and

WHEREAS, the applicant notes that the building complies in all other respects with the governing bulk regulations; and

WHEREAS, the applicant states that the programmatic needs of the School, a charter elementary, necessitate the provision of adequate facilities for physical activity and education, and that the enlargement, which is gymnasium with approximately 1,500 sq. ft. of floor area, satisfies those needs; and

WHEREAS, the applicant further states that the enlargement is essential to the School's ability to comply with New York State physical education requirements, and that the space will be used as a multipurpose room to conduct assemblies and graduations; and

WHEREAS, as to the New York State physical education requirements, the applicant states that Education Law § 803 requires elementary-aged students to be provided with instruction in fitness, personal health, hygiene, and safety education, and they must participate in some form of physical education for a minimum of 120 minutes per week; and

WHEREAS, the applicant states that prior to the enlargement, the School lacked sufficient space for physical activities and education; when weather permitted, the students used a portion of the parking lot for recess and physical activity; during times of inclement weather, students were forced to have recess and physical education in the cafeteria, or, when that room was occupied, forego activity altogether; and

WHEREAS, in addition, before the gymnasium was constructed, assemblies and graduations were conducted in borrowed space outside the school; and

WHEREAS, the applicant represents that without such enlargement, the School would lack sufficient space to meet its program needs; and

WHEREAS, further, the applicant represents that an enlargement that is constructed in strict compliance with the applicable zoning provisions is infeasible; and

WHEREAS, in support of its assertions, the applicant analyzed the feasibility of three conforming enlargements: (1) the construction of a double-height gymnasium at the front of the existing building above the third story ("Scenario A"); (2) the construction of a free-standing gymnasium building within the existing parking lot ("Scenario B"); and (3) the construction of a connected gymnasium on the west side of the building within the existing parking lot ("Scenario C"); and

WHEREAS, as to Scenario A, the applicant states that

a vertical enlargement would require reinforcement of the existing structural systems, the extension of stairs and elevators, significant interior renovations, and disturbance of classroom activity at the third story, at significant cost; the applicant also notes that the increased height of the building under Scenario A (63'-3" above curb level), is incompatible with the streetscape of East 169th Street; and

WHEREAS, the applicant submitted a letter from a consulting engineer who examined Scenario A and concluded that it would not be possible without significant underpinning and reinforcing and retrofitting of the existing structure, which the engineer considered prohibitively expensive and difficult to accomplish; and

WHEREAS, as to Scenario B, the applicant states that the physical separateness of the new building would result in students having to traverse an active parking lot in order to access the gymnasium, which the applicant asserts is unsafe for students and impractical for teachers; and

WHEREAS, as to Scenario C, the applicant states that a horizontal enlargement along the west side of the building would require the elimination of classroom windows and the reconfiguration of existing program space at the ground floor level; and

WHEREAS, further, under both Scenario A and B, the enlargement would eliminate as many as half of the parking spaces, which is undesirable; and

WHEREAS, the applicant asserts that the alternative scenarios are infeasible and do not satisfy the School's programmatic needs to the same extent as the subject enlargement requiring the waivers; and

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

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

WHEREAS, the Board finds that the School's programmatic needs are legitimate and agrees that the proposed building is necessary to address its needs, given the current unique conditions that constrain the site; and

WHEREAS, accordingly, based on the above, the Board finds that the programmatic needs of the School create an unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

WHEREAS, the applicant represents that the variance,

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

WHEREAS, the applicant states that the Use Group 3 school and church uses are as-of-right in the subject R8 district, and that the building, including the enlarged portion, is well within the height and floor area requirements; and

WHEREAS, the applicant states that the enlargement is consistent with the character of the surrounding area, which is primarily developed with high-density residential and community facility uses; specifically, the applicant states that the subject block contains several five-story multiple dwellings, a few two-story single-family homes and several religious institutions, including: Walker Memorial Baptist Church, Grand Concourse Seventh-Day Adventist Temple, and Iglesia de Dios Pentecostal; and

WHEREAS, the applicant represents that the placement of the enlargement within the rear yard limits its visibility from East 168th and East 169th streets; and

WHEREAS, the applicant states that the enlarged portion of the building maintains a distance of at least 20 feet (and in some cases up to 35 feet) from the three buildings abutting the rear lot line of the site; moreover, residents of two of those buildings have signed memoranda in support of this application; and

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

WHEREAS, the applicant represents that the hardship was not self-created and inherent in the unique programmatic needs of the School; and

WHEREAS, the Board agrees that the hardship herein was not created by the owner or a predecessor in title, but is owing to the School's programmatic need to provide space for physical education and activity; and

WHEREAS, the applicant represents that the requested waivers are the minimum necessary to accommodate the programmatic needs of the School; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to

permit, on a site within an R8 zoning district, the legalization of an enlargement to an existing three-story school building that does not comply with regulations regarding minimum required rear yard and permitted obstructions in a required rear yard, contrary to ZR §§ 24-36 and 24-33(b), *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 10, 2013"- Eight (8) sheets; "*on further condition*:

THAT the portion of the building within the required rear yard shall not exceed a height of 39'-9" above curb level, as shown on the BSA-approved plans;

THAT the premises shall comply with all applicable fire safety measures, as required;

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

THAT construction will be substantially completed in accordance with the requirements of ZR § 72-23; and

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

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

Adopted by the Board of Standards and Appeals, May 21, 2013.

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 unbuild 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

ACTION OF THE BOARD – Laid over to June 11, 2013, at 10 A.M., for deferred decision.

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

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8745, Lot 70, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to June 18, 2013, at 10 A.M., for continued hearing.

73-13-BZ

APPLICANT – Eric Palatnik, P.C., for Triangle Plaza Hub LLC, owner.

SUBJECT – Application February 19, 2013 – Special Permit (§73-49) to allow rooftop parking in a proposed commercial development. M1-1 and C4-4 zoning districts. PREMISES AFFECTED – 459 E. 149th Street, northwest corner of Brook Avenue and 149th Street, Block 2294, Lot 60, Borough of Bronx.

COMMUNITY BOARD #1BX

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to June 18, 2013, at 10 A.M., for decision, hearing closed.

74-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Chelsea W26 LLC, owner; Blink Eighth Avenue, Inc., lessee.

SUBJECT – Application February 20, 2013 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Blink Fitness*). C6-2A zoning district.

PREMISES AFFECTED – 308/12 8th Avenue, 252/66 West 26th Street, southeast corner of the intersection of 8th Avenue and West 26th Street, Block 775, Lot 7502, Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

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

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

80-13-BZ

APPLICANT – Goldman Harris LLC., for Everett Realty LLC c/o Mildred Kayden, owner; Elizabeth Arden New York, lessee.

SUBJECT – Application February 27, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Red Door Spa*). C6-4A zoning district.

PREMISES AFFECTED – 200 Park Avenue South, northwest corner of Park Avenue South and East 17th Street, Block 846, Lot 33, 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 June 18, 2013, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.