
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:
250 Broadway, 29th Floor, New York, N.Y. 10007.

Volume 99, No. 10

March 12, 2014

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

CHRISTOPHER COLLINS, *Vice-Chair*

DARA OTTLEY-BROWN

SUSAN M. HINKSON

EILEEN MONTANEZ

Commissioners

Jeffrey Mulligan, *Executive Director*

Becca Kelly, *Counsel*

OFFICE -	250 Broadway, 29th Floor, New York, N.Y. 10007
HEARINGS HELD -	22 Reade Street, Spector Hall, New York, N.Y. 10007
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 386-0009
FAX - (646) 500-6271

CONTENTS

DOCKET172

CALENDAR of March 25, 2014

Morning173/174

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, March 4, 2014**

Morning Calendar175

Affecting Calendar Numbers:

13-78-BZ	144-20 Liberty Avenue, Queens
5-28-BZ	664 New York Avenue, Brooklyn
923-77-BZ	1905 McDonald Avenue, Brooklyn
1070-84-BZ	234 East 58 th Street, Manhattan
799-89-BZ	1460-1470 Bruckner Boulevard, Bronx
201-02-BZ	6778 Hyland Boulevard, Staten Island
246-01-BZ	35-11 Prince Street, Queens
140-11-A & 141-11-A	69-17 38 th Avenue, aka 69-19 38 th Avenue, Queens
98-13-A	107 Haven Avenue, Staten Island
6-13-BZ	2899 Nostrand Avenue, Brooklyn
78-13-BZ	876 Kent Avenue, Brooklyn
88-13-BZ	69-40 Austin Street, Queens
128-13-BZ	1668 East 28 th Street, Brooklyn
234-13-BZ	1653 Ryder Street, aka 1651 Ryder Street, Brooklyn
303-12-BZ	1106-1108 Utica Avenue, Brooklyn
64-13-BZ	712 Avenue W, Brooklyn
92-13-BZ & 93-13-BZ	22 and 26 Lewiston Street, Staten Island
103-13-BZ	81 Jefferson Street, Brooklyn
130-13-BZ	1590 Nostrand Avenue, Brooklyn
157-13-BZ	1368 & 1374 East 23 rd Street, Brooklyn
163-13-BZ	133-10 39 th Avenue, Queens
252-13-BZ	1221 East 22 nd Street, Brooklyn
270-13-BZ	288 Dover Street, Brooklyn
273-13-BZ	321 East 60 th Street, Manhattan
281-13-BZ	350-370 Canal Street, Manhattan
291-13-BZ	842 Lefferts Avenue, Brooklyn
297-13-BZ	308 Cooper Street, Brooklyn

Correction191

Affecting Calendar Numbers:

32-38-BZ	88 Third Avenue, Brooklyn
----------	---------------------------

DOCKETS

New Case Filed Up to March 4, 2014

36-14-BZ

101 Maiden Lane, Northeast corner of Maiden Lane and Pearl Street, Block 69, Lot(s) 6, Borough of **Manhattan, Community Board: 1**. Special Permit (§73-36) to allow the construction of a physical culture establishment within a mixed use pursuant to 32-10 zoning resolution. C5-5(LM) district.

37-14-BZ

86-10 Roosevelt Avenue, West corner of Elbertson Street and Roosevelt Avenue, Block 1502, Lot(s) 6, Borough of **Queens, Community Board: 4**. Special Permit (§73-36) to allow a physical culture establishment (Enterprise Fitness Gym), which will occupy a portion of the second floor of a two story building. C2-3/R6 zoning district. R6C2-3 district.

38-14-BZ

116 Oxford Street, Oxford Street between Shore boulevard and Oriental Boulevard, Block 8757, Lot(s) 89, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) the enlargement of single family home in a residential district (R3-1) contrary to floor area, lot coverage and open space (§23-141), side yard (§23-461) and less than the required rear yard (§23-47) zoning resolution. R3-1 zoning district. R3-1 district.

39-14-BZ

97 Reade Street, Between West Broadway & church Street, Block 145, Lot(s) 7504, Borough of **Manhattan, Community Board: 1**. Special Permit (§73-36) to allow a physical culture establishment (Exceed Fitness) located within a C6-3A zoning district. C6-3A district.

39-14-BZ

97 Reade Street, Between West Broadway and Church Street, Block 145, Lot(s) 7504, Borough of **Manhattan, Community Board: 1**. Special Permit (§73-36) to permit the operation of a physical culture(Exceed Physical Culture) establishment within an existing building on the ground floor, cellar and sub-cellar located in C6-3A Zoning District. C6-3A district.

40-14-BZ

1413/21 Fulton Street, North side of Fulton Street, 246 Ft. West of Tompkins Avenue, Block 1854, Lot(s) 52, Borough of **Brooklyn, Community Board: 3**. Special Permit (§73-36) to allow a physical culture establishment (Blink Fitness) within an existing commercial building located within a C2-4 zoning district. C2-4R7D R6B district.

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

CALENDAR

MARCH 25, 2014, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 25, 2014, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

116-68-BZ & 960-67-BZ

APPLICANT – Akerman LLP By Steven Sinacori for 40 CPS Associates, LLC, owner.

SUBJECT – Application December 26, 2013 – Amendment of a previously approved variance to transfer excess development rights from Lot 6 to the adjacent tax lot to the east, 36 Central Park South. R10-H zoning district.

PREMISES AFFECTED – 36 & 40 Central Park South, South side of Central Park South between 6th and 5th Avenues. Block 1274, Lot(s) 6, 11, Borough of Manhattan.

COMMUNITY BOARD #5M

186-96-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Edward Ivy, owner.

SUBJECT – Application November 27, 2012 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a one story warehouse and office/retail store building (Use Groups 16 & 6), which expired on May 19, 2003; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 145-21/25 Liberty Avenue, northeast corner of Liberty Avenue and Brisbin Street, Block 10022, Lot(s) 1, 20, 24, Borough of Queens.

COMMUNITY BOARD #12Q

197-05-BZ

APPLICANT –Law Offices of Marvin B. Mitzner LLC, for Broadway Realty LLC, owner.

SUBJECT – Application February 11, 2014 – Extension of Time to Complete Construction of a previously approved Variance (§72-21) permitting an 11 story residential building with commercial on the ground floor contrary to bulk regulations, which expired on January 12, 2014. C6-1 district.

PREMISES AFFECTED – 813-815 Broadway, west side of Broadway, 42' south of East 12th Street, Borough of Manhattan.

COMMUNITY BOARD #2M

369-05-BZ

APPLICANT – Eric Palatnik, P.C., for Flatland 3706 Real Estate, LLC, owner.

SUBJECT – Application February 7, 2014 – Extension of Time to Complete Construction of a previously approved Variance (§72-21) to construct a four-story multiple dwelling which expires on October 17, 2014. R3-2(HS) zoning district.

PREMISES AFFECTED – 908 Clove Road, between Bard and Tyler Avenues, Block 323, Lot 42, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEALS CALENDAR

266-07-A

APPLICANT – Law Office of Fredrick A. Becker, for 1610 Avenue S LLC, owner.

SUBJECT – Application January 9, 2013 – Extension of time to complete construction and obtain a certificate of occupancy of a previously granted common law vested rights application which expired on December 9, 2012. R4-1 Zoning District.

PREMISES AFFECTED – 1602-1610 Avenue S, southeast corner of Avenue S and East 16th Street. Block 7295, Lot 3. Borough of Brooklyn.

COMMUNITY BOARD #3BK

ZONING CALENDAR

347-12-BZ

APPLICANT – Law Office of Vincent L. Petraro, PLLC, Mitchell S. Ross, Esq., for X & Y Development Group, LLC., owner.

SUBJECT – Application December 26, 2012 – Variance (§72-21) to permit transient hotel (UG5) in residential district contrary to §22-10, and Special Permit (§73-66) to allow projection into flight obstruction area of La Guardia airport contrary to §61-20. R7-1 (C1-2) zoning district.

PREMISES AFFECTED – 42-31 Union Street, east side of Union Street, 213' south of Sanford Avenue, Block 5181, Lot(s) 11, 14, 15, Borough of Queens.

COMMUNITY BOARD #7Q

253-13-BZ

APPLICANT – Eric Palatnik, P.C., for Miyer Yusupov, owner.

SUBJECT – Application August 30, 2013 – Special Permit (§73-621) for the enlargement of an existing two story two family home contrary to §23-141B floor area and floor area ratio requirements. R4B zoning district.

CALENDAR

PREMISES AFFECTED – 66-31 Booth Street, north side of Booth Street between 66th and 67th Avenue, Block 3158, Lot 96, Borough of Queens.

COMMUNITY BOARD #6Q

318-13-BZ

APPLICANT – Bryan Cave LLP, for TJD 21 LLC, owners.
SUBJECT – Application December 13, 2013 – Variance (§72-21) to permit construction of a 12,493 square foot, 5 FAR building containing Use Group 6 retail and Use group 2 residential uses on a vacant lot in an M1-5B zoning district.

PREMISES AFFECTED – 74 Grand Street, North side of Grand Street, 25 feet east of Wooster Street. Block 425, Lot 60, Borough of Manhattan.

COMMUNITY BOARD # 2M

34-14-BZ & 498-83-BZ

APPLICANT – Rampulla Associates Architects, for Anthony Vasaturo, owner; MS Fitness, LLC, lessee.

SUBJECT – Application February 19, 2014 – Special Permit (§73-36) to permit the operation of a physical culture (*Club Metro USA*) establishment within an existing building.

Amendment of a previous approved variance to permit the change of use from Banquet Hall (UG 9 & 12) to PCE; reduce the building size and retain accessory parking in the R3X zoning district. C8-1 and R3X zoning district.

PREMISES AFFECTED – 2131 Hylan Boulevard, north side of Hylan Boulevard, corner formed by the intersection of Hylan Boulevard and Bedford Avenue, Block 3589, Lot 63, Borough of Staten Island.

COMMUNITY BOARD #2SI

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, MARCH 4, 2014
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

13-78-BZ

APPLICANT – Sheldon Lobel, P.C., for 2K Properties Inc., owner.

SUBJECT – Application July 23, 2013 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a plumbing supply establishment (*Jamaica Plumbing and Heating Supply, Inc.*) which expired on June 27, 2013. R4-1 & R6A/C2-4 zoning districts.

PREMISES AFFECTED – 144-20 Liberty Avenue, east side of Liberty Avenue between Inwood Street and Pinegrove Street, Block 10043, Lot 6, Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term for the continued operation of a plumbing supply establishment (Use Group 17) with accessory parking partially within an R6A (C2-4) zoning district and partially within an R4-1 zoning district, which expired on June 27, 2013; and

WHEREAS, a public hearing was held on this application on January 14, 2014, after due notice by publication in *The City Record*, with a continued hearing on February 11, 2014, and then to decision on March 4, 2014; 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 12, Queens, recommends approval of this application; and

WHEREAS, Queens Borough President Helen Marshall recommends approval of this application; and

WHEREAS, the subject site is an irregular lot located on the east side of Liberty Avenue, between Pinegrove Street and Inwood Street, partially within an R6A (C2-4) zoning district and partially within an R4-1 zoning district; and

WHEREAS, the site has 10,654 sq. ft. of lot area and is occupied by a one-story, plumbing supply establishment with

7,897 sq. ft. of floor area (0.74 FAR) and accessory parking; and

WHEREAS, the Board has exercised jurisdiction over the site since June 27, 1978, when, under the subject calendar number, the Board granted a variance permitting the construction of a one-story enlargement to an existing plumbing supply establishment with accessory storage of supplies within an R4 zoning district, contrary to use regulations and for a term of ten years, to expire on June 27, 1988; and

WHEREAS, subsequently, the grant was amended and the term was extended, most recently on February 11, 2003, when the Board extended the term of the variance for ten years, to expire on June 27, 2013; and

WHEREAS, the applicant now requests an extension of the term for 20 years; and

WHEREAS, the applicant notes that the site has been rezoned to permit certain commercial uses as-of-right; as such, while the plumbing supply equipment establishment remains non-conforming, it is now more compatible with the surrounding neighborhood than it was when it was originally authorized by the Board; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may extend the term of a variance; and

WHEREAS, at hearing, the Board directed the applicant to: (1) notify neighbors within 200 feet of the site that a 20-year term was sought; and (2) remove illegal signage at the site; and

WHEREAS, in response, the applicant submitted: (1) proof of notification of neighbors; and (2) photographs and a signage analysis demonstrating compliance with prior BSA-approved plans; and

WHEREAS, the Board has reviewed the application and has determined that this application is appropriate to grant, with certain conditions.

Therefore it is Resolved, that the Board of Standards and Appeals reopens and amends the resolution, as adopted on June 27, 1978, so that as amended this portion of the resolution will read: “to grant an extension of the variance for a term of 20 years from the prior expiration, to expire on June 27, 2033, *on condition* that that any and all work shall substantially conform to drawings filed with this application marked “Received January 28, 2014”- (3) sheets; and *on further condition*;

THAT the term of the variance will expire on June 27, 2033;

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

THAT an amended certificate of occupancy will be obtained by March 4, 2015;

THAT all conditions from prior resolutions not waived herein 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); and

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

MINUTES

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 App. No. 420837081)

Adopted by the Board of Standards and Appeals, March 4, 2014.

5-28-BZ

APPLICANT – Eric Palatnik, P.C., for Steven Feldman, owner; Anwar Ismael, lessee.

SUBJECT – Application August 20, 2013 – Amendment (§11-413) of a previously approved variance which permitted the operation of an automotive service station (UG 16B). The amendment seeks to change the use to a car rental establishment (UG 8). R6 zoning district.

PREMISES AFFECTED – 664 New York Avenue, west side of New York Avenue, spanning the entire length of the block between Hawthorne Street and Winthrop Street, Block 4819, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #9BK

ACTION OF THE BOARD – Laid over to April 1, 2014, at 10 A.M., for continued hearing.

923-77-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 1899-1905 McDonald Avenue Associates, LLC, owner.

SUBJECT – Application November 14, 2013 – Extension of Term of a previously approved Variance (§72-21) which permitted a one-story manufacturing building which expired on May 31, 2013. R5 (OP) zoning district.

PREMISES AFFECTED – 1905 McDonald Avenue, east side of McDonald Avenue, 105 ft. south of Quentin Road, Block 6658, Lot 86, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for decision, hearing closed.

1070-84-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Epsom Downs, Inc., owner.

SUBJECT – Application November 7, 2013 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a UG6 Eating and Drinking establishment (*The Townhouse*) which expired on July 9, 2010; Extension of time to obtain a Certificate of Occupancy which expired on January 9, 2003; Waiver of the Rules. R8 zoning district.

PREMISES AFFECTED – 234 East 58th Street, south side of East 58th Street, Block 1331, Lot 32, Borough of

Manhattan.

COMMUNITY BOARD #6M

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for decision, hearing closed.

799-89-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for 1470 Bruckner Boulevard Corp., owner.

SUBJECT – Application September 24, 2013 – Extension of Term of a previously approved Variance (ZR 72-21) for the continued operation of a UG 17 Contractor's Establishment (*Colgate Scaffolding*) which expired on December 23, 2013. C8-1/R6 zoning district.

PREMISES AFFECTED – 1460-1470 Bruckner Boulevard, On the South side of Bruckner Blvd between Colgate Avenue and Evergreen Avenue. Block 3649, Lot 27 & 30. Borough of Bronx.

COMMUNITY BOARD #9BX

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for decision, hearing closed.

201-02-BZ

APPLICANT – Eric Palatnik, P.C., for Paco Page, LLC, owner.

SUBJECT – Application May 17, 2013 – Extension of Term of a previously approved Variance (§72-21) for the construction of an automotive service station (UG 16B) with accessory convenience store which expired on January 28, 2013; Waiver of the rules. C1-1/R3X (SRD) zoning district.

PREMISES AFFECTED – 6778 Hylan Boulevard, between Page Avenue and Culotta Lane, Block 7734, Lot 13 & 20, Borough of Staten Island.

COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for decision, hearing closed.

MINUTES

246-01-BZ

APPLICANT – Eric Palatnik, P.C., for Bodhi Fitness Center Inc., owner.

SUBJECT – Application October 16, 2013 – Amendment of a previously approved Special Permit (§73-36) for a physical culture establishment (*Bodhi Fitness Center*). The amendment seeks to enlarge the PCE space by 3,999 sq. ft. M1-1, C2-2/R6 zoning district.

PREMISES AFFECTED – 35-11 Prince Street, between 35th Avenue and Northern Boulevard, Block 4958, Lot 1, Borough of Queens.

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for continued hearing.

APPEALS CALENDAR

140-11-A & 141-11-A

APPLICANT – Sheldon Lobel, P.C., for BQM Management, LLC, owner.

SUBJECT – Application December 18, 2013 – Extension of time and complete construction and secure Certificates of Occupancy. R5D zoning district.

Extension of time and complete construction and secure Certificates of Occupancy. R5D zoning district.

PREMISES AFFECTED – 69-17 38th Avenue aka 69-19 38th Avenue, north side of 38th Avenue, between the BQE and 69th Street, Block 1282, Lot 64, Borough of Queens.

COMMUNITY BOARD #2Q

ACTION OF THE BOARD – Laid over to April 1, 2014, at 10 A.M., for continued hearing.

98-13-A

APPLICANT – Eric Palatnik, P.C., for Scott Berman, owner.

SUBJECT – Application April 8, 2013 – Proposed two-story two family residential development which is within the unbuilt portion of the mapped street on the corner of Haven Avenue and Hull Street, contrary to General City Law 35. R3-1 zoning district.

PREMISES AFFECTED – 107 Haven Avenue, Corner of Hull Avenue and Haven Avenue, Block 3671, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #2SI

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

ZONING CALENDAR

6-13-BZ

CEQR #13-BSA-079K

APPLICANT – Sheldon Lobel, P.C., for Yeshiva Ohr Yisrael, owner.

SUBJECT – Application January 11, 2013 – Variance (§72-21) to permit the construction of a synagogue and school (*Yeshiva Ohr Yisrael*), contrary to floor area and lot coverage (§24-11), side yard (§24-35), rear yard (§24-36), sky exposure plane (§24-521), and parking (§25-31) regulations. R3-2 zoning district.

PREMISES AFFECTED – 2899 Nostrand Avenue, east side of Nostrand Avenue, Avenue P and Marine Parkway, Block 7691, Lot 13, Brooklyn of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 13, 2012, acting on Department of Buildings Application No. 320619023, reads in pertinent part:

Proposed floor area ratio and lot coverage contrary to ZR 24-11;

Proposed side yards contrary to ZR 24-35;

Proposed rear yard contrary to ZR 24-36;

Proposed sky exposure plane contrary to ZR 24-521;

Proposed building does not provide parking contrary to ZR 25-31; and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21 to permit, on a site within an R3-2 zoning district, the construction of a four-story building to be occupied by a synagogue (Use Group 3) and a school (Use Group 4), which does not comply with the underlying zoning district regulations for floor area, lot coverage, side yard, rear yard, sky-exposure plane, and parking, contrary to ZR §§ 24-11, 24-35, 24-36, 24-521, and 25-31; and

WHEREAS, a public hearing was held on this application on September 17, 2013, after due notice by publication in *The City Record*, with continued hearings on October 29, 2013, December 10, 2013 and January 14, 2014, and then to decision on March 4, 2014; 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 18, Brooklyn, recommends approval of the application; and

WHEREAS, certain members of the surrounding community, including a representative of the Marine Park

MINUTES

Civic Association, submitted testimony in opposition to the application, citing concerns about: the height, bulk, and rear windows of the building; the effect of construction on neighboring soil; and increases in traffic and garbage; and

WHEREAS, this application is being brought on behalf of Yeshiva Ohr Yisrael of Marine Park (the "Congregation"), a non-profit religious entity which will occupy the proposed building; and

WHEREAS, the subject site is located on the northeast corner of the intersection of Madison Place and Nostrand Avenue, within an R3-2 zoning district; and

WHEREAS, the site has approximately 91 feet of frontage along Nostrand Avenue and 5,440 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story community facility building with approximately 4,228 sq. ft. of floor area; and

WHEREAS, the applicant states that the Congregation uses the existing building at the site as a synagogue and school in conjunction with a nearby facility located at 2940 Avenue P; and

WHEREAS, the applicant represents that the existing facilities are unable to accommodate the growing religious and educational needs of the Congregation; as such, the Congregation seeks to develop the site with a new integrated synagogue and educational facility; and

WHEREAS, the applicant states that the proposal will result in a building with the following parameters: four stories; a floor area of 20,420 sq. ft. (3.75 FAR) (a maximum community facility floor area of 5,440 sq. ft. (1.0 FAR) is permitted); a lot coverage of 100 percent (the maximum permitted lot coverage is 60 percent); no side yards (two side yards with minimum widths of 9.18 feet are required); a rear setback of 15 feet at the third and fourth stories (a minimum rear yard depth of 30 feet is required; however, such yard may be provided above a one-story community facility with a maximum height of 23 feet); a front wall height of 52 feet with no setback (a front setback above 25 feet and a 1-to-1 sky exposure plane are required) and no parking spaces (a minimum of 21 parking spaces are required); and

WHEREAS, under the current application, the applicant initially proposed a five-story building with 27,200 sq. ft. of floor area (5.0 FAR), no rear setback, a front wall height of 70 feet, and a gymnasium with a floor-to-ceiling height of 18 feet; and

WHEREAS, however, in response to concerns raised by the Board at public hearing, the applicant reduced the FAR and building height, provided a rear setback of 15 feet at the third and fourth stories, and replaced the gymnasium with an outdoor rooftop recreation space; and

WHEREAS, the proposal provides for the following uses: (1) main sanctuary (which also serves as a postgraduate study hall), restrooms, lobby, coat rooms, pantry, rabbi's study, and offices at the first story; (2) women's balcony, three college-level Shiur classrooms, teachers' lounge, offices, kitchenette (warming pantry), and restrooms at the second

story; (3) a study room, open lounge area, restroom, and one Shiur room at the third story; (4) six classrooms (including a science and computer lab), an office and restrooms at the fourth story; and (5) atop the fourth story roof, a fenced recreation area; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Congregation which necessitate the requested variances: (1) to accommodate the growing congregation currently of approximately 200 members; (2) to provide a separate worship space for male and female congregants; (3) to locate the synagogue within the Marine Park neighborhood, which allows congregants to walk to services, as required for reasons of religious observance; (4) to provide space for hosting special events for congregants, such as Bar/Bat Mitzvahs; (5) to provide an integrated educational facility for high school, college and post-graduate studies; and (6) to consolidate the recreation space for the school, which is currently dispersed among three rented sites; and

WHEREAS, the applicant states that it currently operates a four-year college offering a degree in Talmudic Studies at the existing building at the site, and that it has operated the college for approximately ten years; and

WHEREAS, the applicant states that the enrollment of the college is approximately 80 students (approximately 20 per class), and that although it expects only modest growth in the coming years, the existing building at the site is wholly unsuitable due to its limited space and dual use as a synagogue; and

WHEREAS, in addition, the applicant states that in 2012, the Congregation started a high school program at its Avenue P facility; the high school began with 20 ninth graders and is anticipated to increase in enrollment each year until a full, four-year high school is operating with approximately 80 students; and

WHEREAS, the applicant represents that the proposal will also provide: (1) a secure place where students can enjoy an educational experience that is carefully designed to develop their intellectual and social skills; (2) a safe place where students can engage in activities and special projects, and develop positive character traits, including teamwork, respect for others, self-discipline, and individual responsibility; (3) an institution for advanced religious learning; and (4) a community center where families can spend time together in an environment that is respectful of their religious identity; and

WHEREAS, the applicant states that the as-of-right building would have only two stories and 5,440 sq. ft. of floor area (1.0 FAR), and be only marginally better than the current one-story facility, which only has 4,228 sq. ft. of floor area (0.8 FAR) and is far too small to satisfy the Congregation's programmatic needs; and

WHEREAS, likewise, the applicant explored the feasibility of a lesser variance scenario in which the floor-to-floor heights were reduced in order to bring the building height to 49 feet; however, this scenario resulted in floor-to-ceiling heights of eight feet, which, the applicant notes would

MINUTES

be well below the standard heights for classrooms according to the School Construction Authority; and

WHEREAS, the applicant states that the floor area, lot coverage, yards, and sky-exposure plane waivers allow for the double-height ceiling of the main sanctuary (which is necessary to create a space for worship and respect), an adequate ceiling height for the second story women's balcony, and sufficient program space (classrooms, offices, and study areas) for the Congregation to carry out its educational programs, as described above; and

WHEREAS, as to parking, the applicant states that 88 percent of the congregation lives within a three-quarter-mile radius of the site, which exceeds the 75 percent required under ZR § 25-35 to satisfy the City Planning Commission certification waiving parking for a locally-oriented house of worship; and

WHEREAS, therefore, the applicant states that the requested waivers are necessary to provide enough space to meet the programmatic needs of the congregation; and

WHEREAS, the Board acknowledges that the Congregation, 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 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 Congregation create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations, in accordance with ZR § 72-21(a); and

WHEREAS, the applicant need not address ZR § 72-21(b) since the Congregation 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, per ZR § 72-21(c), the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the surrounding area is characterized by its diversity, both in terms of use and bulk; and

WHEREAS, the applicant states, that Nostrand Avenue, the main local thoroughfare in the vicinity, is zoned R3-2, R4 and R5 and there are a variety of commercial overlays, resulting in a mixture of residential, community facility and commercial uses, including several multiple dwellings and mixed use buildings; and

WHEREAS, the applicant notes that that the proposed use is permitted as-of-right in the subject zoning district and that, as such, only bulk waivers are necessary; and

WHEREAS, as to bulk, the applicant identified several buildings in the immediate vicinity that are similar in bulk to the proposed building, including: (1) the four- and seven-story multiple dwellings that are directly across Nostrand Avenue from the site, which do not provide side yards (the four-story building was authorized by variance from the Board under BSA Cal. No. 25-06-BZ); (2) the Kingsway Jewish Center at the intersection of Nostrand Avenue and Kings Highway (a sprawling campus of two-, three- and four-story buildings); (3) five- and six-story multiple dwellings and mixed use buildings along Kings Highway; and (4) the Madison Jewish Center, which has a (non-complying) floor area of 24,107 sq. ft. (0.74 FAR); and

WHEREAS, as to the immediately adjacent uses, the applicant states that a car wash facility is directly north of the site, a light manufacturing building (wood flooring) is directly south, and east of the site, are accessory garages and rear yards of the two-story residences that front on Marine Parkway; and

WHEREAS, as to yards, the applicant notes that the side yard and front yard conditions were existing longstanding non-compliances with the historic commercial use of the site; and

WHEREAS, as to parking, the applicant notes that the majority of congregants will walk to the site and that there is not any demand for parking; and

WHEREAS, further, as noted above, the applicant represents that 88 percent of congregants live within a three-quarter-mile radius of the site and thus are within the spirit of City Planning's parking waiver for houses of worship; and

WHEREAS, the Board notes that, based on the applicant's representation, this proposal would meet the requirements for a parking waiver at the City Planning Commission, pursuant to ZR § 25-35 (Waiver for Locally Oriented Houses of Worship); and

WHEREAS, in support of this assertion, the applicant submitted evidence reflecting that at least 88 percent of the congregants live within three-quarters of a mile of the subject site; and

WHEREAS, in response to concerns raised by community residents and neighbors, at hearing, the Board directed the applicant to clarify the following aspects of the application: (1) the condition of the residential yards to the rear of the site; (2) whether there would be roof access above the second story roof; (3) how garbage will be stored and collected; (4) the occupant loads of the various spaces; and (5) the extent of soil disturbance proposed; and

WHEREAS, in response, the applicant provided: (1) clear photographs showing the condition of the abutting residential yards; (2) amended plans showing the elimination of the door to the second story roof, a garbage storage room at the first story, and occupant loads for all rooms; and (3) a report from an environmental consultant, which indicates that contamination from the adjacent site could not have affected the soil at the site; and

WHEREAS, in addition, the applicant represents that garbage collection will occur no fewer than three times per week (two City collections and one from a private hauler);

MINUTES

and

WHEREAS, accordingly, the Board finds that this 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, per ZR § 72-21(d), the hardship was not self-created and that no development that would meet the programmatic needs of the Congregation 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, as noted above, through the hearing process, the proposal was reduced in height and floor area and was modified in order to minimize its impacts on adjacent uses; accordingly, the Board finds that, consistent with ZR § 72-21(e), the requested waivers are the minimum necessary to afford the Congregation 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. 13BSA079K, dated January 11, 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 within an R3-2 zoning district, the construction of a four-story building to be occupied by a synagogue (Use Group 3) and a school (Use Group 4), which does not comply with the underlying zoning

district regulations for floor area, lot coverage, side yard, rear yard, sky-exposure plane, and parking, contrary to ZR §§ 24-11, 24-35, 24-36, 24-521, and 25-31; *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 January 28, 2014" – Ten (10) sheets; and *on further condition*:

THAT the building parameters will be: four stories; a maximum floor area of 20,420 sq. ft. (3.75 FAR); a maximum wall height of 52 feet; and a rear setback with a minimum depth of 15 feet at the third and fourth stories, as illustrated on the BSA-approved plans;

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

THAT the use will be limited to a school (Use Group 3) and a house of worship (Use Group 4);

THAT no commercial catering will take place onsite;

THAT garbage will be stored within the building until pickup;

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

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

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

Adopted by the Board of Standards and Appeals, March 4, 2014.

78-13-BZ
CEQR #13-BSA-103K

APPLICANT – Sheldon Lobel, P.C., for S.M.H.C. LLC, owner.

SUBJECT – Application February 22, 2013 – Variance (§72-21) to permit a new four-story, four-unit residential building (UG 2), contrary to use regulations, ZR §42-00. M1-1& R7A/C2-4 zoning districts.

PREMISES AFFECTED – 876 Kent Avenue, located on the west side of Kent Avenue, approximately 91' north of Myrtle Avenue. Block 1897, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #3BK

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 –

MINUTES

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 24, 2013, acting on Department of Buildings Application No. 310072818, reads, in pertinent part:

ZR 42-00 – Residential use is not permitted in manufacturing district; and

WHEREAS, this is an application under ZR § 72-21, to permit, partially within an M1-1 zoning district and partially within an R7A (C2-4) zoning district, the construction of a four-story residential building (Use Group 2), contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on August 20, 2013, after due notice by publication in the *City Record*, with a continued hearing on September 24, 2013, and then to decision on March 4, 2014; 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 3, Brooklyn, recommends disapproval of this application; and

WHEREAS, Councilperson Letitia James submitted a letter in support of this application; and

WHEREAS, the subject site is a rectangular lot located on the west side of Kent Avenue between Myrtle Avenue and Park Avenue, partially within an M1-1 zoning district and partially within an R7A (C2-4) zoning district; and

WHEREAS, the site has 25 feet of frontage along Kent Avenue, a lot depth of 90 feet, and a lot area of 2,250 sq. ft.; and

WHEREAS, the applicant states that the site is now vacant, but was previously occupied by a three-story mixed residential and commercial building that was built in or around 1905 and demolished in 2003; and

WHEREAS, the applicant notes that a variance application was filed for the site in 2008, under BSA Cal. No. 238-08-BZ; such application was dismissed for lack of prosecution on February 23, 2010; however, on July 24, 2012, the Board granted a rehearing of the application based on the applicant's revision of the proposal to comply with the R6 regulations with regard to floor area ratio, rear setback, and street wall location; and

WHEREAS, the applicant represents that the proposed residential building (Use Group 2), will have a floor area of 4,930.2 sq. ft. (2.2 FAR), a building height of 48'-11", a rear yard depth of 33'-0", and four dwelling units; and

WHEREAS, initially, the applicant proposed a building with a floor area of 5,680 sq. ft. (2.52 FAR) and a height of 53'-11"; and

WHEREAS, the applicant notes that Use Group 2 is not permitted in an M1-1 zoning district and that 65 percent of the site is within the M1-1 district and 35 percent of the site is within the R7A (C2-4) district; as such, ZR § 77-11, cannot be employed to extend the R7A (C2-4) use regulations to the M1-1 portion of the site; and

WHEREAS, accordingly, the applicant seeks a use

variance; and

WHEREAS, the applicant states that, per ZR § 72-21(a), the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the lot's small size, shallow depth, and narrow width; (2) the adjacency of residential uses; (3) the district boundary, which divides the lot; and (4) the inability to merge the site with adjacent lots; and

WHEREAS, the applicant asserts that the site is small (2,250 sq. ft. of lot area), shallow (90 feet), and narrow (25 feet); and

WHEREAS, as such, the applicant asserts that it would be impractical to develop the site with a modern manufacturing use, which requires significantly larger floorplates than the site would yield; and

WHEREAS, the applicant notes that the site is the smallest and shallowest lot within a 400-foot radius in the subject M1-1 zoning district with frontage along Kent Avenue; and

WHEREAS, the applicant states that the infeasibility of establishing a manufacturing use on an undersized lot is compounded by the difficulties in locating such use on a site surrounded by residential neighbors; and

WHEREAS, in particular, the applicant states that the four adjacent buildings to the site and the building directly across the street contain residences; and

WHEREAS, the applicant states that the site is also uniquely burdened by being divided by the district boundary between an M1-1 zoning district (where the proposed use is not permitted as-of-right) and an R7A (C2-4) zoning district (where the proposed use is permitted as-of-right); and

WHEREAS, the applicant notes that while ZR § 77-11 typically affords relief for a split lot by allowing the use regulations of one district to extend to the other, such section would not allow for the proposed residential use, because less than 50 percent of the lot is within the R7A (C2-4) zoning district; and

WHEREAS, finally, the applicant asserts that the site is burdened by its inability to merge with another lot, which, when combined with its narrowness, shallowness, absence of an existing building, and split-lot condition, is unique in the subject M1-1 zoning district; and

WHEREAS, specifically, the applicant states that, of the 244 lots within the subject M1-1 zoning district, there are only 43 lots (including the site) that contain vacant or open parking uses; of these 43 lots, there are only 35 lots (including the site) with a lot width of 25 feet or less, 22 lots (including the site) with a lot depth of 90 feet or less, 19 lots (including the site) that have no potential to merge with the adjacent lots, and only two lots (including the site) that are split lots; and

WHEREAS, consequently, the applicant states that the site's unique physical conditions—its small lot size and shallow lot depth, the adjacency of residential uses, the split-lot condition, and the inability to merge—create an unnecessary hardship in developing the site in conformance with applicable regulations; and

WHEREAS, based upon the above, the Board finds that

MINUTES

the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that, per ZR § 72-21(b), there is no reasonable possibility that the development of the site in conformance with the Zoning Resolution will bring a reasonable return; and

WHEREAS, in particular, in addition to the proposed residential building with 2.2 FAR and the original proposal with 2.52 FAR, the applicant examined the economic feasibility of a two-story as-of-right manufacturing building with 2,250 sq. ft. of floor area; and

WHEREAS, the applicant concluded that the as-of-right scenario does not result in an acceptable rate of return; and

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

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

WHEREAS, the applicant states that the immediate area is characterized by a mix of medium density residential, commercial, and community facility uses, including a six-story mixed residential and commercial building and three-story mixed residential and commercial building to the south, a four-story residential building to the west, a three-story mixed residential and commercial building to the north, and a three-story residential building directly across the street; in addition, the applicant notes that there is a five-story school (PS 157) on the block, and a large park (Taaffe Playground) that occupies the majority of the block immediately to the west of the site; and

WHEREAS, the applicant states, as noted above, that the site has historically been occupied by residential uses and that, as such, the proposal would restore a viable use; and

WHEREAS, likewise, the applicant asserts that the area within a 400-foot radius of the site has limited industrial uses, and, therefore, a conforming use would be less appropriate than the proposal; and

WHEREAS, the Board agrees that the character of the area is predominantly residential, and it finds that the introduction of four dwelling units does not impact nearby conforming uses; and

WHEREAS, as to bulk, at hearing, the Board expressed concerns about the compatibility of the originally proposed building height, street wall location, and attic with the surrounding area; and

WHEREAS, in response, the applicant amended its proposal, lowering the building height from 53'-11" to 48'-

11", moving the street wall forward 5'-0" to align with the adjacent building's street wall, and removing the attic entirely, thereby reducing the proposed floor area from 5,680 sq. ft. (2.52 FAR) to 4,930 sq. ft. (2.2 FAR); and

WHEREAS, the applicant notes that the proposed building, as modified, complies with the floor area, height and setback regulations for an R6 zoning district; as such, it provides an appropriate transition from the higher bulk of the R7A (C2-4) zoning district along Myrtle Avenue to the three-story building to the north of the site, which has a height of approximately 30'-0"; and

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

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the site's small lot size, shallow lot depth, adjacency of residential uses, split-lot condition, and inability to merge; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617 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. 13BSA103K, dated February 28, 2014; and

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

WHEREAS, the New York City Department of Environmental Protection's ("DEP") Bureau of Environmental Planning and Analysis reviewed the project for potential hazardous materials and air quality impacts; and

WHEREAS, DEP reviewed and accepted the December 2013 Remedial Action Plan and the October 2012 site-specific Construction Health and Safety Plan; and

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

WHEREAS, DEP reviewed the applicant's air quality assessment and determined that no significant stationary, mobile, and industrial source air quality impacts to the

MINUTES

proposed project are anticipated; and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, partially within an M1-1 zoning district and partially within an R7A (C2-4) zoning district, the construction of four-story residential building (Use Group 2), contrary to ZR § 42-00, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received "October 16, 2013"- Twelve (12) sheets; and *on further condition*:

THAT the following are the bulk parameters of the proposed building: a floor area of 4,930.2 sq. ft. (2.2 FAR), a building height of 48'-11", a rear yard depth of 33 feet, and four dwelling units, as illustrated on the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, March 4, 2014.

88-13-BZ
CEQR #13-BSA-111Q

APPLICANT – Lawrence M. Gerson, Esq., for Allied Austin LLC, owner; American United Company, LLC, lessee.

SUBJECT – Application March 14, 2013 – Special Permit (§73-36) to allow the legalization of a physical culture establishment (*Title Boxing Club*) within an existing building. C2-3/R5D zoning district.

PREMISES AFFECTED – 69-40 Austin Street, south side of Austin Street, 299' east of intersection with 69th Avenue, Block 3234, Lot 150, Borough of Queens.

COMMUNITY BOARD #6Q

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 Queens Borough Commissioner, dated August 20, 2013, acting on Department of Buildings ("DOB") Application No. 420803884, reads in pertinent part:

Proposed conversion of retail store into boxing center is not permitted as-of-right in a C2-3 (R5D) zoning district; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within a C2-3 (R5D) zoning district, the legalization of an existing physical culture establishment ("PCE") in a portions of the first floor of an existing two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 11, 2014, after due notice by publication in *The City Record*, and then to decision on March 4, 2014; and

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

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

WHEREAS, the subject site is located on the south side of Austin Street, between 69th Avenue and 70th Avenue, within a C2-3 (R5D) zoning district; and

WHEREAS, the site has approximately 411 feet of frontage along Austin Street and approximately 42,773 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story commercial building with approximately 81,269 sq. ft. of floor area (1.9 FAR); and

WHEREAS, the PCE occupies 5,834 sq. ft. of floor area on the first floor of the building; and

WHEREAS, the applicant notes that the PCE has been in operation since June 1, 2013; and

WHEREAS, the PCE is currently operated as Title Boxing Club; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; the applicant states that massages will not be performed at the PCE; and

WHEREAS, the hours of operation for the PCE will be Monday through Friday, from 5:30 a.m. to 10:00 p.m., and Saturday and Sunday, from 7:30 a.m. to 6:00 p.m.; and

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

MINUTES

satisfactory; and

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

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 13BSA111Q, dated March 14, 2013; and

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site located within a C2-3 (R5D) zoning district, the legalization of an existing physical culture establishment (“PCE”) in a portion of the first floor of an existing two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received December 3, 2013 ” – Four (4) sheets; and *on further condition*:

THAT the term of this grant will expire on June 1, 2023;

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

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, March 4, 2014.

128-13-BZ

APPLICANT – Sheldon Lobel, PC, for Zev and Renee Marmustein, owner.

SUBJECT – Application May 3, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (§23-141(b)); side yards (§23-461(a)); less than the required rear yard (§23-47) and perimeter wall height (§23-631(b)) regulations. R3-2 zoning district.

PREMISES AFFECTED – 1668 East 28th Street, west side of East 28th Street 200' north of the intersection formed by East 28th Street and Quentin Road, Block 6790, Lot 23, 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 of the New York City Department of Buildings (“DOB”), dated April 16, 2013, acting on DOB Application No. 301408046, reads in pertinent part:

1. Proposed plans are contrary to ZR § 23-141(b), in that the proposed floor area ratio exceeds the maximum permitted;

MINUTES

2. Proposed plans are contrary to ZR § 23-141(b), in that the open space provided is less than the minimum required;
3. Proposed plans are contrary to ZR § 23-141(b), in that the lot coverage proposed exceeds the maximum permitted;
4. Proposed plans are contrary to ZR § 23-461(a) in that the proposed enlargement increases the degree of non-compliance with respect to the minimum required side yards;
5. Proposed plans are contrary to ZR § 23-47, in that the proposed enlargement increases the degree of non-compliance with respect to the minimum required rear yard;
6. Proposed plans are contrary to ZR § 23-631(b), in that the proposed enlargement increases the degree of non-compliance with respect to the maximum permitted wall height; and

WHEREAS, this is an application under ZR § 73-622, 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"), open space ratio, lot coverage, side yards, rear yard, and perimeter wall height, contrary to ZR §§ 23-141, 23-461, 23-47 and 23-631; and

WHEREAS, a public hearing was held on this application on December 17, 2013, after due notice by publication in *The City Record*, with a continued hearing on January 28, 2014, and then to decision on March 4, 2014; 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 disapproval of the original the application; and

WHEREAS, certain members of the surrounding community testified in opposition to this application (the "Opposition"), alleging that the proposed floor area (4,988 sq. ft. (1.0 FAR)) and absence of a side yard along the north side of the site (which was an extension of an existing zero lot line condition) were inconsistent with the character of the neighborhood; and

WHEREAS, in response, the applicant reduced the floor area from 4,988 sq. ft. (1.0 FAR) to 4,885 sq. ft. (0.98 FAR), eliminated the zero lot line condition, and provided a side yard with a minimum width of 3'-8¾", which the Opposition found acceptable; as a result, the Opposition withdrew its objection to the application; and

WHEREAS, the subject site is located on the west side of East 28th Street, between Avenue P and Quentin Road, within an R3-2 zoning district; and

WHEREAS, the site has a total lot area of 5,000 sq. ft. and is occupied by a single-family home with a floor area of 2,795 sq. ft. (0.56 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 now seeks an increase in the floor area from of 2,795 sq. ft. (0.56 FAR) to 4,885 sq. ft. (0.98 FAR); the maximum permitted floor area is 2,500 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to reduce the open space from 72 percent to 62 percent; the minimum required open space is 65 percent; and

WHEREAS, the applicant seeks to increase the lot coverage from 28 percent to 38 percent; the maximum permitted lot coverage is 35 percent; and

WHEREAS, the applicant seeks to maintain one existing, complying side yard with a width of 8'-3" and increase the width of the existing non-complying side yard from 0'-0" (at its narrowest point) to 3'-8¾" (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 also seeks to decrease its non-complying rear yard depth from 28'-5¼" to 20'-0"; a rear yard with a minimum depth of 30'-0" is required; and

WHEREAS, finally, the applicant seeks to maintain and extend its existing, non-complying perimeter wall height of 22'-6⅛"; 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 (22'-6⅛") is less than the height of the adjacent building's non-complying perimeter walls facing the street (22'-8¼"), and the applicant submitted a survey in support of this representation; 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, in particular, the applicant represents that the proposed 0.98 FAR is consistent with the bulk in the surrounding area and notes that, in recent years, the Board has granted special permits for home enlargements on nearby streets (East 21st, East 22nd, and Avenue S) with FARs in excess of 1.0; and

WHEREAS, additionally, the applicant notes that a portion of the existing home is built to the north side lot line and the proposal includes the removal of that portion and the inclusion of a side yard with a width of 3'-8¾"; and

WHEREAS, accordingly, the Board agrees with the applicant that the proposed bulk is compatible with the character of the neighborhood; 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

MINUTES

impair the future use and development of the surrounding area; and

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

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, 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"), open space ratio, lot coverage, side yards, rear yard, and perimeter wall height, contrary to ZR §§ 23-141, 23-461, 23-47 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 February 18, 2014" – Twelve (12) sheets; and on further condition:

THAT the following will be the bulk parameters of the building: a maximum floor area of 4,885 sq. ft. (0.98 FAR), a minimum open space ratio of 62 percent, a maximum lot coverage of 38 percent, a minimum rear yard depth of 20'-0", side yards with minimum widths of 8'-3" and 3'-8¾", and a maximum perimeter wall height of 22'-6⅛", 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);

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

Adopted by the Board of Standards and Appeals, March 4, 2014.

234-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Dov Lipschutz, owner.

SUBJECT – Application August 16, 2013 – Variance (§72-21) for the enlargement of an existing two-family detached residence to be converted to a single-family home, contrary to minimum front yard (§23-45(a)); and less than the required rear yard (ZR §23-47). Special Permit (§73-621) for an enlargement which is contrary to floor area (ZR 23-141). R3-2 zoning district.

PREMISES AFFECTED – 1653 Ryder Street, aka 1651 Ryder Street, Located on the northeast side of Ryder Street between Quentin road and Avenue P, Block 7863, lot 18, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Executive Zoning Specialist of the Department of Buildings ("DOB"), dated August 9, 2013, acting on DOB Application No. 320516811, reads in pertinent part:

1. FAR exceeds maximum permitted, contrary to ZR 23-141(b);
2. Proposed conditions increase the degree of non-compliance with respect to the required minimum front yard, contrary to ZR 23-45(a);
3. Proposed conditions violate required rear yard, contrary to ZR 23-47; and

WHEREAS, this is an application under ZR §§ 72-21 and 73-621, to permit, within an R3-2 zoning district, the conversion (from a two-family residence to a single-family residence) and enlargement of an existing residential building, which does not comply with the zoning requirements for floor area ratio ("FAR"), front yard, and rear yard, contrary to ZR §§ 23-141, 23-45, and 23-47; and

WHEREAS, a public hearing was held on this application February 4, 2014, after due notice by publication in *The City Record*, and then to decision on March 4, 2014; and

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

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

WHEREAS, the subject site is an irregularly-shaped interior lot located on the east side of Ryder Street, between Avenue P and Quentin Road, within an R3-2 zoning district; and

WHEREAS, the site has 40 feet of frontage along Ryder Street and 3,855 sq. ft. of lot area; and

WHEREAS, the site is currently occupied by a two-story, two-family home with 1,985.41 sq. ft. of floor area (0.52 FAR), and an attic; and

WHEREAS, the applicant notes that the building has existing complying side yard widths of 5'-0" and 10'-10½", a complying rear yard with a depth of 30'-0", and a non-complying front yard ranging in depth from 9'-11" to 14'-1" (a minimum front yard depth of 15'-0" is required); and

WHEREAS, the applicant proposes to enlarge the existing cellar, first and second stories, and the attic of the building contrary to the FAR, front yard, and rear yard requirements, and increase the floor area from 1,985.41 sq. ft. (0.52 FAR) to 2,544.02 sq. ft. (0.66 FAR); the maximum permitted floor area is 1,927 sq. ft. (0.5 FAR), however, a 20 percent increase in FAR pursuant to ZR § 23-141(b)(1) is

MINUTES

available, resulting in a maximum permitted floor area of 2,313 sq. ft. (0.6 FAR); and

WHEREAS, the applicant also proposes to maintain a portion of its existing, non-complying front yard depth at 9'-11" and reduce a portion of its existing, non-complying front yard depth from 14'-1" to 12'-1" (a minimum depth of 15'-0" is required), and reduce its complying rear yard depth from 30'-0" to 24'-11" (a minimum depth of 30'-0" is required); and

WHEREAS, the special permit authorized by ZR § 73-621 is available to enlarge buildings containing residential uses that existed on December 15, 1961, or, in certain districts, on June 20, 1989; therefore, as a threshold matter, the applicant must establish that the subject building existed as of that date; and

WHEREAS, the applicant submitted the building's 1954 Certificate of Occupancy authorizing a two-family residence to demonstrate that the building existed as a residence well before June 20, 1989, which is the operative date within the subject R3-2 district; and

WHEREAS, accordingly, the Board acknowledges that the special permit under ZR § 73-621 is available to enlarge the building; and

WHEREAS, ZR § 73-621 permits the enlargement of a residential building, provided that the proposed floor area ratio does not exceed 110 percent of the maximum permitted (0.66 FAR);

WHEREAS, the applicant represents that the proposed floor area ratio is 110 percent of the maximum permitted (0.6 FAR); and

WHEREAS, therefore, the Board finds that the proposed increase in floor area is permitted under ZR § 73-621; however, ZR § 73-621 is not available to enlarge the building contrary to the front and rear yard requirements; and

WHEREAS, accordingly, the applicant seeks a variance pursuant to ZR § 72-21 for those portions of the proposal; and

WHEREAS, the applicant states that the irregular lot shape is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the site in compliance with underlying zoning regulations; and

WHEREAS, the applicant states that the lot's shape is irregular, in that its rear lot line is diagonal, which creates a lot depth that varies from approximately 91 feet on the southeastern lot line to approximately 101 feet on the northwestern lot line; and

WHEREAS, the applicant asserts that such shape decreases the lot area available in the rear of the building, which contributed to the existing building being constructed closer to the front lot line and further into the required front yard, which, in turn, creates a practical difficulty enlarging the building in accordance with the front and rear yard requirements; and

WHEREAS, the applicant states that the lot shape is unique, and in support of this statement, submitted a study of the surrounding 24 blocks (approximately 900 sites); and

WHEREAS, the applicant represents that, according to the study, only two blocks out of 24 contain lots that share the site's diagonal rear lot line condition, and only 29 lots within those blocks have, as a result of their diagonal rear lot line, lot depths of 100 feet or less; and

WHEREAS, the applicant further distinguishes 23 of the 29 seemingly similar lots as follows: (1) 15 lots are overbuilt and cannot seek the same relief (a 10 percent FAR waiver under ZR § 73-621); (2) four lots are within .03 of the maximum permitted FAR and therefore cannot feasibly be enlarged; (3) two lots are corner lots without required rear yards; and (4) two have particularly wide frontages (61 feet and 80 feet), which mitigates the loss of space owing to their diagonal rear lot line; and

WHEREAS, consequently, the applicant states that only six lots out of 900 (less than one percent) nearby can be considered similar to the subject site; as such, the applicant asserts that the site's shape creates a unique practical difficulty in complying with the zoning regulations; and

WHEREAS, the applicant explored the feasibility of an as-of-right enlargement of the home; however, as noted above, such an enlargement would have to be accomplished entirely at the rear of the building and would result in a modest increase in floor area from 1,985.41 sq. ft. (0.52 FAR) to 2,313 sq. ft. (0.6 FAR); in contrast, the proposal allows for modest enlargements at the front and rear of the building; and

WHEREAS, accordingly, the applicant asserts that the lot shape creates practical difficulties in developing the site as-of-right; and

WHEREAS, based upon the above, the Board finds that the cited unique physical condition creates practical difficulties in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board agrees that because of the site's unique physical condition, there is no reasonable possibility that compliance with applicable zoning regulations will result in a habitable home; and

WHEREAS, the applicant represents that neither the proposed variance, nor the special permit will negatively affect the character of the neighborhood or impact adjacent uses; and

WHEREAS, the applicant states that the surrounding area is characterized by low-density, detached or semi-detached, two- or three-story homes, with varying rear and side yard depths, and, typically, shallower front yard depths and setbacks; as such, the proposal is consistent with the use, bulk, and appearance of the neighborhood; and

WHEREAS, the applicant states that the proposal will maintain the existing minimum front yard depth of 9'-11" (albeit with a slight decrease in the non-complying front yard depth at the northern side of the lot from 14'-1" to 12'-1"), decrease its complying rear yard by approximately 5'-0", exceed the permitted FAR by less than ten percent and comply in all other respects (side yards, height, and lot coverage) with the R3-2 bulk regulations; and

WHEREAS, as to adjacent uses, the applicant states that the proposal maintains the existing complying side yards, and

MINUTES

therefore has no impact on the parcels directly north and south of the site; and while the majority of the enlargement is proposed at the rear of the building (its east side), the applicant notes that the nearest structures to the east are a swimming pool (on Lot 68) and a garage (on Lot 66); thus, the overall impact of the proposal on adjacent uses is minimal; and

WEHREAS, as to the proposed 0.65 FAR, the applicant notes that directly across the street, the homes on Lots 63 and 64 have 0.66 FAR and 0.75 FAR, respectively; and

WHEREAS, additionally, the applicant represents that there are 18 homes on an adjacent block along Ryder Street (Block 7862) with an FAR of 0.66 or greater, with 12 homes ranging from 0.72 FAR to 1.12 FAR; and

WHEREAS, at hearing, the Board directed the applicant to clarify the amount of floor area proposed in the attic; and

WHEREAS, in response, the applicant submitted a revised statement, which confirmed the location and amount of floor area proposed in the attic; and

WHEREAS, therefore, the Board finds that this 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 Board finds that the hardship herein was not created by the owner or a predecessor in title, but is a result of the unique conditions at the site; and

WHEREAS, the applicant asserts that the proposal is the minimum variance necessary to afford relief; and

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

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 72-21 and 73-621; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617.5 and 617.13, §§ 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 ZR §§ 72-21 and 73-621, to permit, within an R3-2 zoning district, the conversion (from a two-family residence to a single-family residence) and enlargement of an existing residential building, which does not comply with the zoning requirements for FAR, front yard, and rear yard, contrary to ZR §§ 23-141, 23-45, and 23-47; *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 February 19, 2014"-Twelve (12) sheets; and *on further condition*:

THAT the parameters of the proposed building will be limited to: two stories and an attic, a maximum floor area of 2,544.02 sq. ft. (0.66 FAR), a front yard with a minimum depth of 9'-11", a rear yard with a minimum depth of 24'-11", and side yards with minimum widths of 5'-0" and 10'-10½", as per 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);

THAT the approved plans will be considered approved

only for the portions related to the specific relief granted;

THAT significant construction will proceed in accordance with ZR §§ 72-23 and 73-70; and

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

Adopted by the Board of Standards and Appeals, March 4, 2014.

303-12-BZ

APPLICANT – Eric Palatnik, P.C., for Tabernacle of Praise, Inc., owner.

SUBJECT – Application October 25, 2013 – Variance (§72-21) to permit the development of a sub-cellar, cellar and three story church, with accessory educational and social facilities (*Tabernacle of Praise*), contrary to rear yard setback (§33-292), sky exposure plane and wall height (§34-432), and parking (§36-21) regulations. C8-1 zoning district.

PREMISES AFFECTED – 1106-1108 Utica Avenue, between Beverly Road and Clarendon Road, Block 4760, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #17BK

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for decision, hearing closed.

64-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Norma Chakkalo and Abdo Chakkalo, owners.

SUBJECT – Application February 11, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141), side yards (§23-461) and less than the required rear yard (§23-47). R4 (OP) zoning district.

PREMISES AFFECTED – 712 Avenue W, south side of Avenue W between East 7th Street and Coney Island Avenue, Block 7184, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for decision, hearing closed.

92-13-BZ & 93-13-BZ

MINUTES

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

SUBJECT – Application March 21, 2013 – Variance (§72-21) to permit the construction of two semi-detached one-family dwellings, contrary to required rear yard regulation (§23-47). R3-1(LDGMA) zoning district.

PREMISES AFFECTED – 22 and 26 Lewiston Street, west side of Lewiston Street, 530.86 feet north of intersection with Travis Avenue, Block 2370, Lot 238, Borough of Staten Island.

COMMUNITY BOARD #2SI

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for decision, hearing closed.

103-13-BZ

APPLICANT – Rothkrug Routhkrug & Spector LLP, for Blackstone New York LLC,owner.

SUBJECT – Application April 16, 2013 – Variance (§72-21) to permit the development of a cellar and four-story, eight-family residential building, contrary to §42-10 zoning resolution. M1-1 zoning district.

PREMISES AFFECTED – 81 Jefferson Street, north side of Jefferson Street, 256’ west of intersection of Evergreen Avenue and Jefferson Street, Block 3162, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #3BK

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to April 1, 2014, at 10 A.M., for decision, hearing closed.

130-13-BZ

APPLICANT – Rothkrug Rothdrug & Spector, for Venetian Management LLC, owner.

SUBJECT – Application May 7, 2013 – Re-Instatement (§11-411) of a variance which permitted a one-story motor vehicle storage garage with repair (UG 16B), which expired on February 14, 1981; Amendment (§11-413) to change the use to retail (UG 6); Waiver of the Rules. R6 zoning district.

PREMISES AFFECTED – 1590 Nostrand Avenue, southwest corner of Nostrand Avenue and Albemarle Road. Block 5131, Lot 1. Borough of Brooklyn.

COMMUNITY BOARD #17BK

ACTION OF THE BOARD – Laid over to April 1, 2014, at 10 A.M., for continued hearing.

157-13-BZ

APPLICANT – Sheldon Lobel, P.C., for 1368 23rd Street, LLC, owner.

SUBJECT – Application May 17, 2013 – Special Permit (§73-622) for the enlargement of an existing 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.

PREMISES AFFECTED – 1368 & 1374 East 23rd Street, west side of East 23rd Street, 180’ north of Avenue N, Block 7658, Lot 78 & 80, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for decision, hearing closed.

163-13-BZ

APPLICANT – Eric Palatnik, P.C., for 39th Avenue Realty Management, LLC, owner.

SUBJECT – Application May 30, 2013 – Special Permit (§73-44) to allow the reduction of parking spaces for the enlargement of a building containing Use Group 6 professional offices. C4-2 zoning district.

PREMISES AFFECTED – 133-10 39th Avenue, 39th Avenue, east of College Pt. Boulevard, Block 4973, Lot 12, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for continued hearing.

MINUTES

252-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Eli Schron, owner.

SUBJECT – Application August 29, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141) and less than the required rear yard (§23-47). R-2 zoning district. PREMISES AFFECTED – 1221 East 22nd Street, east side of East 22nd Street between Avenue K and Avenue L, Block 7622, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to April 1, 2014, at 10 A.M., for continued hearing.

270-13-BZ

APPLICANT – Eric Palatnik, P.C., for Margaret Angel, LLC, owner.

SUBJECT – Application September 13, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area (§23-141). R3-1 zoning district.

PREMISES AFFECTED – 288 Dover Street, Dover Street, south of Oriental Boulevard, Block 8417, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to April 1, 2014, at 10 A.M., for continued hearing.

273-13-BZ

APPLICANT – Akerman Senterfitt, LLP, for 321-23 East 60th Street LLC, owner.

SUBJECT – Application September 26, 2013 – Variance (§72-21) to permit the development of an eight-story residential building containing 28 dwelling units, contrary to use regulations (§32-10). C8-4 zoning district.

PREMISES AFFECTED – 321 East 60th Street, Northeast corner of East 60th Street and the Ed Koch Queensboro Bridge Exit. Block 1435, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to April 1, 2014, at 10 A.M., for continued hearing.

281-13-BZ

APPLICANT – Joshua Rinesmith, Warshaw Burstein LLP for FC-Canal LLC, owner; 320 Canal Fitness Group, LLC, lessee.

SUBJECT – Application October 4, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Planet Fitness*) on the cellar and first floor of the existing building. C6-2A zoning district.

PREMISES AFFECTED – 350-370 Canal Street, premises is comprised of 3 properties located on the west portion of block 211 at the intersection of Canal Street and Church Street. Block 211, Lot(s) 3, 29, 7501. Borough of

Manhattan.

COMMUNITY BOARD #1M

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to April 1, 2014, at 10 A.M., for decision, hearing closed.

291-13-BZ

APPLICANT – Eric Palatnik, P.C., for 840-842 LLC, owner; Crunch LLC, lessee.

SUBJECT – Application October 22, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Crunch LLC*) within a portion of an existing building. C8-2 zoning district.

PREMISES AFFECTED – 842 Lefferts Avenue, south side of Lefferts Avenue, approximately 262’ west of intersection of Utica Avenue and Lefferts Avenue, Block 1430, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #9BK

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to April 1, 2014, at 10 A.M., for decision, hearing closed.

297-13-BZ

APPLICANT – Sheldon Lobel, P.C., for 308 Cooper LLC, owner.

SUBJECT – Application October 25, 2013 – Variance (§72-21) to permit the development of a three-story, six-unit residential building, contrary to use regulations (§42-10). M1-1 zoning district.

PREMISES AFFECTED – 308 Cooper Street, east side of Cooper Street at the corner of Cooper Street and Irving Avenue, Block 3442, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #4BK

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

MINUTES

*CORRECTION

This resolution adopted on June 6, 2006, under Calendar No. 32-38-BZ and printed in Volume 91, Bulletin Nos. 23-24, is hereby corrected to read as follows:

32-38-BZ

APPLICANT – Steven M. Sinacori, Esq., for 88 Third Avenue Associates, owner.

SUBJECT – Application March 21, 2006 – Reopening for an amendment to the resolution to eliminate the twenty year (20) term for the change in occupancy from Manufacturing (UG17) to Office (UG6) in a four story and cellar building located in an R-6 zoning district, as adopted by the Board of Standards and Appeals on March 16, 1993.

PREMISES AFFECTED – 88 Third Avenue, west side of Third Avenue, between Bergen and Dean Streets, Block 197, Lot 28, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Chin and Commissioner Collins.....4
Negative.....0

THE RESOLUTION –

WHEREAS, this is an application for an amendment to eliminate the term of a previously granted variance; and

WHEREAS, a public hearing was held on this application on May 9, 2006, after due notice by publication in *The City Record*, and then to decision on June 6, 2006; and

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

WHEREAS, the subject premises is located on the west side of Third Avenue between Bergen and Dean Streets; and

WHEREAS, the lot is located within an R6 zoning district, and is surrounded primarily by residential uses, there are also some manufacturing uses in the vicinity; and

WHEREAS, the lot area is approximately 43,500 sq. ft. and is improved upon with an approximately 98,000 sq. ft., four-story building; and

WHEREAS, in 1938, the Board granted an application under the referenced calendar number to permit use of the site as a milk plant; and

WHEREAS, subsequently, in 1961, the Board approved a change of use in a portion of the building from milk plant to UG 17 manufacturing use; and

WHEREAS, most recently, on March 19, 1993, the Board, pursuant to ZR § 11-413, authorized a change of the UG 17 manufacturing use to UG 6 office use; and

WHEREAS, the term of the authorization was limited to 20 years, to expire on March 19, 2013; and

WHEREAS, the application is brought on behalf of

the New York City Human Resources Administration (HRA); and

WHEREAS, HRA occupies the first and second floors of the building and the third and fourth floors are currently vacant; and

WHEREAS, HRA intends to expand its operations to the third and fourth floors, which requires extensive renovations including the installation of an HVAC system, computer wiring, and new bathrooms; and

WHEREAS, HRA asserts that it has already invested more than \$6.5 million for renovations and plans to contribute another \$1 million; and

WHEREAS, HRA represents that its lender requires that there be no term limit on the authorization, in order to secure funding for the renovations; and

WHEREAS, the Board notes HRA's long-term commitment to the building; and

WHEREAS, upon review, the Board finds the requested elimination of the twenty-year term appropriate, provided that there is compliance with the conditions set forth below and in the prior resolutions.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated March 19, 1993, so that as amended this portion of the resolution shall read: "to eliminate the term of the previously granted change of use; *on condition*:

THAT any change in occupancy of the subject building shall require the prior approval of the Board;

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

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." (Alt. No. 300349825)

Adopted by the Board of Standards and Appeals, June 6, 2006.

***The resolution has been corrected in the portion which read: "THAT any change in ownership or occupancy of the subject building shall require the prior approval of the Board;" now reads: "THAT any change in occupancy of the subject building shall require the prior approval of the Board;" Corrected in Bulletin No. 10, Vol. 99, dated March 12, 2014.**