
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. 20

May 21, 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

DOCKET389

CALENDAR of June 10, 2014

Morning390-391

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, May 13, 2014**

Morning Calendar392

Affecting Calendar Numbers:

371-03-BZ 655 Fifth Avenue, Manhattan
372-03-BZ 655 Fifth Avenue, Manhattan
177-07-BZ 886 Glenmore Avenue, Brooklyn
457-56-BZ 152-154 India Street, Brooklyn
751-78-BZ 200-15 Northern Boulevard, Queens
278-86-BZ 1677 Bruckner Boulevard, Bronx
24-96-BZ 213 Madison Street, Manhattan
160-00-BZ 244-04 Francis Lewis Boulevard, Queens
43-14-A 242 West 76th Street, Manhattan
266-07-A 1602-1610 Avenue S, Brooklyn
299-12-BZ 40-56 Tenth Avenue, Manhattan
252-13-BZ 1221 East 22nd Street, Brooklyn
253-13-BZ 66-31 Booth Street, Queens
263-12-BZ &
264-12-A 232 & 222 City Island Avenue, Bronx
347-12-BZ 42-31 Union Street, Queens
210-13-BZ 43-12 50th Street, Queens
216-13-BZ &
217-13-A 750 Barclay Avenue, Staten Island
155-13-BZ 1782-1784 East 28th Street, Brooklyn
225-13-BZ 810 Kent Avenue, Brooklyn
233-13-BZ 2413 Avenue R, Brooklyn
284-13-BZ 168-42 Jamaica Avenue, Queens
297-13-BZ 308 Cooper Street, Brooklyn
316-13-BZ 210 Joralemon Street, Brooklyn
16-14-BZ 1648 Madison Place, Brooklyn
20-14-BZ 312 East 23rd Street, Manhattan

Correction407

Affecting Calendar Numbers:

207-13-BZ 177 Hastings Street, Brooklyn
246-13-BZ 514 55th Street, Brooklyn

CALENDAR

JUNE 10, 2014, 10:00 A.M.

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

SPECIAL ORDER CALENDAR

245-32-BZ

APPLICANT – Sion Hourizadeh, for Michael Raso, owner.
SUBJECT – Application June 20, 2012 – Extension of Term (§11-411) of a previously approved variance which permitted automotive repair (UG 16B) with a commercial office (UG 6) at the second story. C2-2/R5 zoning district.
PREMISES AFFECTED – 123-05 101 Avenue, Block 9464, Lot 30, Borough of Queens.

COMMUNITY BOARD #9Q

47-97-BZ

APPLICANT – Sheldon Lobel, P.C., for Flatlands 78, L.L.C., owner.

SUBJECT – Application December 13, 2013 – Amendment of a previously approved Variance (§72-21) which permitted construction of a one-story and cellar retail drug store and five smaller stores with accessory parking. The amendment is seeking to remove the twenty-year term restriction imposed by the Board. C2-3/R5D & R5B zoning district.
PREMISES AFFECTED – 7802 Flatlands Avenue, corner and through lot located on the east side of Flatlands Avenue between East 78th Street and East 79th Street, Block 8015, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #18BK

280-01-BZ

APPLICANT – Akerman, LLP, for S&M Enterprises, owner.

SUBJECT – Application April 25, 2014 – Extension of Time to Complete Construction and to obtain a Certificate of Occupancy of a previously granted Variance (§72-21) for the construction of a mixed-use building which expired on May 7, 2014. C1-9 zoning district.

PREMISES AFFECTED – 663-673 2nd Avenue, west side of 2nd Avenue between East 36th and East 37th Streets, Block 917, Lot(s) 21, 24, 30, 32, 34, Borough of Manhattan.

COMMUNITY BOARD #6M

341-02-BZ

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

SUBJECT – Application March 25, 2014 – Amendment of previously approved Variance (§72-21) which permitted Use Group (UG 6) retail stores on the first floor of the existing five story building which is now seeking to eliminated the term of years which in April 8, 2023. R8B zoning district.
PREMISES AFFECTED – 231 East 58th Street, north side of East 58th Street between Second and Third Avenues, Block 1332, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEALS CALENDAR

45-07-A

APPLICANT – Eric Palatnik, P.C., for Nader Kohanter, owner.

SUBJECT – Application April 25, 2014 – Common Law Vesting Rights to permit an extension of time to complete construction and obtain a certificate of occupancy to obtain the rights to complete construction on an attic mixed- used residential community facility. R4-1 zoning district.

PREMISES AFFECTED – 1472 East 19th Street, between Avenue "O" and Avenue "N", Block 6756, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ZONING CALENDAR

256-13-BZ thru 259-13-BZ

260-13-A thru 263-13-A

APPLICANT – Eric Palatnik PC, for Block 3162 LLC, owner.

SUBJECT – Application August 15, 2013 – Variance (§72-21) to request a variance of Section 23-45(sat), 23-461(a) and Section 23-892(a) for a proposed residential scheme on what is not and has historically been a series of vacant lots located within the bed of a mapped street of Article 3 of the General City GCL 35. R3-2 zoning district.

PREMISES AFFECTED – 25, 27, 31, 33, Sheridan Avenue aka 2080 Clove Road, between Giles Place and the Staten Island Rapid Transit right of way, Block 3162, Lot 22, 23, 24, 25, Borough of Staten Island.

COMMUNITY BOARD #2SI

CALENDAR

299-13-BZ

APPLICANT – Eric Palatnik, P.C., for David Gerstenfeld, owner; Michael Nejat, lessee.

SUBJECT – Application November 1, 2013 – Special Permit (§73-126) to permit in a R3A zoning district, the partial legalization, reduction in size and merger of two existing adjacent ambulatory diagnostic treatment health care facilities (Use Group 4). R3-A zoning district.

PREMISES AFFECTED – 4299 Hylan Boulevard, between Thornycroft Avenue and Winchester Avenue, Block 5292, Lot(s) 37, 39 & 41, Borough of Staten Island.

COMMUNITY BOARD #3SI

324-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Eli Rowe, owner.

SUBJECT – Application December 20, 2013 – Special Permit (§73-621) to allow the enlargement of a single-family residence, contrary to floor area and open space regulations (ZR 23-141). R2 zoning district.

PREMISES AFFECTED – 78-32 138th Street, southwest corner of the intersection of 138th Street and 78th Road, Block 6588, Lot 25, Borough of Queens.

COMMUNITY BOARD #8Q

15-14-BZ

APPLICANT – Davidoff Hutcher & Citron LLP, for Greek Orthodox Community of Whitestone Holy Cross Ink., owner.

SUBJECT – Application January 24, 2014 – Variance (§72-21) proposed enlargement of existing not-for-profit school building (*Holy Cross Greek Orthodox Church*) that will not comply with §24-111 community facility floor area, §24-54 sky exposure plane and §25-31 accessory parking spaces. R2 zoning district.

PREMISES AFFECTED – 12-03 150th Street, southeast corner of 150th Street and 12th Avenue, Block 4517, Lot 9, Borough of Queens.

COMMUNITY BOARD #7Q

27-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 496 Broadway LLC., owner.

SUBJECT – Application February 7, 2014 – Variance (§72-21) to permit a UG 6 retail use on the first floor and cellar, contrary to use regulations (§42-14D(2)(b)). M1-5B zoning district.

PREMISES AFFECTED – 496 Broadway, east side of Broadway between Broome Street and Spring Street, Block 483, Lot 4, Borough of Manhattan.

COMMUNITY BOARD #2M

39-14-BZ

APPLICANT – Francis R. Angelino, Esq., for 97-101 Reade LLC and II LLC, owner; Exceed Fitness LLC, lessee.

SUBJECT – Application March 17, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Exceed Fitness*) within an existing building on the ground floor, cellar and sub-cellar located in C6-3A Zoning District.

PREMISES AFFECTED – 97 Reade Street, between West Broadway and Church Street, Block 145, Lot 7504, Borough of Manhattan.

COMMUNITY BOARD #1M

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, MAY 13, 2014
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

371-03-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for 655 Fifth Avenue LLC, owner; Sator Realty, Ink, lessee.
SUBJECT – Application January 31, 2014 – Extension of Term of a previously approved Special Permit (§73-36) to allow the operation of a physical culture establishment (*The Facility*) which expires May 11, 2014. C5-3 (MID) zoning district.

PREMISES AFFECTED – 655 Fifth Avenue, northeast corner of Fifth Avenue and East 52nd Street, Block 1288, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.4

Negative:.....0

Absent: Commissioner Montanez1

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term for a physical culture establishment (“PCE”), which expired on May 11, 2014; and

WHEREAS, a public hearing was held on this application on April 29, 2014, after due notice by publication in *The City Record*, and then to decision on May 13, 2014; and

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

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

WHEREAS, the subject site is located at the northeast corner of the intersection of Fifth Avenue and East 52nd Street, within a C5-3 zoning district, within the Special Midtown District; and

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

WHEREAS, the PCE is located on portions of the eighth and ninth stories of the subject building (7,817 sq. ft. of floor area) and on the eighth story and roof of the adjacent building (7,332 sq. ft. of floor area), which is known as 663 Fifth Avenue (Block 1288, Lot 3); the PCE occupies a total of 15,149 sq. ft. of floor area; and

WHEREAS, the PCE is operated as The Facility; and

WHEREAS, on May 11, 2004, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to permit, on a site within a C5-3 zoning district, within the Special Midtown District the operation of a PCE for a term of ten years, to expire on May 11, 2014; on that same day, under BSA Cal. No. 372-03-BZ, the Board granted a special permit for the operation of the PCE at 663 Fifth Avenue; and

WHEREAS, the applicant now seeks an extension of the term of the PCE special permit for ten years; and

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

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated May 11, 2004, so that as amended the resolution reads: “to grant an extension of the special permit for a term of ten years from the prior expiration; *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked ‘Received January 31, 2014’- (5) sheets; and *on further condition*:

THAT this grant will be limited to a term of ten years, to expire on May 11, 2024;

THAT any massages will be performed only by New York State licensed massage professionals;

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

THAT the above conditions will appear on the certificate of occupancy;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect; 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) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, May 13, 2014.

372-03-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for Sator Realty, Ink, owner.

SUBJECT – Application January 31, 2014 – Extension of Term of a previously approved Special Permit (§73-36) to allow the operation of a physical culture establishment (*The Facility*) which expires May 11, 2014. C5-3 (MID) zoning district.

PREMISES AFFECTED – 663 Fifth Avenue, East side of Fifth Avenue, between East 52nd and 53rd Streets, Block 1288, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on

MINUTES

condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

Absent: Commissioner Montanez1

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term for a physical culture establishment (“PCE”), which expired on May 11, 014; and

WHEREAS, a public hearing was held on this application on April 29, 2014, after due notice by publication in *The City Record*, and then to decision on May 13, 2014; and

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

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

WHEREAS, the subject site is located on the east side of Fifth Avenue between East 52nd Street and East 53rd Street, within a C5-3 zoning district, within the Special Midtown District; and

WHEREAS, the site is occupied by an eight-story commercial building; and

WHEREAS, the PCE is located on portions of the eighth story and roof of the subject building (7,332 sq. ft. of floor area) and on portions of the eighth and ninth stories of the subject building (7,817 sq. ft. of floor area), which is known as 655 Fifth Avenue (Block 1288, Lot 1); the PCE occupies a total of 15,149 sq. ft. of floor area; and

WHEREAS, the PCE is operated as The Facility; and

WHEREAS, on May 11, 2004, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to permit, on a site within a C5-3 zoning district, within the Special Midtown District the operation of a PCE for a term of ten years, to expire on May 11, 2014; on that same day, under BSA Cal. No. 371-03-BZ, the Board granted a special permit for the operation of the PCE at 655 Fifth Avenue; and

WHEREAS, the applicant now seeks an extension of the term of the PCE special permit for ten years; and

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

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated May 11, 2004, so that as amended the resolution reads: “to grant an extension of the special permit for a term of ten years from the prior expiration; *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked ‘Received January 31, 2014’ - (5) sheets; and *on further condition*:

THAT this grant will be limited to a term of ten years, to

expire on May 11, 2024;

THAT any massages will be performed only by New York State licensed massage professionals;

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

THAT the above conditions will appear on the certificate of occupancy;

THAT all conditions from the prior resolution not specifically waived by the Board remain in effect; 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) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, May 13, 2014.

177-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Dankov Corporation, owner.

SUBJECT – Application January 2, 2014 – Amendment of an approved Variance (§72-21) which permitted construction of a two-story and mezzanine, two-family residential building, contrary to front yard regulations (§23-45(a)); the amendment seeks to permit construction of a three-story, three-family residential building. R5 zoning district.

PREMISES AFFECTED – 886 Glenmore Avenue, southeast corner of the intersection of Glenmore Avenue and Milford Street. Block 4208, Lot 17. Borough of Brooklyn.

COMMUNITY BOARD #5BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

Absent: Commissioner Montanez1

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to an existing variance, to allow certain modifications to a residential building that does not comply with the front yard requirements; and

WHEREAS, a public hearing was held on this application on April 1, 2014, after due notice by publication in *The City Record*, with a continued hearing on April 29, 2014, and then to decision on May 13, 2014; and

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

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

WHEREAS, the subject site is located on the southeast

MINUTES

corner of the intersection of Glenmore Avenue and Milford Street, within an R5 zoning district; and

WHEREAS, the site has approximately 20 feet of frontage along Glenmore Avenue, 90 feet of frontage along Milford Street, and 1,800 sq. ft. of lot area; and

WHEREAS, the site is vacant; and

WHEREAS, on June 23, 2009, under the subject calendar number, the Board granted a variance to permit the construction of a two-story, two-family residential building at the site that did not comply with the front yard requirements of ZR § 23-45(a) (the "Original Building"); and

WHEREAS, the Original Building was proposed to have two stories and a mezzanine, 2,241 sq. ft. of floor area (1.24 FAR), a wall height of 30'-0", a building height of 32'-9", two dwelling units, two parking spaces in the side yard, a front yard with a depth of 10'-0" along Glenmore Avenue, no front yard along Milford Street, and a side yard with a width of 30'-6"; and

WHEREAS, pursuant to the grant, substantial construction was to be completed by June 23, 2013; however, as of that date, substantial construction had not been completed; accordingly, on October 29, 2013, the Board granted an extension of time to complete construction for two years, to expire on October 29, 2015; and

WHEREAS, the applicant now seeks to amend the grant to allow three stories, 2,660.61 sq. ft. of floor area (1.48 FAR), a wall height of 28'-4", a building height of 31'-10", three dwelling units, two parking spaces in the side yard, a front yard with a depth of 10'-0" along Glenmore Avenue, no front yard along Milford Street, and a side yard with a width of 45'-0" (the "Proposed Building"); and

WHEREAS, the applicant notes that the Proposed Building deviates from the Original Building as follows: (1) an increase in floor area of 419.61 sq. ft.; (2) an FAR increase of 0.24; (3) a 1'-8" decrease in wall height; (4) a 1'-1" decrease in building height; and (5) a 14'-6" increase in the proposed side yard; and

WHEREAS, the applicant notes that, as with the Original Building, the Proposed Building complies in all respects with the R5 bulk regulations, except that, like the Original Building, it does not provide a front yard with a depth of 10'-0" along Milford Street; thus, the scope of the waiver requested has not changed; and

WHEREAS, further, the applicant states that although the Proposed Building includes a modest increase in floor area, its wall and building height are decreased, and the width of its side yard is increased by nearly 50 percent; and

WHEREAS, in addition, the applicant contends that the Proposed Building is consistent with the character of the surrounding community, which, in the original grant, the Board recognized as including mostly two- and three-story homes and multiple dwellings; and

WHEREAS, the applicant also notes that, in response to the Board's comments at hearing, it revised the Proposed Building to provide a wider side yard and to align with the street wall location and height of the adjacent building along

Glenmore Avenue; and

WHEREAS, based upon its review of the record, the Board finds that the proposed modification is appropriate, with certain conditions, as noted below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated June 23, 2009, to permit the noted modifications, *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked 'Received April 11, 2014' - (11) sheets; and *on further condition*:

THAT bulk parameters of the building will be as follows: a maximum of three stories, a maximum of 2,660.61 sq. ft. of floor area (1.48 FAR), a maximum wall height of 28'-4", a maximum building height of 31'-10", three dwelling units, two parking spaces in the side yard, a minimum front yard depth of 10'-0" along Glenmore Avenue, and a minimum side yard width of 45'-0";

THAT substantial construction will be completed by October 29, 2015;

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

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

(DOB Application No. 302233189)

Adopted by the Board of Standards and Appeals, May 13, 2014.

457-56-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Medow-"The Shop" 148-152L.P., owner.

SUBJECT – Application November 19, 2013 – Extension of Term of variance permitting accessory parking of motor vehicles, customer parking, and loading and unloading in conjunction with adjacent factory building. R6B zoning district.

PREMISES AFFECTED – 152-154 India Street, Southern side of India Street, 150 ft. east of intersection of India Street and Manhattan Avenue. Block 2541, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #1BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson ...4
Negative:.....0

Absent: Commissioner Montanez.....1

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

MINUTES

751-78-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Baron Properties III, Inc., owner.

SUBJECT – Application October 1, 2013 – Extension of Term of a previously granted under variance (§72-21) for the continued operation of a UG16 Automotive Repair Shop (*Genesis Auto Town*) which expired on January 23, 2009; Extension of Time to obtain a Certificate of Occupancy which expired on September 12, 2001; Waiver of the Rules. C2-2/R3-2 zoning district.

PREMISES AFFECTED – 200-15 Northern Boulevard, northwest corner of intersection of Northern Boulevard and 201st Street, Block 6261, Lot 30, Borough of Queens.

COMMUNITY BOARD #11Q

ACTION OF THE BOARD – Laid over to June 17, 2014, at 10 A.M., for continued hearing.

278-86-BZ

APPLICANT – Eric Palatnik P.C., for White Castle System, Inc., owner.

SUBJECT – Application October 29, 2013 – Extension of Term of a previously approved Special Permit (§73-243) to permit the operation of an accessory drive-thru facility to an eating and drinking establishment (*White Castle*), which expired on November 26, 2011, amendment to the plans, and Waiver of the Rules. C1-2/R5 zoning district.

PREMISES AFFECTED – 1677 Bruckner Boulevard, Fteley Avenue thru to Metcalf Avenue, Block 3721, Lot 1, Borough of Bronx.

COMMUNITY BOARD #9BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson ...4
Negative:.....0
Absent: Commissioner Montanez.....1

ACTION OF THE BOARD – Laid over to June 17, 2014, at 10 A.M., for decision, hearing closed.

24-96-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Lesaga LLC, owner.

SUBJECT – Application December 31, 2013 – Extension of Time to obtain a Certificate of Occupancy of a previously granted variance for the continued operation of a UG6 eating and drinking establishment (*McDonald's*), which expired on May 18, 2009; Waiver of the Rules. R7-2 zoning district.

PREMISES AFFECTED – 213 Madison Street, north side of Madison Street 184' east of the intersection of Madison Street and Rutgers Street, Block 271, Lot 40, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to June 10, 2014, at 10 A.M., for adjourned hearing.

160-00-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for 243-02 So. Conduit Avenue, LLC, owner.

SUBJECT – Application April 2, 2013 – ZR 11-411 Extension of Term for the continued operation of an automotive service station (*Citgo*) which expired on November 21, 2010; Extension of Time to obtain a Certificate of Occupancy which expired on November 21, 2001; Waiver of the Rules. C1-3/R3-2 zoning district.

PREMISES AFFECTED – 244-04 Francis Lewis Boulevard, southwest corner of South Conduit and Francis Lewis Boulevard, Block 13599, Lot 25, Borough of Queens.

COMMUNITY BOARD #13Q

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

APPEALS CALENDAR

43-14-A

APPLICANT – Rosan & Rosan, P.C., for Milburn Hotel, owner.

SUBJECT – Application March 14, 2014 – Extension of Time to obtain a Class B Certificate of Occupancy to legalize 120 hotel units, as provided recent (2010) legislation under Chapters 225 and 566 of the Laws of New York. R8B zoning district.

PREMISES AFFECTED – 242 West 76th Street, south side of West 76th Street, 112' west of Broadway, between Broadway and West End Avenue, Block 1167, Lot 55, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0
Absent: Commissioner Montanez1

THE RESOLUTION –

WHEREAS, this is an application for an extension of time to obtain a certificate of occupancy for use of certain dwelling units within Class A multiple dwelling for other than permanent residence purposes pursuant to Multiple Dwelling Law § 120; and

WHEREAS, a public hearing was held on this application on April 29, 2014, after due notice by publication in *The City Record*, and then to decision on May 13, 2014; and

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

WHEREAS, the subject site is located on the south side of West 76th Street between West End Avenue and Broadway, within an R8B zoning district; and

MINUTES

WHEREAS, the site has 75 feet of frontage along West 76th Street and 7,824 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 15-story multiple dwelling; the building is known as The Millburn Hotel; according to the last-issued certificate of occupancy (“CO”) for the building (CO No. 102797127, issued March 24, 2009), the building contains 137 Class A dwelling units; and

WHEREAS, the applicant states that the building was constructed as a hotel in 1926 and that the vast majority of its dwelling units (120 units) have always been other than permanent residence purposes; and

WHEREAS, the applicant notes that while the original CO (No. 11583, issued October 22, 1926) described the building as a “hotel,” subsequent COs, including the current CO, describe the building as a Class A multiple dwelling; and

WHEREAS, on May 1, 2011, MDL § 120 was amended to permit the owners of certain Class A multiple dwellings to maintain existing dwelling units used for other than permanent residence purposes (i.e., hotel rooms) provided that, among other things, the building is made to comply with the MDL § 67 provisions relating to transient use and an amended CO is obtained to reflect such transient use; and

WHEREAS, pursuant to MDL § 120, such amended CO was to be obtained prior to May 1, 2013 and the Department of Buildings (“DOB”) was authorized to extend the time to obtain the CO until May 1, 2014, provided certain findings were satisfied; if a CO has not been obtained by May 1, 2014, under MDL § 120(3), the Board

may grant further extensions of time to obtain a [CO] in a case where there are circumstances beyond the applicant’s control or hardship in the way of obtaining such [CO] within the time allowed by [DOB] but no more than two such extensions of one year each shall be granted for a building and no such extension shall be granted unless the Board finds that there are no outstanding building or fire code violations of record at the property; and

WHEREAS, the applicant represents that the subject building is eligible to seek an amended CO for transient use pursuant to MDL § 120 and that it has taken certain steps towards obtaining such CO, including: (1) registering the building with DOB as Class A multiple dwelling with transient units; (2) filing an application with DOB for the amended CO; and (3) obtaining permits and installing required sprinkler and fire alarm systems; and

WHEREAS, the applicant notes that by letter dated April 16, 2013, DOB extended the time period to obtain the amended CO until May 1, 2014; and

WHEREAS, the applicant now seeks an extension of time to obtain the amended CO; and

WHEREAS, as noted above, the Board may grant an extension of time to obtain a CO pursuant to MDL § 120(3), provided it finds that: (1) there are circumstances beyond the applicant’s control or hardship in the way of obtaining the amended CO; and (2) the building has no outstanding Building Code or Fire Code violations; and

WHEREAS, the applicant states that the complexity of the required sprinkler and fire alarm work resulted in significant delays in obtaining permits, installing system elements, and testing such systems; in addition, the applicant represents that there were significant delays in obtaining Fire Department approvals due to the fact that the building did not already have a CO for transient use (the approvals were necessary for the amended CO and the Fire Department was requiring the amended CO prior to issuing its approvals); and

WHEREAS, therefore, the Board agrees with the applicant that there have been circumstances beyond its control in obtaining the amended CO; and

WHEREAS, as to whether there are open Building Code or Fire Code violations, by letter dated April 28, 2014, the Fire Department confirmed that there are no open Fire Code violations at the site, and by letter dated April 30, 2014, DOB confirmed that there are no open Building Code violations at the site; and

WHEREAS, the Board has reviewed the evidence in the record and determined that the requested extension of time is warranted; and

Therefore it is Resolved, that this application to extend the time to obtain a certificate of occupancy for use of 120 dwelling units within the subject Class A multiple dwelling for other than permanent residence purposes pursuant to Multiple Dwelling Law § 120, is granted and will expire on May 1, 2015.

(DOB Application No. 120829540)

Adopted by the Board of Standards and Appeals, May 13, 2014.

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

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

MINUTES

ZONING CALENDAR

299-12-BZ

CEQR #13-BSA-048M

APPLICANT – Goldman Harris LLC, for 544 Hudson Street, owner.

SUBJECT – Application October 18, 2012 – Variance (§72-21) to permit the construction of a 12-story commercial building, contrary to floor area (§43-12), height and setback (§43-43), and rear yard (§43-311/312) regulations. M1-5 zoning district.

PREMISES AFFECTED – 40-56 Tenth Avenue, east side of Tenth Avenue between West 13th and West 14th Streets, Block 646, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

Absent: Commissioner Montanez1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings, dated September 26, 2012, acting on Department of Buildings Application No. 120801052, reads in pertinent part:

ZR 43-311, ZR 42-312 – 20'-0" rear yard is required for interior portion of lot beyond 100'-0" of front line.

ZR 43-43 – Proposed front wall exceeds 85'-0", applicable sky exposure plane for both wide and narrow streets violated; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an M1-5 zoning district, the construction of a ten-story commercial building which does not comply with the zoning requirements for rear yard, height and setback, and sky exposure plane regulations contrary to ZR §§ 43-12, 43-311, 43-312, and 43-43; 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 November 26, 2013, January 14, 2014, February 11, 2014, and April 8, 2014, and then to decision on May 13, 2014; and

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

WHEREAS, the applicant initially proposed to construct a 12-story commercial building with a total floor area of 157,280 sq. ft. (6.68 FAR); and

WHEREAS, at hearing, the Board directed the applicant to reduce the requested relief and bulk of the building; and

WHEREAS, in response, the applicant revised the proposal to reflect a floor area of 145,483 sq. ft. (6.18 FAR); and

WHEREAS, at hearing, the Board directed the applicant

to further reduce the request for relief so as to reflect the minimum variance; and

WHEREAS, the current proposal reflects a ten-story commercial building with a total floor area of 117,705 sq. ft. (5.0 FAR), a height of 175 feet to the roof of the tenth floor and 199 feet to the top of the mechanicals, a Use Group 6 retail and restaurant use on the cellar, first and second floors, and Use Group 6 office use in the remainder of the building; and

WHEREAS, the proposed building will have the following non-complying parameters: a wall height of 185 feet with no setbacks above 85 feet to a total height of 199 feet after a 10'-0" setback (the minimum required setbacks are 20'-0" along West 13th Street and 15'-0" along West 14th Street and Tenth Avenue); intrusions into the sky exposure plane at West 13th Street, West 14th Street, and Tenth Avenue, and no rear yard (a rear yard with a minimum depth of 20'-0" is required in the 53'-0"-wide portion of the site along the West 13th Street frontage and the second-floor terrace is 4'-6" above the 23'-0" permitted obstruction threshold in the rear yard); and

WHEREAS, Community Board 2, Manhattan, reviewed the applicant's original proposal and recommended a disapproval based specifically an objection to an FAR waiver and to the remaining waivers unless the variance limits any eating and drinking establishment on the site to a maximum size of 3,000 sq. ft.; and

WHEREAS, State Senator Brad Hoylman and former City Council Speaker Christine Quinn provided testimony in opposition to the entire application; and

WHEREAS, the Greenwich Village Society for Historic Preservation provided testimony in opposition to the initial application, citing concerns about an increase in floor area but did not object to the other waivers; and

WHEREAS, the Greenwich Village Community Task Force testified in opposition to the FAR waiver in the original proposal and in support of the other aspects of this application; and

WHEREAS, the Standard Hotel provided testimony in opposition to the application; and

WHEREAS, a representative of the adjacent owner to the east (450 West 14th Street/the High Line Building) (the "High Line Building") provided testimony in opposition to the proposal, citing concerns about whether or not the site conditions were unique; that a complying building could realize a reasonable rate of return; that the proposed building is not compatible with the area context; and that the requested variance does not reflect the minimum necessary; and

WHEREAS, the site is an L-shaped lot with frontage on Tenth Avenue, West 13th Street and West 14th Street, in an M1-5 zoning district; and

WHEREAS, the site is currently occupied by two three-story buildings formerly used for meat processing that are proposed to be demolished; and

WHEREAS, the site has 206 feet of frontage on the east side of Tenth Avenue, 153 feet of frontage on the north side of

MINUTES

West 13th Street, 75 feet of frontage on the south side of West 14th Street, and a lot area of 23,541 sq. ft.; and

WHEREAS, the High Line, an elevated former railroad trestle, with a height of 25 feet, extends diagonally across the eastern part of the site, including the entire eastern lot line, such that the site has an irregular shape, as discussed below; and

WHEREAS, the City owns the High Line and has converted it into a publicly accessible open space; and

WHEREAS, the applicant states that it is adjacent to the Gansevoort Historic District, but not within it and that it is located within the New York State and National Register of Historic Places Gansevoort Historic District; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in compliance with applicable regulations: (1) the presence of the High Line, which cuts diagonally across the site, reduces the developable lot area, and contributes to the irregular-shape of the developable portion of the site; and (2) the subsurface conditions including poor soil and contamination; and

WHEREAS, as to the presence of the High Line and the site's irregular shape, the applicant notes that the High Line crosses diagonally over the eastern edge of the site, overlapping approximately ten percent of its area; and

WHEREAS, the applicant notes that no foundation work may take place in the area occupied by the High Line; and

WHEREAS, additionally, the applicant asserts that the physical constraints imposed by the High Line require the building to be narrower and taller than would otherwise be necessary on an unencumbered lot of its size; and

WHEREAS, the applicant asserts that the irregular shape with three separate street frontages and 50 percent of its interior lot line border traversed by the High Line contribute to premium construction costs and site inefficiencies; and

WHEREAS, further, the applicant notes that the northern half of the site beyond the centerline of the block is only 75 feet deep, the shallowest site on the block; and

WHEREAS, the applicant states that the shallow depth and the setback requirements result in small floor plates above the initial setback for an as of right building; and

WHEREAS, the applicant provided a floor plate study which reflects that the functional floor plate area is reduced to widths of 21 feet and 17 feet above the initial setback; and

WHEREAS, the applicant compares this to an as-of-right building on a site without the High Line and office use floor plates could reach approximately 22,000 sq. ft. compared to 12,878 sq. ft. for the proposed; and

WHEREAS, as to the uniqueness of the condition, the applicant asserts that large portions of the Special West Chelsea District north of West 16th Street were rezoned from M1-5 to commercial districts in which residential use is permitted at base FARs ranging from 5.0 to 7.5, up to 6.0 to 10.0, with bonuses; and

WHEREAS, the applicant notes that many West Chelsea District sites are also permitted to transfer unusable floor area

to other sites; and

WHEREAS, the applicant asserts that the site is the last undeveloped parcel surrounding the Washington Grasslands section of the High Line, which stretches from West 12th Street to West 13th Street; and

WHEREAS, the applicant states that every other site is either completely covered by the High Line or not a soft site; and

WHEREAS, the applicant states that the waivers are required to offset premium costs associated with construction on the irregularly-shaped site traversed by the High Line and to allow for a more efficient building design that provides for the building mass to be pulled away from the High Line and towards Tenth Avenue; and

WHEREAS, several of the High Line's support columns extend to grade within the boundaries of the subject site, such that any use below it is limited; and

WHEREAS, the applicant states that due to the physical constraints posed by the High Line, a resultant as-of-right building would provide an inefficient building envelope, requiring an irregularly-shaped footprint; and

WHEREAS, further, the High Line limits the applicant's ability to position the building on the site, thus the applicant is unable to distribute the bulk within a complying envelope that has both reasonably-sized and uniform floor plates, due to the presence of the High Line across ten percent of the site; and

WHEREAS, the applicant states that compliance with the rear yard regulations would not only result in irregular and less marketable floor plates, but would also leave a small, isolated yard area at the northeast corner of the subject site that would be difficult to use and maintain; and

WHEREAS, the applicant further states that much of the subject rear yard is already encumbered by the High Line, and that because the proposed building will not span the High Line, light and air will be provided to occupants of the building and neighboring buildings; and

WHEREAS, the applicant represents that even with the bulk waivers, the building is taller and narrower than a building on a site not traversed by the High Line due to the reduced developable portion of the site; and

WHEREAS, the applicant represents that larger floor plates are required to achieve greater efficiency, as the small size of the as-of-right floor plates make it difficult to amortize construction costs; and

WHEREAS, as to the subsurface soil conditions, the applicant states that the site is burdened by contamination and poor soil conditions which require additional excavation, foundation, and underpinning measures; and

WHEREAS, specifically, the applicant states that its Phase I Report reflects that a gas station north of the site across West 14th Street has had a gasoline spill, with gasoline-related contaminants remaining in the soil and groundwater at significant concentration; and

WHEREAS, the applicant states that due to high water table conditions at the site and the need for dewatering during excavation and construction, contaminated water will be

MINUTES

drawn up through the subsurface and will require costly treatment; and

WHEREAS, the applicant states that the groundwater contamination associated with the gasoline spill will require a vapor barrier and a sub-slab depressurization system as part of the foundation design; and

WHEREAS, the applicant represents that there are at least two unregistered underground storage tanks (USTs) located under the Tenth Avenue sidewalk, which must be decommissioned and removed; and

WHEREAS, the applicant states that New York State Department of Environmental Conservation assigned a spill number related to the USTs and the Phase II reflects that approximately 200 tons of soil must be excavated from the site; and

WHEREAS, additionally, the applicant states that the existing buildings contain refrigerant piping lining the walls and other potential hazardous materials that require special handling and disposal; and

WHEREAS, the applicant states that the site is burdened by poor soil conditions that require additional excavation, foundation, and underpinning measures; and

WHEREAS, specifically, the applicant submitted a report from its engineering consultant stating that soil borings indicate that sand is located on the site in the area and is likely liquefiable; and

WHEREAS, accordingly, the applicant states that the piles will likely need to extend through this liquefiable zone and that pile design cannot rely on friction between the soil and pile within the liquefiable zone; such piles are longer and more costly than typical piles for comparable sites in the area; and

WHEREAS, the applicant states that the adjacent buildings to the west and north will require underpinning which, due to the poor soil conditions, will likely involve drilled piles spaced every eight feet, with the foundations of the adjacent structures supported on new grade beams cast against/under the existing foundations and spanning between the new piles; and

WHEREAS, as to the uniqueness of the soil conditions, the applicant states that although a similar zone of probable liquefaction exists nearby, other recent construction such as the Standard Hotel is within a "liquefaction unlikely zone;" and

WHEREAS, the applicant states that the Standard Hotel is supported on drilled micro-piles that obtain capacity via friction in the sand layer and the columns that support the hotel are supported by higher capacity drilled mini caissons bearing in the bedrock; but, in contrast, the piles for the subject building would have to extend through the liquefiable zone and require piles that are longer and more costly than comparable piles on the Standard Hotel site; and

WHEREAS, in support of these assertions, the applicant submitted copies of soil reports related to the variance for 437-447 West 13th Street under BSA Cal. No. 314-08-BZ in 2009 and the Standard Hotel; and

WHEREAS, the applicant asserts that the requested waivers are required to allow for a more efficient building with more rentable office area at a complying FAR; and

WHEREAS, the applicant states that the design with higher floor to ceiling heights and a greater percentage of perimeter office area, which allows the building to generate sufficient income to overcome the premium construction costs of approximately \$6.3 million and inefficiencies associated with the unique conditions of the site; and

WHEREAS, as to the uniqueness of these soil conditions, the applicant's research reflects that recent developments in the vicinity of the site were either able to utilize previously existing building foundations for the new construction, or were not located in a probable liquefiable zone, and therefore could use shorter piles than the subject site; and

WHEREAS, the High Line Building asserts that the West 13th Street variance, which relied on certain similar hardship conditions as the subject site, undermines the applicant's claims of uniqueness; and

WHEREAS, the Board disagrees, noting that a finding of uniqueness, does not require that a given parcel be the only property so burdened by the condition(s) giving rise to the hardship, only that the condition is not so generally applicable as to dictate that the grant of a variance to all similarly situated properties would effect a material change in the district's zoning (see *Douglaston Civ. Assn. v. Klein*, 51 N.Y.2d 963, 965 (1980)); and

WHEREAS, based upon the above, the Board finds that the presence of the High Line, the irregular shape of the developable portion of the lot, and the poor soil conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant initially submitted a feasibility study that analyzed: (1) a complying commercial development on the subject lot; (2) the original 6.68 FAR commercial development with height and setback waivers; (3) a complying commercial development on a lot without a hardship; (4) a lesser variance scenario with only an FAR waiver; and (5) a lesser variance scenario with only height and setback waivers; and

WHEREAS, the applicant concluded that only the 6.68 FAR scenario would realize a reasonable rate of return; and

WHEREAS, in response to the Board's concerns, the applicant revised its analysis to include first a 6.18 FAR scenario and ultimately the proposed 5.0 FAR scenario; and

WHEREAS, the Board also raised concerns about assigning premium costs to the proposed design choices not associated with the hardship at the site; and

WHEREAS, in response, the applicant excluded any premium costs associated with specific design choices; and

WHEREAS, the High Line Building submitted a financial analysis which questioned the applicant's conclusions including, specifically, the capitalization rate, the cost valuations and the underlying formulas; and

MINUTES

WHEREAS, in response, the applicant notes that due to the risk in speculative commercial development, a higher, more conservative, capitalization rate is appropriate; the applicant states that its data source is derived from surveys of investors in similar development projects; and

WHEREAS, the applicant concluded that none of the as-of-right scenarios would result in a reasonable return, due to the unique physical conditions of the site and the resulting premium construction costs, but that the proposed building would realize a reasonable return and has submitted evidence in support of that assertion; and

WHEREAS, the Board has reviewed the applicant's revised analysis and assumptions and finds that they are consistent with financial analyses that the Board has accepted for similar variance applications; and

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

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

WHEREAS, as to bulk, the applicant represents that the proposed height of 175 feet to the roof of the tenth floor and 199 feet to the top of the rooftop mechanicals and 5.0 FAR are compatible with the neighborhood character; and

WHEREAS, the applicant notes that 5.0 FAR is permitted pursuant to underlying zoning district regulations; and

WHEREAS, the applicant notes that the Standard Hotel, an 18-story hotel building located immediately south of the subject site is built to a height of 271 feet; and

WHEREAS, the applicant represents that the scale and bulk of the proposed building is similar to that of the Standard Hotel and the High Line Building, a 14-story retail office building northwest of the project site, with a height of 221 feet; and

WHEREAS, the applicant asserts that the proposed design is more compatible with the surrounding area than a complying building would be as it will protect easterly and southerly light and air to this segment of the High Line and protects southwesterly light, air, and views for this section of the High Line; and

WHEREAS, the applicant states that although the Environmental Assessment Statement does not predict any significant environmental impacts to the High Line from construction at the site due to the fact that the Washington Grasslands area is planted with shade-tolerant grasses and flowers, the applicant proposes to carve out a portion of the building to maintain more daylight on the High Line than would be provided by the complying design without a carve out; and

WHEREAS, the applicant notes that the proposed design sets back the portion of the building closest to the High Line to preserve the light and air access; and

WHEREAS, the applicant states that its engineering consultant performed a study with three-dimensional models of the proposal, an as-of-right building; and a building with a complying setback/non-complying FAR building to determine the annual potential for solar exposure; and

WHEREAS, the applicant states that the study depicts the total number of hours of direct sunlight that could potentially reach the Washington Grasslands section under each scenario and concluded that the as-of-right and FAR variance buildings had more significant impact on the High Line than the proposal which shifts the bulk of the building to the Tenth Avenue frontage and includes an angled carve-out on the lower levels; and

WHEREAS, the applicant notes that the height and setback waivers are primarily attributed to the design which pulls the bulk of the building off of the High Line and onto Tenth Avenue, a wide street; and

WHEREAS, as noted, the majority of the required rear yard at the interior corner of the site is actually traversed by the High Line and only a very small portion remains that would be impractical to remain undeveloped; and

WHEREAS, due to the site's location within the State/National Register Gansevoort Market Historic District, the Landmarks Preservation Commission (LPC) confirmed its review of the proposed demolition of the existing buildings on the site by letter dated December 13, 2013; and

WHEREAS, the High Line Building raised concerns that the applicant has not established a context for the FAR or building height and that a proposed outdoor commercial space would not be compatible with the High Line; and

WHEREAS, the Board is not persuaded by the applicant's assertions and finds that the applicant has established a context for the proposed FAR and building height; specifically, the Board notes that the revised proposal for 5.0 FAR complies with zoning district regulations and that, as noted above, the High Line Building is among those with heights greater than 199 feet in the immediate vicinity; the Whitney Museum also has a proposed height of 199 feet; and

WHEREAS, the Board notes that the as-of-right building could have greater impact on the High Line Building by obscuring lot line windows and reaching a height of 267 feet; and

WHEREAS, in contrast, the proposed building sets back from the High Line Building by approximately 16 feet along its western façade; and

WHEREAS, as to the proposed outdoor commercial space, the Board notes that it is a conforming use in the zoning district and that the height of the outdoor terrace was designed to be compatible with the High Line and only requires a waiver for the portion that is within the required rear yard; 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

MINUTES

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 due to the proximity of the High Line, the irregularity of the subject lot, and the subsurface soil conditions on the site; and

WHEREAS, as noted above, the applicant initially proposed to construct a building with a floor area of floor area of 157,280 sq. ft. (6.68 FAR), which required a waiver of the FAR due to the zoning district maximum of 5.0 FAR; and

WHEREAS, the High Line Building raised concerns that as the FAR was reduced, the height should also have been reduced in order to reflect the minimum variance; and

WHEREAS, the Board notes that the applicant does not seek a height waiver and that the proposed building height is 20 to 45 feet lower than that of the High Line Building; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 13BSA048M, dated May 5, 2014; and

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

WHEREAS, the site is located in the State/National Register Gansevoort Market Historic District, and the buildings on the site are to be demolished for the proposed project; and

WHEREAS, the New York City Landmarks Preservation Commission (“LPC”) has reviewed the Environmental Assessment Statement (“EAS”) and the Historical Documentation Alternatives Analysis and Mitigation Plan, dated May 2, 2014 and concurs with the findings that there are no feasible or prudent alternatives to demolition; and

WHEREAS, LPC has requested a Historic American Building Survey (“HABS”) Level II documentation for buildings to be demolished on the site and design review of the proposed new building; and

WHEREAS, according to the EAS and the September 2011 Remedial Action Plan, the site has been submitted for entry into the New York City Brownfield Cleanup Program

administered by the Office of Environmental Remediation (“OER”); and

WHEREAS, based on the level of site contamination and the applicant’s proposal to construct subject to BCP approval, the Department of Environmental Protection recommends that an E designation for hazardous materials be placed on the site as part of the approval; 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 Type I 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, in an M1-5 zoning district, the construction of a ten-story commercial building which does not comply with the zoning requirements for rear yard, height and setback, and sky exposure plane regulations contrary to ZR §§ 43-12, 43-311, 43-312, and 43-43, *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received March 19, 2014”– (21) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: a maximum height of 175 feet to the roof of the tenth floor; a maximum total height of 199 feet, including rooftop mechanicals; and a maximum total floor area of 117,705 sq. ft. (5.0 FAR), as reflect on the BSA-approved plans;

THAT prior to the issuance by DOB of permits for demolition of the buildings on the site, LPC will have reviewed and approved a scope of work for HABS documentation and reviewed the design of the proposed building;

THAT an E designation (E-334) is placed on the subject site to ensure proper hazardous materials remediation;

THAT prior to the issuance by DOB of permits that involve any soil disturbance, the applicant will receive approvals from OER for the hazardous materials remediation plan and construction-related health and safety plan;

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

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

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

MINUTES

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

Adopted by the Board of Standards and Appeals, May 13, 2014.

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 – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0

Absent: Commissioner Montanez1

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner of the New York City Department of Buildings (“DOB”), dated August 28, 2013, acting on DOB Application No. 320835209, reads in pertinent part:

Proposed floor area ratio is contrary to ZR 23-141;

Proposed open space ratio is contrary to ZR 23-141;

Proposed rear yard is contrary to ZR 23-47; and

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

WHEREAS, a public hearing was held on this application on March 4, 2014, after due notice by publication in *The City Record*, with continued hearings on April 1, 2014 and April 29, 2014, and then to decision on May 13, 2014; and

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

WHEREAS, Community Board 14, Brooklyn, recommends disapproval of the application; and

WHEREAS, the subject site is located on the east side of East 22nd Street, between Avenue K and Avenue L, within an R2 zoning district; and

WHEREAS, the site has 60 feet of frontage along East 22nd Street and 6,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a single-family home with 2,728 sq. ft. of floor area (0.45 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 to increase the floor area of the home from 2,728 sq. ft. of floor area (0.45 FAR) to 6,437 sq. ft. (1.07 FAR); the maximum permitted floor area is 3,000 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to decrease the open space ratio from 165.75 percent to 56.21 percent; the minimum required open space ratio is 150 percent; and

WHEREAS, the applicant also seeks to decrease its rear yard depth to from 33’-9½” to 22’-4” (a rear yard with a minimum depth of 30’-0” is required); and

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

WHEREAS, the applicant asserts that the proposed 1.07 FAR is consistent with the bulk in the surrounding area; and

WHEREAS, in support of this statement, the applicant submitted a study of homes in the immediate vicinity (three of the four adjacent blocks and the subject block); according to the study, 17 homes have an FAR of 1.0 or greater, including six that have an FAR of 1.07 or greater and eight that were enlarged pursuant to a special permit from the Board; and

WHEREAS, at hearing, the Board expressed concerns regarding: (1) the compatibility of the height of the proposed home with the existing homes along East 22nd Street; and (2) the proposed canopy; and

WHEREAS, in response, the applicant amended its plans to: (1) reduce the proposed building height from 38’-11¾” to 36’-0”; and (2) note that the canopy is subject to DOB approval; and

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

WHEREAS, 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 §§ 73-03 and 73-622, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, and rear yard, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to

MINUTES

the objections above-noted, filed with this application and marked "Received April 14, 2014"–(17) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 6,437 sq. ft. (1.07 FAR), a minimum open space ratio of 56.21 percent, side yards with minimum widths of 5'-0" and 10'-2", a minimum rear yard depth of 22'-4", and a maximum building height of 36'-0", as illustrated on the BSA-approved plans;

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

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, May 13, 2014.

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 floor area (§23-141B) regulations. R4B zoning district.

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

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0

Absent: Commissioner Montanez1
THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner of the Department of Buildings ("DOB"), dated August 6, 2013, acting on DOB Application No. 420867887, reads in pertinent part:

Proposed enlargement of existing three-story attached two-family dwelling in an R4B zoning district exceeds permitted floor area by 180 sq. ft., contrary to Sections 23-141 and 54-31; and

WHEREAS, this is an application under ZR §§ 73-03 and 73-621, to permit, within an R4B zoning district, the enlargement of an existing two-family home, which does not comply with the zoning requirements for floor area, contrary

to ZR §§ 23-141 and 54-31; and

WHEREAS, a public hearing was held on this application March 25, 2014, after due notice by publication in *The City Record*, with a continued hearing on April 29, 2014, and then to decision on May 13, 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 6, Queens, recommends approval of this application; and

WHEREAS, the subject site is located on the north side of Booth Street, between 66th Avenue and 67th Avenue, within an R4B zoning district; and

WHEREAS, the site has 20 feet of frontage along Booth Street and 2,000 sq. ft. of lot area; and

WHEREAS, the site is currently occupied by a three-story, two-family home with 1,868.76 sq. ft. of floor area (0.93 FAR); and

WHEREAS, the applicant proposes to increase the floor area of the building from 1,868.76 sq. ft. of floor area (0.93 FAR) to 1,972.99 (0.99 FAR); the maximum permitted FAR of the site is 0.90; 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 an excerpt from Volume 9 of the Queens Sanborn Map (covering 1982-1984) to demonstrate that the building existed as a residence well before June 30, 1989, which is the operative date within the subject R4B 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 FAR does not exceed 110 percent of the maximum permitted (0.90 FAR); and

WHEREAS, the applicant represents that the proposed lot coverage (0.99 percent) is 110 percent of the maximum permitted (0.90 FAR); and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 73-621; and

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

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

WHEREAS, at hearing, the Board noted that the proposed FAR calculations, including the noted deductions,

MINUTES

are subject to DOB approval; and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-621 and 73-03.

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 under ZR §§ 73-03 and 73-621 to permit, within an R4B zoning district, the enlargement of an existing two-family home, which does not comply with the zoning requirements for floor area, contrary to ZR §§ 23-141 and 54-31; on condition that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 16, 2014"- (3) sheets; and on further condition:

THAT the parameters of the proposed building will be limited to: three stories, two dwelling units, a maximum floor area of 1,972.99 (0.99 FAR), a maximum building height of 27'-0", 41 percent lot coverage, and a minimum rear yard depth of 39'-9", as per the BSA-approved plans;

THAT the FAR calculations will be as reviewed and approved by DOB;

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, May 13, 2014.

263-12-BZ & 264-12-A

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

SUBJECT – Application September 4, 2012 – Variance (§72-21) to permit senior housing (UG 2), contrary to use regulations (§42-00).

Variance (Appendix G, Section BC G107, NYC Administrative Code) to permit construction in a flood hazard area which does not comply with Appendix G, Section G304.1.2 of the Building Code. M1-1 zoning district.

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

COMMUNITY BOARD #10 & 13BX

ACTION OF THE BOARD – Laid over to May 20, 2014, at 10 A.M., for deferred decision.

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 a transient hotel and community facility use (*North Queens Medical Center*), contrary to use regulations (§22-10), and Special Permit (§73-66) to allow projection into flight obstruction area of La Guardia airport. 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

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson ...4

Negative:.....0

Absent: Commissioner Montanez.....1

ACTION OF THE BOARD – Laid over to June 17, 2014, at 10 A.M., for decision, hearing closed.

210-13-BZ

APPLICANT – Sheldon Lobel, P.C., for MDL+S LLC, owner; Richard Bundy, lessee.

SUBJECT – Application July 8, 2013 – Variance (§72-21) to legalize the operation of a physical culture establishment (*The Physique*). C1-4/R7A zoning district

PREMISES AFFECTED – 43-12 50th Street, Located on the west side of 50th Street between 43rd Avenue and Queens Boulevard. Block 138, Lot 25, Borough Queens.

COMMUNITY BOARD #2Q

ACTION OF THE BOARD – Laid over to June 17, 2014, at 10 A.M., for adjourned hearing.

216-13-BZ & 217-13-A

APPLICANT – Rampulla Associates Architects, for 750 LAM Realty, LLC c/o Benjamin Mancuso, owners; Puglia By The Sea, Inc. c/o Benjamin Mancuso, lessees.

SUBJECT – Application July 17, 2013 – Variance (§72-21) to demolish an existing restaurant damaged by Hurricane Sandy and construct a new eating and drinking establishment with accessory parking for 25 cars, contrary to use (§23-00) regulations, and located in the bed of the mapped street, (*Boardwalk Avenue*), contrary to General City law Section 35. R3X (SRD) zoning district.

MINUTES

PREMISES AFFECTED – 750 Barclay Avenue, west side of Barclay Avenue, 0' north of the corner of Boardwalk Avenue, Block 6354, Lot 40, 7, 9 & 12, Borough of Staten Island.

COMMUNITY BOARD #3SI

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

155-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Cong Kozover Zichron Chaim Shloime, owners.

SUBJECT – Application May 15, 2013 – Variance (§72-21) to permit the enlargement of an existing synagogue (*Congregation Kozover Sichron Chaim Shloime*) and rabbi's residence (UG 4) and the legalization of a Mikvah, contrary to floor area (§24-11), lot coverage (§24-11), wall height and setbacks (§24-521), front yard (§24-34), side yard (§24-35), rear yard (§24-36), and parking (§25-18, 25-31) requirements. R3-2 zoning district.

PREMISES AFFECTED – 1782-1784 East 28th Street, west side of East 28th Street between Quentin road and Avenue R, Block 06810, Lots 40 & 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to June 24, 2014, at 10 A.M., for continued hearing.

225-13-BZ

APPLICANT – Eric Palatnik, P.C., for Yitta Neiman, owner.

SUBJECT – Application July 25, 2013 – Variance (§72-21) to permit the development of a three-family, four-story residential building, contrary to use regulations (§42-00). M1-2 zoning district.

PREMISES AFFECTED – 810 Kent Avenue, east Side of Kent Avenue between Little Nassau Street and Park Avenue, Block 1883, Lot 35, 36, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to August 19, 2014, at 10 A.M., for continued hearing.

233-13-BZ

APPLICANT – Law office of Fredrick A. Becker, for Kayvan Shadrouz, owner.

SUBJECT – Application August 12, 2013 – Special Permit (§73-622) for an enlargement of an existing single family residence, contrary to floor area, lot coverage and open space (§23-141); side yards (§23-461) and less than the required rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 2413 Avenue R, North side of Avenue R between East 24th Street and Bedford Avenue. Block 6807, Lot 48. Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson ...4

Negative:.....0

Absent: Commissioner Montanez.....1

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

284-13-BZ

APPLICANT – Warshaw Burstein, LLP, for 168-42 Jamaica LLC, owner; 168 Jamaica Avenue Fitness Group, LLC, lessee.

SUBJECT – Application October 9, 2013 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) on the cellar and the first floor of the building. R6-A/C2-4 (Downtown Jamaica) zoning district.

PREMISES AFFECTED – 168-42 Jamaica Avenue, south side of Jamaica Avenue approximately 180 feet east of the intersection formed by 168th Place and Jamaica Avenue, Block 10210, Lot 22, Borough of Queens.

COMMUNITY BOARD #12Q

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

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 July 15, 2014, at 10 A.M., for deferred decision.

316-13-BZ

APPLICANT – Slater & Beckerman, PC, for 210 Joralemon Street Condominium, owner; Yoga Works, Inc., lessee.

SUBJECT – Application December 9, 2013 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Yoga Works*) in the cellar and first floor of the building. C5-2A (Special Downtown Brooklyn) zoning district.

PREMISES AFFECTED – 210 Joralemon Street, southeast corner of Joralemon Street and Court Street, Block 266, Lot 7501 (30), Borough of Brooklyn.

COMMUNITY BOARD #3BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson ...4

MINUTES

Negative:.....0

Absent: Commissioner Montanez.....1

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

16-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Saul Greenberger & Rochelle Greenberger, owners.

SUBJECT – Application January 27, 2014 – Special Permit (§73-621) for the enlargement of an existing one family residence, contrary to floor area, lot coverage and open space (§23-141). R3-2 zoning district.

PREMISES AFFECTED – 1648 Madison Place, west side of Madison Place between Avenue P and Quentin Road, Block 7701, Lot 59, Borough of Brooklyn.

COMMUNITY BOARD #18BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson ...4

Negative:.....0

Absent: Commissioner Montanez.....1

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

20-14-BZ

APPLICANT – Sandy Anagnostou, Assoc, AIA, for 310-312 Owners Corp. LLC, owner; John Vatis, NHMME, lessee.

SUBJECT – Application February 3, 2014 – Special Permit (§73-36) to allow the operation of a physical culture (*Massage Envy*) establishment on the first floor of an existing mixed use building. C1-9A zoning district.

PREMISES AFFECTED – 312 East 23rd Street, south side of East 23rd Street 171' east from the corner of 2nd Avenue and East 23rd Street, Block 928, Lot 7502, Borough of Manhattan.

COMMUNITY BOARD #10M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson ...4

Negative:.....0

Absent: Commissioner Montanez.....1

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

Jeff Mulligan, Executive Director

MINUTES

*CORRECTION

These resolutions adopted on April 8, 2014, under Calendar No. 207-13-BZ and printed in Volume 99, Bulletin No 15, is hereby corrected to read as follows:

207-13-BZ

APPLICANT – Harold Weinberg, P.E., for Harold Shamah, owner.

SUBJECT – Application July 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); and less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 177 Hastings Street, east side of Hastings Street, between Oriental Boulevard and Hampton Avenue, Block 8751, Lot 456, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....4
Negative:.....0
Absent: Vice Chair Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner of the New York City Department of Buildings (“DOB”), dated March 14, 2014, acting on DOB Application No. 320864695, reads in pertinent part:

The proposed enlargement creates new non-compliances, as follows:

1. Increases the existing degree of non-compliance with reference to floor area and is contrary to sections 23-141;
2. Increases the existing degree of non-compliance for floor area ratio and is contrary to sections 23-141;
3. Increases the existing non-compliance for wall height contrary to sections 23-631;
4. Increase the existing non-compliance for rear yard and is contrary to sections 24-37; and

WHEREAS, this is an application under ZR § 73-622, to permit, within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), perimeter wall height, and rear yard, contrary to ZR §§ 23-141, 23-47, and 23-631; and

WHEREAS, a public hearing was held on this application on January 28, 2014, after due notice by publication in *The City Record*, with a continued hearing on March 25, 2014, and then to decision on April 8, 2014; and

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

Commissioner Hinkson, and Commissioner Ottley-Brown; and

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

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

WHEREAS, the site has a lot area of 4,000 sq. ft. and is occupied by a single-family home with a floor area of 3,612 sq. ft. (0.9 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 3,612 sq. ft. (0.9 FAR) to 4,044.8 sq. ft. (1.01 FAR); the maximum permitted floor area is 2,000 sq. ft. (0.5 FAR), however, a 20 percent increase in FAR pursuant to ZR § 23-141(b)(1) is available, resulting in a maximum permitted floor area of 2,400 sq. ft. (0.6 FAR); and

WHEREAS, the applicant also seeks to decrease its rear yard depth from 25’-9” to 20’-0”; a minimum rear yard depth of 30’-0” is required; and

WHEREAS, finally, the applicant seeks to maintain and extend its existing, non-complying perimeter wall height of 24’-0”; 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 (24’-0”) is equal to the height of both adjacent buildings’ non-complying perimeter walls facing the street 24’-0”); the applicant submitted the adjacent buildings’ certificates of occupancy, which indicate that they and the subject building are substantially identical and were constructed at the same time with the same perimeter wall height facing the street; 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 1.01 FAR is consistent with the bulk in the surrounding area and that, within a 200-ft. radius of the site, every home has been enlarged in recent years; 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 impair the future use and development of the surrounding area; and

MINUTES

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 R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR") and rear yard, contrary to ZR §§ 23-141 and 23-47; *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 April 1, 2014"- (9) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 4,044.8 sq. ft. (1.01 FAR), a maximum perimeter wall height of 24'-0", and a minimum rear yard depth of 20'-0", as illustrated on the BSA-approved plans;

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

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, April 8, 2014.

The resolution have been amended to correct the floor area which read: ...“3,910 sq. ft. (0.98 FAR)”. Now reads: ...“4,044.8 sq. ft. (1.01 FAR)” Corrected in Bulletin No. 20, Vol. 99, dated May 21, 2014.

*CORRECTION

The resolution adopted on April 29, 2014, under Calendar No. 246-13-BZ and printed in Volume 99, Bulletin Nos. 16-18, is hereby corrected to read as follows:

246-13-BZ

CEQR #14-BSA-025K

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Lutheran Medical Center, owner.

SUBJECT – Application August 21, 2013 – Variance (§72-21) to permit the enlargement of an existing ambulatory diagnostic treatment health facility (UG4), contrary to floor area (§24-11) and rear yard (§24-36) regulations. R6B/C4-3A zoning districts.

PREMISES AFFECTED – 514 55th Street, south side of 49th Street, 90' east of intersection of 5th Avenue and 49th Street, Block 784, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #7BK

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 July 22, 2013, acting on DOB Application No. 320590339, reads in pertinent part:

1. Floor area in R6B lot portion exceeds the maximum permitted; contrary to ZR 24-11;
2. Enlargement in the required rear yard is not permitted; contrary to ZR 24-36; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site located partially within an R6B zoning district and partially within a C4-3A zoning district, the horizontal enlargement of the basement and first story of a four-story ambulatory diagnostic and treatment health care facility (Use Group 4) that exceeds the maximum permitted floor area ratio ("FAR") and does not provide the minimum required rear yard in the R6B portion of the site, contrary to ZR §§ 24-11 and 24-36; and

WHEREAS, a public hearing was held on this application on March 11, 2014, after due notice by publication in the *City Record*, with a continued hearing on April 8, 2014, and then to decision on April 29, 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, this application is brought on behalf of Lutheran HealthCare, a not-for-profit institution; and

MINUTES

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

WHEREAS, the subject site is a rectangular interior lot located on the south side of 49th Street between Fifth Avenue and Sixth Avenue, partially within an R6B zoning district and partially within a C4-3A zoning district; and

WHEREAS, the site has 191 feet of frontage along 49th Street, a lot depth of 100.17 feet, and a lot area of 19,131 sq. ft.; and

WHEREAS, the site is divided by a zoning district boundary, with the westernmost ten feet of the site for its full depth is located within a C4-3 zoning district and the remainder of the lot located within an R6B zoning district; and

WHEREAS, the site is occupied by a four-story ambulatory diagnostic and treatment health care facility (Use Group 4) with 35,378 sq. ft. of floor area (1.8 FAR); the facility is operated by Lutheran HealthCare (“LHC”) and known as the Sunset Terrace Family Health Center (“STFHC”); and

WHEREAS, the applicant notes that the facility was completed in 1960 and underwent its only major renovation in 1977; and

WHEREAS, the applicant proposes to enlarge the basement and first story at the rear of the building, which will increase the floor area from 35,378 sq. ft. (1.8 FAR) to 40,912 sq. ft. (2.14 FAR); and

WHEREAS, the applicant states that the basement enlargement will comprise 2,637 sq. ft. of floor area and provide space for offices, staff room, storage and mechanical equipment; the first story enlargement will comprise 2,997 sq. ft. of floor area and will provide space for examination rooms, additional offices, work stations, and restrooms; and

WHEREAS, the applicant states that a variance is requested because the proposed enlargement will exceed the maximum permitted floor area for the site (39,263 sq. ft. (2.05 FAR)) and will extend the existing non-complying rear yard depth of 11 feet for the full width of the building; and

WHEREAS, the applicant notes that LHC, which operates STFHC, has served the ethnically diverse, medically underserved neighborhoods of central and southwest Brooklyn for more than 40 years, and that the official LHC service area includes approximately 700,000 residents (28 percent of the total Brooklyn population); and

WHEREAS, the applicant states that STFHC is facing a large influx of patients due to three factors: (1) the closure or threatened closure of nearby health systems and hospitals, such as Long Island Hospital, Brookdale Hospital, and Interfaith Medical Center; (2) the initiation of the New York Health Home system (under the requirements of the New York State Medicaid Redesign Team), which requires coordination of mental illness treatment with medical treatment; and (3) the implementation of family homeless services; and

WHEREAS, the applicant represents that the following are unique physical conditions inherent to the zoning lot, which, in accordance with ZR § 72-21(a), create practical

difficulties and unnecessary hardship in developing the site in strict conformance with underlying zoning regulations: (1) the history of community facility use at the site and obsolescence of the building at the site for such use (including the outmoded configuration of its floorplates); and (2) the programmatic needs of LHC; and

WHEREAS, as noted above, the applicant states that LHC has been providing health services at the site for decades in a building that was constructed in 1960; as such, community facility use at the site is well-established; and

WHEREAS, the applicant notes that the building was constructed without a cellar; therefore, it must use above-grade spaces for common below-grade uses such as storage of materials and mechanical equipment; and

WHEREAS, in addition, the applicant states that the building was last renovated in 1977 and its layouts include redundancies and inefficiencies (such as a single entrance for all patients), which interfere with LHC’s ability to provide quality health care; and

WHEREAS, the applicant states that the building must expand to satisfy LHC’s programmatic needs, including providing: (1) proper separation of offices, storage space, and staff rooms from patient services; (2) expansion of the primary care areas; (3) establishment of dental care program space; (4) expansion of behavioral health patient areas; (5) separation of patients by health care need; and (6) for the elimination of the joint reception area, which is undesirable given the diversity of the services offered by LHC; and

WHEREAS, the applicant also states that remaining in the building is critical to the care STFHC provides to the surrounding community because many of its patients live nearby and cannot travel long distances for services; and

WHEREAS, the applicant contends that providing some services at the site and others offsite would substantially interfere with patient care, require duplication of non-patient spaces, services, and staff, and be inconsistent with the recommendations of the New York State Medicaid Redesign Team; and

WHEREAS, similarly, the applicant represents that relocating the facility entirely is not possible because there are no comparable buildings or sites within Sunset Park and that the vast majority of lots in the area (both vacant and occupied) have lot areas of approximately 2,000 sq. ft.—well below the size that would be needed to accommodate a suitable building for STFHC; and

WHEREAS, the applicant explored the feasibility of the following as-of-right development scenarios: (1) a three-story rear enlargement for a depth of 14 feet (“Scenario 1”); (2) a four-story enlargement to the west side of the building (“Scenario 2”); and (3) a complete renovation of the entire building, including significant demolition and reconstruction (“Scenario 3”); and

WHEREAS, the applicant states that Scenario 1 would not allow for the additional examination rooms and corridors due to its limited depth and it would not alleviate the entrance bottleneck caused by the single patient entrance; in addition, it

MINUTES

would require the placement of medical examination and dental examination rooms on separate levels and would prevent the consolidation of staff spaces and instead separate such spaces by several stories with only one elevator connecting them; and

WHEREAS, the applicant states that Scenario 2 would result in approximately 60 percent less new program space than the proposal, resulting in a reduction and/or elimination of programs and funding; further, Scenario 2 would require reconfiguration of the boiler room, relocation of an egress stair, and the installation of a new sprinkler system, at significant cost; and

WHEREAS, as for Scenario 3, the applicant represents that it is not viable due to the costs involved and the significant disruptions in patient care; and

WHEREAS, accordingly, the applicant asserts that the building's inefficiencies and LHC's programmatic needs are best addressed with the proposed horizontal enlargement; and

WHEREAS, based upon the above, the Board finds that the history of community facility use at the site and the obsolescence of the building, when considered in conjunction with the programmatic needs of LHC, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

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

WHEREAS, the applicant represents that the neighborhood is characterized by a mix of low- to medium-density residential, community facility, and, where permitted, commercial uses; and

WHEREAS, the applicant states that the site has been occupied by a medical facility for more than 50 years, that Use Group 4 is permitted as-of-right in the subject zoning districts (R6B and C4-3A), and that the operator of the facility is an organization with significant ties to the community; and

WHEREAS, as to adjacent properties, the applicant states that there are mixed residential and commercial buildings along Fifth Avenue to the west of the site, and residential buildings to the north, east, and south of the site; and

WHEREAS, the applicant states that the proposed enlargement is a continuation of the building's existing, non-complying rear yard depth of 11 feet and that its impact upon the residences to the south is mitigated by the fact that those buildings provide complying rear yards with depths of 30 feet and are separated from the site by a retaining wall and a fence; and

WHEREAS, as to the FAR waiver, the applicant asserts

that while it is modest (the proposal seeks 0.09 FAR greater than is permitted at the site), a noted above, the additional floor area is essential to LHC's ability to carry out its programmatic needs; further, the additional floor area will be located entirely within the rear of the site, will have no impact on the building's overall height, number of stories or appearance from the street, and is within the ten-percent increase in floor area permitted by special permit under ZR § 73-63 (*Enlargement of Non-Residential Buildings*); and

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

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

WHEREAS, accordingly, the Board finds that, per ZR § 72-21(d) the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board also finds that the requested relief is the minimum necessary, in accordance with ZR § 72-21(e); 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

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. 14-BSA-025K, dated August 14, 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 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings

MINUTES

under ZR § 72-21 and grants a variance, to permit, on a site located partially within an R6B zoning district and partially within a C4-3A zoning district, the horizontal enlargement of the basement and first story of a four-story ambulatory diagnostic and treatment health care facility (Use Group 4) that exceeds the maximum permitted floor area ratio (“FAR”) and does not provide the minimum required rear yard in the R6B portion of the site, contrary to ZR §§ 24-11 and 24-36; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received November 26, 2013” –(5) sheets; and *on further condition*;

THAT the following shall be the bulk parameters of the building: a maximum of 40,912 sq. ft. (2.14 FAR) and a minimum rear yard depth of 11’-0”, as indicated on the BSA-approved plans;

THAT substantial construction shall be completed pursuant to 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) only;

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

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

Adopted by the Board of Standards and Appeals, April 29, 2014.

The resolution has been amended. Corrected in Bulletin No. 20, Vol. 99, dated May 21, 2014.