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# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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### DIRECTORY

**MEENAKSHI SRINIVASAN, *Chair***

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**Becca Kelly, *Counsel***

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

<b>TELEPHONE - (212) 386-0009</b>
<b>FAX - (646) 500-6271</b>

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142-92-BZ	473-541 6 <sup>th</sup> Street, aka 502-522 8 <sup>th</sup> Avenue, Brooklyn
11-93-BZ	46-45 Kissena Boulevard, Queens
245-03-BZ	160-11 Willets Point Boulevard, Queens
326-09-BZ	37-10 Union Street, aka 38-15 138 <sup>th</sup> Street, Queens
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1-14-BZ	525 West 42 <sup>nd</sup> Street, Manhattan
2-14-BZ	555 6 <sup>th</sup> Avenue, Manhattan
4-14-BZ	1065 Avenue of The Americas, Manhattan
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**Affecting Calendar Numbers:**

238-07-BZ	5-11 47 <sup>th</sup> Avenue, Queens
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# DOCKETS

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New Case Filed Up to May 20, 2014  
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**104-14-BZ**

282 South 5th Street, a through lot having frontage on South 5th Street and Broadway just West of Marcy Avenue., Block 2460, Lot(s) 18, Borough of **Brooklyn, Community Board: 1**. Special Permit (§73-36) to allow the operation of a physical culture establishment (fitness center) on a portion of the ground and second floors of a new building. Located in C4-3 zoning district. C4-3 district.  
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**DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.**

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# CALENDAR

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**JUNE 17, 2014, 10:00 A.M.**

**APPEALS CALENDAR**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, June 17, 2014, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

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**SPECIAL ORDER CALENDAR**

**997-84-BZ**

APPLICANT – Sheldon Lobel, P.C., for 222 Union Associates, owner.

SUBJECT – Application January 23, 2014 – Amendment (§11-413) proposed changes of use to a mixed use building, with retail (UG 6) on first floor and cellar, and residential (UG 2) on the second through sixth floors. R6A & C1-1/R6A zoning district.

PREMISES AFFECTED – 798-804 Union Street, 6th Avenue and 7th Avenue, Block 957, Lot 29, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

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**24-03-BZ**

APPLICANT – Warshaw Burstein, LLP, for Cumberland Farms, Ink, owner.

SUBJECT – Application February 26, 2014 – Extension of Term (§11-411) of a previously approved variance which permitted a gasoline service station and an automobile repair facility (Use Group 16) which expired on July 15, 2013; Waiver of the Rules. C1-2R2A zoning district.

PREMISES AFFECTED – 178-02 Union turnpike, intersection formed by Union Turnpike and Surrey Parcel, Block 7227, Lot 29, Borough of Queens.

**COMMUNITY BOARD #8Q**

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**271-07-BZ**

APPLICANT – Eric Palatnik, P.C., for 217 W.23rd Street LLC., owner; Crunch LLC, lessee.

SUBJECT – Application December 23, 2013 – Amendment of a special permit and variance authorizing a physical culture establishment (*Crunch*) by allowing a change in operator, to extend the term of the previous grant, to extend the time to obtain a Certificate of Occupancy, and for a waiver to permit late and early filing. C2-7A/R8A zoning district.

PREMISES AFFECTED – 215 West 23rd Street, north side of West 23rd Street, 118.75 ft. west of intersection of West 23rd Street and 7th Avenue, Block 773, Lot 7502, Borough of Manhattan.

**COMMUNITY BOARD #4M**

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**89-14-A**

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for 215 East 64th St. Co. LLC c/o Deniham Hospitality, owner. SUBJECT – Application April 30, 2014 – Extension of Time to obtain a Class B Certificate of Occupancy to legalize Affinia Gardens Hotel under MDL Section 120(b) (3) , as provided under recent amendments under Chapters 225 and 566 of the Laws of New York 2010. R8B zoning district.

PREMISES AFFECTED – 215 East 64th Street, north side of East 64th Street between Second Avenue and Third Avenue, Block 1419, Lot 10, Borough of Manhattan.

**COMMUNITY BOARD #8M**

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**103-14-A**

APPLICANT – Akerman LLP, for 55 Eckford Lots LLC, owner.

SUBJECT – Application May 9, 2014 – Appeal seeking a determination that the owner has obtained a common law vested right to complete construction under the prior R6/M1-1 zoning district regulations. Prior Board grant under Cal. No. 157-07-BZY for 11-332. M1-2/R6B zoning district.

PREMISES AFFECTED – 55 Eckford Street, west side of Eckford bounded by Driggs Avenue to its north and Engert Avenue to its south, Block 2698, Lot 32, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

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**ZONING CALENDAR**

**300-12-BZ**

APPLICANT – Davidoff Hatcher & Citron LLP, for Columbia Grammar & Preparatory School, owner.

SUBJECT – Application October 19, 2012 – Variance (§72-21) to permit an enlargement of an existing school building contrary to lot coverage, permitted obstruction in rear yard equivalent, rear yard equivalent, and sky exposure plane. R7-2 zoning district.

PREMISES AFFECTED – 36 West 93rd Street aka 33 West 92nd Street, between Central Park West and Columbus Avenue, Block 1206, Lot 50, Borough of Manhattan.

**COMMUNITY BOARD #7M**

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**350-12-BZ**

APPLICANT – Sheldon Lobel, P.C., for Overcoming Love Ministries, owner.

SUBJECT – Application December 31, 2012 – Variance (§72-21) to permit the construction of a community facility/residential building contrary to §42-00. M3-1

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# CALENDAR

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zoning district.

PREMISES AFFECTED – 5 32nd Street, southeast corner of 2nd Avenue and 32nd Street, Block 675, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #7BK**

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**208-13-BZ**

APPLICANT – Issa Khorasanchi, for Kenneth Segal, owner; Dimitriy Brailovskiy, lessee.

SUBJECT – Application July 8, 2013 – Special Permit (§73-36) to permit the legalization of a physical culture establishment (*Fitness Gallery*) located on the second floor of the two story commercial building. C8-1/R4 zoning district.

PREMISES AFFECTED – 1601 Gravesend Neck Road, Gravesend Neck Road, between East 16th and East 17th Street, Block 7377, Lot 29, Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

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**283-13-BZ**

APPLICANT – Alexander Levkovich, for 100 Elmwood Realty Corp., owner.

SUBJECT – Application October 8, 2013 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*NYC Fitness Club*) on the first floor of a one story building within an M1-1 zoning district.

PREMISES AFFECTED – 4930 20th Avenue, Dahill Road and 50th Street; Avenue 1 & Dahill Road, Block 5464, Lot 81, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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**57-14-BZ**

APPLICANT – The Law Office of Jay Goldstein, PLLC, for One NY Plaza Co. LLC, owner; Gear Fitness LLC d/b/a Retro Fitness, lessee.

SUBJECT – Application April 10, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Retro Fitness*) in the sub-cellar and concourse level of a fifty story commercial building. C5-5(LM) zoning district.

PREMISES AFFECTED – 1 New York Plaza, 114-142 13 Broad Street, 13 South Street, 1-21 Water Street, 49-63 & 54-64 Whitehall Street, Block 4, Lot 7501, Borough of Manhattan.

**COMMUNITY BOARD #1M**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, MAY 20, 2014  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**427-70-BZ**

APPLICANT – Carl A. Sulfaro, Esq. for Beach Channel, LLC, owner; Masti, Inc. lessee.

SUBJECT – Application May 21, 2012 – Amendment of a previously approved Variance (§72-21) which permitted the operation of an Automotive Service Station (UG 16B). Amendment seeks to legalize a one-story accessory convenience store. C2-2/R4 zoning district.

PREMISES AFFECTED – 38-01 Beach Channel Drive, southwest corner of Beach 38th Street and Beach Channel Drive. Block 15828, Lot 30. Borough of Queens.

**COMMUNITY BOARD #14Q**

**ACTION OF THE BOARD** – Laid over to July 15, 2014, at 10 A.M., for continued hearing.

**775-85-BZ**

APPLICANT – Sheldon Lobel, P.C., for Ivy Cross Island Plaza, owner.

SUBJECT – Application December 18, 2013 – Extension of Term of a previously approved Variance (§72-21) which permitted the construction of a three-story office building contrary to permitted height and use regulation, which expired on February 24, 2012; Amendment to modify the parking layout, eliminate buffering and eliminate the term of years of the variance; Waiver of the Rules. C1-3/R2 and R2 zoning district.

PREMISES AFFECTED – 133-33 Brookville Boulevard, triangular lot with frontages on Brookville Boulevard, Merrick Boulevard, 133rd Avenue and 243rd Street, Block 12980, Lot 1, Borough of Queens.

**COMMUNITY BOARD #13Q**

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

**142-92-BZ**

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for New York Methodist Hospital, owner.

SUBJECT – Application March 20, 2014 – Amendment of a previously approved special permit (§73-48) for a community facility (*New York Methodist Hospital*). The application seeks to amend the approved plans to accommodate required accessory parking in a new ambulatory care facility (BSA Cal #142-92-BZ)

PREMISES AFFECTED – 473-541 6th Street aka 502-522 8th Avenue, 480-496 & 542-548 5th Street & 249-267 7<sup>th</sup> Avenue, Block 1084, Lot 36, 164, 1001/1002, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

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

**11-93-BZ**

APPLICANT – Sheldon Lobel, P.C. for Joy Kiss Management, LLC, owner; Chen Qiao Huang (Good fortune Restaurant), lessee.

SUBJECT – Application December 18, 2013 – Extension of Time to obtain a Certificate of Occupancy for a previously approved variance (§72-21), which expired on March 20, 2012; Waiver of the Rules. R3-2/C2-2 zoning district.

PREMISES AFFECTED – 46-45 Kissena Boulevard aka 140-01 Laburnum Avenue, northeast corner of the intersection formed by Kissena Boulevard and Laburnum Avenue, Block 5208, Lot 32, 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.

**245-03-BZ**

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for Allied Enterprises NY LLC, owner; McDonald's Real Estate Company, lessee.

SUBJECT – Application December 26, 2013 – Extension of Term of a previously granted special permit (§72-243) for an accessory drive-thru to an existing eating and drinking establishment (*McDonald's*), which expired on December 12, 2013. C1-2/R3-2 zoning district.

PREMISES AFFECTED – 160-11 Willets Point Boulevard, northeast corner of Francis Lewis Boulevard, Block 4758, Lot 100, Borough of Queens.

**COMMUNITY BOARD #7Q**

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

**326-09-BZ**

APPLICANT – Bryan Cave LLP, for Flushing Commons Property Owner LLC, owner.

SUBJECT – Application April 10, 2014 – Extension of Time to Complete Construction of a previously approved Special Permit (§73-66) permitting the development of four mixed use buildings (*Flushing Commons*) which exceed the height regulations around airports, contrary to ZR (§61-21)

# MINUTES

which expires on July 27th 2014. C4-4 zoning district.  
PREMISES AFFECTED – 37-10 Union Street aka 38-15 138<sup>th</sup> Street, portion of the block bounded by 37th Avenue on the north, 39th Avenue on the South, Union Street on the east and 138th Street on west, Block 4978, Lot 25, 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.

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## 49-11-BZ

APPLICANT – Warsaw Burstein, LLP, for A&G Real Estate, LLC, owner; Barry's Boot camp NYC, LLC, lessee.  
SUBJECT – Application February 21, 2014 – Amendment of a previously approved Special Permit (§73-36) which permitted the extension of physical culture establishment. C6-3A zoning district.

PREMISES AFFECTED – 135 West 20th Street, north side of West 20th Street between Sixth Avenue and Seventh Avenue, Block 796, Lot 18, Borough of Manhattan.

## COMMUNITY BOARD #4M

### 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.

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## APPEALS CALENDAR

## 33-14-A

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

SUBJECT – Application February 13, 2014 – Appeal challenging the Department of Building's determination regarded permitted community facility FAR, per §113-11 (Special Bulk Regulations for Community Facilities) C4-2 zoning district, C8-2 (OP). C4-2 (OP) zoning district.

PREMISES AFFECTED – 902 Quentin Road, Southeast corner of intersection of Quentin Road and East 9th Street. Block 6666, Lot 1, 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 24, 2014, at 10 A.M., for decision hearing closed.

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## 51-13-A

APPLICANT – Carl A. Sulfaro, for Woodward Avenue Realty, Inc., owner.

SUBJECT – Application January 29, 2013 – Proposed construction of a one story warehouse lying partially within the bed of mapped street. (*Metropolitan Avenue*) contrary to General City Law Section 35. M3-1 zoning district.

PREMISES AFFECTED – 10 Woodward Avenue, southwest corner of Metropolitan Avenue and Woodward Avenue, Block 3393, Lot 49, Borough of Queens.

## COMMUNITY BOARD #5Q

### 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.

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## 59-13-A

APPLICANT – Carl A. Sulfaro, Esq., for Onofrio and Josephine Papia, owners.

SUBJECT – Application February 5, 2013 – Proposed construction of a new one family residence located in the bed of a mapped street contrary to Section 35 of the General City Law. R1-2 zoning district.

PREMISES AFFECTED – 11-30 143rd Place, west side of 143rd Place, 258.57' south of 11th Avenue, Block 4434, Lot 147, 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.

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## 164-13-A

APPLICANT – Slater & Beckerman, for Grand Imperial, LLC, owner.

SUBJECT – Application May 31, 2013 – Appeal seeking to reverse DOB determination not to issue a Letter of No Objection that would have stated that the use of the premises as Class A single room occupancy for periods of no less than one week is permitted by the existing Certificate of Occupancy. R10A zoning district.

PREMISES AFFECTED – 307 West 79th Street, northside of West 79th Street, between West End Avenue and Riverside Drive, Block 1244, Lot 8, Borough of Manhattan.

# MINUTES

## COMMUNITY BOARD #7M

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

### 296-13-A

APPLICANT – Jack Lester, for SRS Real Estate Holdings c/o Richard Whel, Esq., owner.

SUBJECT – Application October 24, 2013 – An appeal to Department of Buildings’ determination to permit an eating and drinking establishment. Appellant argues that the non-conforming use has been discontinued and the use is contrary to open space regulations (§52-332). R6B zoning district.

PREMISES AFFECTED – 280 Bond Street, Block 423, Lot 35, Borough of Brooklyn.

## COMMUNITY BOARD #3BK

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

*Jeff Mulligan, Executive Director*

## ZONING CALENDAR

### 228-13-BZ

#### CEQR #14-BSA-016M

APPLICANT – Herrick, Feinstein LLP by Arthur Huh, for 45 W 67th Street Development Corporation, owner; CrossFit NYC, lessee.

SUBJECT – Application August 1, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Cross Fit*) located in the cellar level of an existing 31-story building. C4-7 zoning district.

PREMISES AFFECTED – 157 Columbus Avenue, northeast corner of West 67th Street and Columbus Avenue, Block 1120, Lot 7501, Borough of Manhattan.

## COMMUNITY BOARD #7M

**ACTION OF THE BOARD** – Application granted on condition.

### THE VOTE TO GRANT –

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

Negative:.....0

Absent: Commissioner Montanez .....1

### THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated July 11, 2013, acting on DOB Application No. 121610211, reads, in pertinent part:

Proposed use of portion of the cellar as a Physical Culture Establishment (PCE) is not permitted as of right in C4-7 zoning district and is contrary to ZR Section 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site partially within a C4-7 zoning

district and partially within an R8 zoning district, the legalization of an existing physical culture establishment (“PCE”) in the cellar of a 31-story mixed residential and commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application November 26, 2013, after due notice by publication in the *City Record*, with continued hearings on December 17, 2013, January 28, 2014, March 11, 2014 and April 29, 2014, and then to decision on May 20, 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 7, Manhattan, initially recommended approval of the application; however, by resolution dated February 4, 2014, Community Board 7 recommends disapproval of the application, citing the following primary concerns: (1) the accuracy and completeness of the information provided by the applicant regarding the impact of this particular type of gym and the exercises performed; (2) the lack of analysis of acoustical concerns relating to hammering, percussive, and transmitted vibrations and noise; (3) the short- and long-term impact of the gym activities upon the building structure; and (4) the adequacy of the proposed sound attenuation; and

WHEREAS, City Councilperson Helen Rosenthal recommends disapproval of the application; and

WHEREAS, Manhattan Borough President Gale Brewer submitted testimony regarding the application urging the Board to consider any potential negative impacts; and

WHEREAS, certain members of the surrounding community submitted testimony in support of the application; and

WHEREAS, certain members of the surrounding community, including residents of the subject building, submitted testimony in opposition to the application (the “Opposition”); the Opposition’s primary concerns include those raised by the Community Board as well as (1) the incompatibility of the use with the residential use in the building and in the surrounding area; (2) the transmittal of noise and vibration throughout the building; (3) whether representative weights had been used for the acoustical studies and that a weight limit be set for weight-dropping activities; (4) the inclusion of PCE use in the R8 zoning district portion of the site; (5) the extension of the use onto the sidewalk and street outside the building; (6) an increase in noise associated with competitions or other events; (7) the fact that the PCE has commenced operation prior to obtaining its special permit; (8) the operation of other Cross Fit PCEs in the City; and (9) whether proper notification of the hearing was performed and whether all submissions were properly distributed; and

WHEREAS, the Opposition states that if the special permit is granted, consideration be given to (1) a term limited to two years from the July 2013 commencement of operations; and (2) limitations on the hours of operation and the hours that weights can be dropped; and

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WHEREAS, the subject site is located on the northeast corner of the intersection of Columbus Avenue and West 67th Street, partially within a C4-7 zoning district and partially within an R8 zoning district, within the Special Lincoln Square District; and

WHEREAS, the site has 100.42 feet of frontage along Columbus Avenue, 150 feet of frontage along West 67th Street, and 21,088 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 31-story mixed residential and commercial building; and

WHEREAS, the PCE occupies 6,461 sq. ft. of floor space in the cellar within the C4-7 zoning district portion of the site; and

WHEREAS, the PCE will be operated as CrossFit; and

WHEREAS, the applicant represents that the services at the PCE include facilities for classes, instruction and programs for physical improvement, body building, weight reduction, and aerobics; and

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

WHEREAS, the Fire Department states that it has no objection to the proposal; and

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

WHEREAS, at hearing, in response to the Opposition's concerns and based on its own observations from site visits and review of the application, the Board directed the applicant to provide additional information on the following issues: (1) whether notification and dissemination of submissions was completed in accordance with the Board's Rules; (2) whether the PCE had commenced to operate; (3) whether the PCE use was confined to the C4-7 zoning district portion of the site; (4) the conclusions of the acoustical studies and the proposal to include sound attenuation measures; (5) the proposed hours of operation and confirmation that the facility would be closed to all outside of those hours; and (6) whether events or competitions would be held on site; and

WHEREAS, as to notification, the applicant informed the Board that proper notification of the hearing had mistakenly not been performed prior to the first hearing and thus the Board continued the public hearing to a new date subsequent to the performance of proper notification; and

WHEREAS, similarly, the applicant corrected any omissions of submission transmittal to required parties in satisfaction of the Board's Rules for proof of service of submissions and supplementary materials pursuant to § 1-10.7; and

WHEREAS, as to operations, the applicant acknowledged that it had begun to phase in introductory sessions in July 2013, but only commenced PCE operations in November 2013; and

WHEREAS, as to the location of the PCE, the applicant revised its plans to reflect that no portion of the PCE will

operate within the R8 portion of the site and submitted photographs of the installation of a wall between the C4-7 portion of the site and the R8 portion of the site; and

WHEREAS, as to the concerns about sound and attenuation, the applicant's acoustic consultant performed studies from the fifth-floor commercial space just below the first floor of residential use and concluded that any noise effects are well within the City's Noise Code regulations; and

WHEREAS, the Board notes that the Opposition calls the applicant's acoustical study into question and states that it has performed its own, but has not offered any evidence to refute the applicant's findings; and

WHEREAS, further, the Board notes that the residential use in the building does not begin until the sixth floor and is thus separated from the cellar PCE use by five floors of commercial use and the Board finds the applicant's acoustical study to be credible and consistent with such studies that the Board has accepted with other PCE applications; and

WHEREAS, the Board notes that the applicant initially proposed attenuation measures, such as padded fitness flooring and sound-foam panels and that its acoustic consultant determined that those attenuation measures, without the raised flooring system, establish attenuation to a degree that allows the proposal to comply with Noise Code regulations; and

WHEREAS, however, the applicant now proposes to include the padding and a raised floor system throughout the PCE space, as reflected on the revised plans; and

WHEREAS, as to the hours of operation, the applicant states that it will agree to a limit use to the hours proposed by the Board and will not allow any PCE use in the facility outside of those hours; and

WHEREAS, the applicant stated that the PCE seeks to operate from 6:00 a.m. to 10:00 p.m. every day; and

WHEREAS, the Board considered the request and the concerns of the Opposition and concluded that 6:00 a.m. to 9:30 a.m., Monday through Friday and 9:00 a.m. to 6:00 p.m., Saturday and Sunday was more appropriate hours; and

WHEREAS, as to the Opposition's concern about high intensity use including events and competitions, the applicant responded that it will not hold such activities on site; and

WHEREAS, the Board notes that the size of the PCE at approximately 6,500 sq. ft. is on the smaller side of the PCEs it has reviewed and agrees that the space does not lend itself to such use and is thus satisfied that the applicant has agreed not to hold them onsite; and

WHEREAS, in response to the Opposition's concerns regarding the potential for the PCE's operations to damage the structure of the building, the applicant provided a report from the building's structural engineer who designed the existing structural system, which concludes that the building can accommodate the proposed use; and

WHEREAS, the Board reviewed the submissions made by the building's engineer but concludes that the questions of structural integrity are properly before the Department of Buildings and notes that for the Board's purposes, the report is

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sufficient; and

WHEREAS, the Board notes that no reports have been introduced to the record which challenge the applicant's engineer's conclusions regarding the building's structural sufficiency; and

WHEREAS, as to the term, the Board notes that given the significant number of concerns including questions about the efficacy of the proposed sound attenuation measures and the applicant's commencement of operations and after hours use of the space, the Board deems a two-year term from the date of this grant to be appropriate; and

WHEREAS, finally, the Board notes that concerns about the use of other Cross Fit facilities in the City are not germane to the analysis for the subject site as each site has a unique set of building conditions; and

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in the Environmental Assessment Statement, CEQR No. 14BSA016M dated July 15, 2013; and

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

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

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

*Therefore it is Resolved*, that the Board of Standards and Appeals issued a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and

makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site partially within a C4-7 zoning district and partially within an R8 zoning district, the legalization of an existing physical culture establishment (PCE) in the cellar of a 31-story mixed residential and commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received April 24, 2014" – Seven (7) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on May 20, 2016;

THAT the PCE use is limited to the C4-7 zoning district portion of the site; the wall separating the C4-7 portion of the site from the R8 zoning district portion of the site will be maintained, as reflected on the BSA-approved plans, and no PCE use will be permitted in the R8 portion of the site;

THAT the hours of operation for the PCE will be limited to Monday through Friday, from 6:00 a.m. to 9:30 p.m. and Saturday and Sunday from 9:00 a.m. to 6:00 p.m.;

THAT no private training or other PCE activity will be held outside of the noted hours of operation;

THAT competitions or other similarly-attended events are prohibited;

THAT sound-attenuating measures, including a raised flooring system and padded fitness flooring will be installed and maintained throughout the entire PCE space and sound-foam panels will be installed and maintained along certain walls, as reflected on the approved plans;

THAT the sound attenuation measures will be installed by November 20, 2014;

THAT the use of the facility will comply with New York City Noise Code regulations;

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

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

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

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

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

THAT DOB will review and approve occupancy loads, including as related to equipment use;

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

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

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

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

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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 20, 2014.

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## 275-13-BZ

### CEQR #14-BSA-146M

APPLICANT – Warshaw Burstein, LLP, for Kedzkidz Realty LLC., owner; Antonaccio-Crous, LLC, lessee.

SUBJECT – Application September 26, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Bikram Yoga Soho*). M1-5 zoning district.

PREMISES AFFECTED – 404-406 Broadway, east side of Broadway south of its intersection with Canal Street in TriBeCa, Block 196, Lot 3. Borough of Manhattan.

### COMMUNITY BOARD #1M

**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 Montanez .....1

WHEREAS, the decision of the Manhattan Borough Commissioner of the Department of Buildings (“DOB”), dated September 18, 2013, acting on DOB Application No. 120417487, reads, in pertinent part:

Physical culture establishment is being proposed [which] is not permitted as-of-right in a manufacturing district contrary to section 42-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-5 zoning district, within the Tribeca East Historic District, the legalization of an existing physical culture establishment (“PCE”) operating in a portion of the third story of a three-story commercial building, contrary to ZR § 32-31; 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 20, 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 1, Manhattan, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of Broadway between Walker Street and Lispenard Street, within an M1-5 zoning district, within the Tribeca East Historic District; and

WHEREAS, the site has 52.5 feet of frontage along Broadway and 5,249 sq. ft. of lot area; and

WHEREAS, the site is occupied by two, three-story

buildings (known as 404 and 406 Broadway), which the applicant represents share a common stair and elevator and operate together under a single Certificate of Occupancy; and

WHEREAS, the PCE occupies 2,907 sq. ft. of floor area on the third story of the buildings; and

WHEREAS, the PCE is operated as Bikram Yoga Studio; and

WHEREAS, the applicant represents that the services at the PCE include facilities for classes, instruction and programs for physical improvement, body building, weight reduction, and aerobics; and

WHEREAS, the hours of operation for the PCE will be Monday through Friday, from 6:30 a.m. to 8:30 p.m. and Saturday and Sunday, from 10:00 a.m. to 5:30 p.m.; and

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

WHEREAS, the Fire Department states that it has no objection to the proposal; and

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

WHEREAS, on October 14, 2010, the Landmarks Preservation Commission (“LPC”) issued a Certificate of Appropriateness for certain renovations to 406 Broadway and on March 13, 2013, LPC issued a Certificate of No Effect for interior work related to the PCE; and

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

WHEREAS, at hearing, the Board directed the applicant to clarify: (1) the reason(s) for the active Stop Work Order at the site; and (2) whether the proposed signage was approved by LPC; and

WHEREAS, in response, the applicant stated that the Stop Work Order is related to audits of open permit applications; the applicant represents that all objections raised during the course of the audit have been resolved except the objection relating to the subject PCE; the applicant also notes that the issuance of the subject special permit will resolve the only outstanding objection and result DOB’s rescission of the Stop Work Order; and

WHEREAS, as to the proposed signage, the applicant represents that it is not subject to LPC approval because of its location; and

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

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the operation of the PCE without the special permit since December 15, 2013; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in the Environmental Assessment Statement, CEQR No. 14BSA146M dated February 4, 2014; and

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

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

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

*Therefore it is Resolved*, that the Board of Standards and Appeals issued a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site within an M1-5 zoning district, within the Tribeca East Historic District, the legalization of an existing PCE operating in a portion of the third story of a three-story commercial building, contrary to ZR § 32-31; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received February 6, 2014" – Three (3) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on December 15, 2023;

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

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, May 20, 2014.

## 1-14-BZ

### CEQR #14-BSA-094M

APPLICANT – Law Office of Fredrick A Becker, for CPT 520 W 43 Owner LLC c/o Rose Associates, owner; Ewing Massage Enterprise, LLC dba Massage Envoy, lessee.

SUBJECT – Application January 6, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Massage Envoy*). C6-4 zoning district.

PREMISES AFFECTED – 525 West 42nd Street, Northerly side of West 42nd Street 325 feet easterly of Tenth Avenue. Block 1071, Lot 42. Borough of Manhattan.

### COMMUNITY BOARD #4M

**ACTION OF THE BOARD** – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

Absent: Commissioner Montanez .....1

WHEREAS, the decision of the Executive Zoning Specialist of the Department of Buildings ("DOB"), dated December 9, 2013, acting on DOB Application No. 121236652, reads, in pertinent part:

Proposed physical culture establishment is not an as-of-right use; contrary to ZR 32-31; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-4 zoning district, within the Special Clinton District, the operation of a physical culture establishment ("PCE") in a portion of the first story of a 33-story mixed residential and commercial building, contrary to ZR § 32-31; 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 20, 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 4, Manhattan, recommends approval of the application; and

WHEREAS, the subject site is an interior lot with through-lot portions located on the north side of West 42nd Street and the south side of West 43rd Street between 10th Avenue and 11th Avenue, within a C6-4 zoning district,

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within the Special Clinton District; and

WHEREAS, the site has approximately 167 feet of frontage along West 43rd Street, 75 feet of frontage along West 42nd Street, and 24,269 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 33-story mixed residential and commercial building; the building has two segments: a 33-story portion with frontage along West 43rd Street and a two-story portion with frontage along West 42nd Street; and

WHEREAS, the proposed PCE will be located on the ground floor of the two-story building segment and will occupy 3,600 sq. ft. of floor area; the applicant represents that the second story of the two-story building segment will contain a gym and other accessory uses and amenities for the residences of the subject building; and

WHEREAS, the PCE will be operated as Massage Envy; and

WHEREAS, the applicant represents that the services at the PCE include spa services and massage by New York State-licensed masseurs and masseuses; and

WHEREAS, the hours of operation for the PCE will be Monday through Saturday, from 7:00 a.m. to 12:00 a.m. and Sunday, from 7:00 a.m. to 10:00 p.m.; and

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

WHEREAS, the Fire Department states that it has no objection to the proposal; and

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in the Environmental Assessment Statement, CEQR No. 14BSA094M dated December 30, 2013; and

WHEREAS, the EAS documents that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources;

Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

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

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

*Therefore it is Resolved*, that the Board of Standards and Appeals issued a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site within a C6-4 zoning district, within the Special Clinton District, the operation of a PCE in a portion of the first story of a 33-story mixed residential and commercial building, contrary to ZR § 32-31; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received April 7, 2014” – Three (3) sheets and “Received April 30, 2014” – One (1) sheet; and *on further condition*:

THAT the term of the PCE grant will expire on May 20, 2024;

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

THAT all massages must be performed by New York State licensed massage therapists;

THAT the hours of operation for the PCE will be limited to Monday through Saturday, from 7:00 a.m. to 12:00 a.m. and Sunday, from 7:00 a.m. to 10:00 p.m.;

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, May

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20, 2014.

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**2-14-BZ**

**CEQR #14-BSA-095M**

APPLICANT – Law Office of Fredrick A.Becker, for SP101 W 15 LLC, owner; BFX West 15th Street LLC dba BFX Studio, lessee.

SUBJECT – Application January 8, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*BFX Studio*). C6-2A/R8B zoning district.

PREMISES AFFECTED – 555 6th Avenue, Westerly side of 6th Avenue between West 15th Street and West 16th Street, Block 79, Lot 36, Borough of Manhattan.

**COMMUNITY BOARD #4M**

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT** –

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

Negative:.....0

Absent: Commissioner Montanez .....1

WHEREAS, the decision of the Manhattan Borough Commissioner of the Department of Buildings (“DOB”), dated December 27, 2013, acting on DOB Application No. 120635465, reads, in pertinent part:

Proposed changes of use at cellar and first floor to physical culture establishment is contrary to ZR 32-31; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site partially within a C6-2A zoning district, partially within an R8B zoning district, and partially within an R8A zoning district, the operation of a physical culture establishment (“PCE”) in portions of the cellar and first story of a six-story mixed residential and commercial building, contrary to ZR § 32-31; 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 20, 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 4, Manhattan, recommends approval of the application; and

WHEREAS, the subject site spans the west side of Sixth Avenue between West 15th Street and West 16th Street, partially within a C6-2A zoning district, partially within an R8B zoning district, and partially within an R8A zoning district; and

WHEREAS, the site has 150 feet of frontage along West 15th Street, 206.5 feet of frontage along Sixth Avenue, 150 feet of frontage along West 16th Street, and 30,975 sq. ft. of lot area; and

WHEREAS, the site is occupied by a six-story mixed residential and commercial building; and

WHEREAS, the proposed PCE will occupy 9,492 sq. ft. of floor space – 4,012 sq. ft. of floor area on the first story and 5,480 sq. ft. of floor space in the cellar; and

WHEREAS, the applicant states that no portion of the PCE will operate within the R8A portion of the site; and

WHEREAS, the PCE will be operated as BFX Studio; and

WHEREAS, the applicant represents that the services at the PCE include facilities for classes, instruction and programs for physical improvement, body building, weight reduction, and aerobics; and

WHEREAS, the hours of operation for the PCE will be Monday through Friday, from 5:00 a.m. to 11:00 p.m. and Saturday and Sunday, from 6:00 a.m. to 11:00 p.m.; and

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

WHEREAS, the Fire Department states that it has no objection to the proposal; and

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

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

WHEREAS, at hearing, the Board directed the applicant to submit amended plans noting the proposed sound attenuation measures and signage analysis; and

WHEREAS, in response, the applicant submitted amended plans, as directed; the applicant also provided a letter from the acoustical consultant, which detailed the sound attenuation measures to be provided; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in the Environmental Assessment Statement, CEQR No. 14BSA095M dated January 3, 2014; and

WHEREAS, the EAS documents that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure;

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Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

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

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

*Therefore it is Resolved*, that the Board of Standards and Appeals issued a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site partially within a C6-2A zoning district, partially within an R8B zoning district, and partially within an R8A zoning district, the operation of a PCE in portions of the cellar and first story of a six-story mixed residential and commercial building, contrary to ZR § 32-31; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received January 8, 2014” – Fifteen (15) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on May 20, 2024;

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

THAT the hours of operation for the PCE will be limited to Monday through Friday, from 5:00 a.m. to 11:00 p.m. and Saturday and Sunday, from 6:00 a.m. to 11:00 p.m.;

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, May 20, 2014.

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## 4-14-BZ

### CEQR #14-BSA-097M

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for TrizecHahn, 1065 Ave. of the Americas LLC, owner; Blink 1065 6th Ave., Ink., lessee.

SUBJECT – Application January 9, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Blink Fitness*) within portions of an existing commercial building, C5-3(mid)(T) zoning district.

PREMISES AFFECTED – 1065 Avenue of The Americas, aka 111 West 40th Street, 112 West 41st Street. NWC of Avenue of the Americas and West 40th Street. Block 993, Lot 29. 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 Montanez .....1

WHEREAS, the decision of the Executive Director of the NYC Development HUB of the Department of Buildings (“DOB”), dated January 2, 2014, acting on DOB Application No. 121184164, reads, in pertinent part:

ZR 32-30 – Proposed physical culture establishment is not permitted as-of-right; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-3 zoning district, within the Special Midtown District, the operation of a physical culture establishment (“PCE”) in portions of the cellar and first story of a 35-story commercial building, contrary to ZR § 32-30; 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 20, 2014; and

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

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

WHEREAS, the subject site is an L-shaped lot located on the west side of Sixth Avenue between West 40th Street and West 41st Street, within a C5-3 zoning district, within the Special Midtown District; and

WHEREAS, the site has 200 feet of frontage along West 40th Street, 98.75 feet of frontage along Sixth Avenue, 75 feet of frontage along West 41st Street, and 27,152.5 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 35-story commercial building; and

WHEREAS, the proposed PCE will occupy 19,633 sq. ft. of floor space – 765 sq. ft. of floor area on the first story and 18,868 sq. ft. of floor space in the cellar; and

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

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WHEREAS, the applicant represents that the services at the PCE include facilities for classes, instruction and programs for physical improvement, body building, weight reduction, and aerobics; and

WHEREAS, the hours of operation for the PCE will be Monday through Thursday, from 5:00 a.m. to 11:00 p.m., Friday, from 5:00 a.m. to 10:00 p.m., and Saturday and Sunday, from 7:00 a.m. to 7:00 p.m.; and

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

WHEREAS, the Fire Department states that it has no objection to the proposal; and

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in the Environmental Assessment Statement, CEQR No. 14BSA097M dated January 5, 2014; and

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

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

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

*Therefore it is Resolved*, that the Board of Standards and Appeals issued a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of

the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site within a C5-3 zoning district, within the Special Midtown District, the operation of a physical culture establishment (PCE) in portions of the cellar and first story of a 35-story commercial building, contrary to ZR § 32-30; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received March 11, 2014" – Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on May 20, 2024;

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

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, May 20, 2014.

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**78-11-BZ & 33-12-A thru 37-12-A**

APPLICANT – Sheldon Lobel, P.C., for Indian Cultural and Community Center, Incorporated, owner.

SUBJECT – Applications May 27, 2011 and February 9, 2012 – Variance (§72-21) to allow for the construction of two assisted living residential buildings, contrary to use regulations (§32-10).

Proposed construction of two mixed use buildings that do not have frontage on a legally mapped street, contrary to General City Law Section 36. C8-1 Zoning District.

PREMISES AFFECTED – 78-70 Winchester Boulevard, Premises is a landlocked parcel located just south of Union Turnpike and west of 242nd Street, Block 7880, Lots 550, 500 Borough of Queens.

**COMMUNITY BOARD #13Q**

**ACTION OF THE BOARD** – Laid over to July 22, 2014, at 10 A.M., for adjourned hearing.

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## 54-12-BZ

APPLICANT – Gerald J. Caliendo, R.A., AIA, for Llana Bangiyev, owner.

SUBJECT – Application March 9, 2012 – Variance (§72-21) to permit for the construction of a community facility and residential building, contrary to lot coverage (§23-141), lot area (§§23-32, 23-33), front yard (§§23-45, 24-34), side yard (§§23-46, 24-35) and side yard setback (§24-55) regulations. R5 zoning district.

PREMISES AFFECTED – 65-39 102nd Street, north side of 102nd Street, northeast corner of 66th Avenue, Block 2130, Lot 14, Borough of Queens.

### COMMUNITY BOARD #6Q

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.

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## 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

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.

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## 124-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 95 Grattan Street, LLC, owner.

SUBJECT – Application April 29, 2013 – Variance (§72-21) to allow for a new seven-family residential development, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 95 Grattan Street, north side of Grattan Street, 200' west of intersection of Grattan Street

and Porter Avenue, Block 3004, Lot 39, 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 24, 2014, at 10 A.M., for decision hearing closed.

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## 125-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 97 Grattan Street, LLC, owner.

SUBJECT – Application April 29, 2013 – Variance (§72-21) to allow for a new seven-family residential development, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 97 Grattan Street, north side of Grattan Street, 200' west of intersection of Grattan Street and Porter Avenue, Block 3004, Lot 38, 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 24, 2014, at 10 A.M., for decision hearing closed.

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## 193-13-BZ

APPLICANT – Eric Palatnik, Esq., for Centers FC Realty LLC, owner.

SUBJECT – Application July 2, 2013 – Special Permit (§73-44) for the reduction in parking from 190 to 95 spaces to facilitate the conversion of an existing building to UG 6 office and retail use. C2-2/R6A & R-5 zoning districts.

PREMISES AFFECTED – 4770 White Plains Road, White Plains Road between Penfield Street and East 242nd Street, Block 5114, Lot 14, Borough of Bronx.

### COMMUNITY BOARD #12BX

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

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## 213-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Ridgeway Abstracts LLC, owner.

SUBJECT – Application July 12, 2013 – Special Permit (§73-126) to allow a medical office, contrary to bulk regulations (§22-14). R3A zoning district.

PREMISES AFFECTED – 3858-60 Victory Boulevard, east corner of intersection of Victory Boulevard and Ridgeway Avenue, Block 2610, Lot 22 & 24, Borough of Staten

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## COMMUNITY BOARD #2SI

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.

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## 266-13-BZ

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

SUBJECT – Application September 6, 2013 – Variance  
(\$72-21) to legalize the enlargement of a now six story  
family dwelling contrary to §23-145 (maximum floor area).  
R7B zoning district.

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

## COMMUNITY BOARD #3M

**ACTION OF THE BOARD** – Laid over to July 15,  
2014, at 10 A.M., for continued hearing.

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## 289-13-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for  
New York Methodist Hospital, owner.

SUBJECT – Application October 16, 2013 – Variance (§72-  
21) to allow the development of a new, 304,000 s.f.  
ambulatory care facility on the campus of New York  
Methodist Hospital, contrary to floor area (§§24-11, 24-17  
and 77-02), lot coverage (§24-11), rear yard (§24-382),  
height and setback (§24-522), rear yard setback (§24-552),  
and sign (§22-321) regulations. R6, C1-3/R6, and R6B  
zoning district.

PREMISES AFFECTED – 473-541 6th Street aka 502-522  
8<sup>th</sup> Avenue, 480-496 & 542-548 5th Street & 249-267 7th A  
venue, Block bounded by 7th Avenue, 6th Street, 8th Avenue  
and 5th Street, Block 1084, Lot 25, 26, 28, 39-44, 46, 48,  
Borough of Brooklyn.

## COMMUNITY BOARD #6BK

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

Absent: Vice Chair Collins.....1

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

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## 310-13-BZ

APPLICANT – Eric Palatnik, P.C., for Triangle Plaza Hub,  
LLC., owner; Metropolitan College of New York, lessee.

SUBJECT – Application November 22, 2013 – Variance  
(\$72-21) to allow a UG3 college (*Metropolitan College of  
New York*) within a proposed mixed use building, contrary  
to use regulations (§44-00). M1-1/C4-4 zoning district.

PREMISES AFFECTED – 459 East 149th Street, northwest  
corner of Brook Avenue and East 149th Street, Block 2294,  
Lot 60, Borough of Bronx.

## COMMUNITY BOARD #1BX

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

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## 319-13-BZ

APPLICANT – Herrick, Feinstein LLP, for Harlem Park  
Acquisition, LLC, owner.

SUBJECT – Application December 17, 2013 – Variance  
(\$72-21) to waive the minimum parking requirements (§25-  
23) to permit the construction of a new, 682 unit, 32-story  
mixed used building. 123 parking spaces are proposed. C4-7  
zoning district.

PREMISES AFFECTED – 1800 Park Avenue, Park  
Avenue, East 124th street, East 125 Street, Block 1749, Lot  
33 (air rights 24), Borough of Manhattan.

## COMMUNITY BOARD #11M

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.

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## 325-13-BZ

APPLICANT – Eric Palatnik, P.C., for 3170 Webster  
Avenue LLC, owner; CT Norwood LLC, lessee.

SUBJECT – Application December 23, 2013 – Special  
Permit (§73-36) to permit the operation of Physical Cultural  
Establishment (*Crunch Fitness*) within a portions of a  
commercial building. C2-4/R7D zoning district.

PREMISES AFFECTED – 3170 Webster Avenue, East side  
of Webster Avenue at intersection with East 205<sup>th</sup> Street.  
Block 3357, Lot 37, Borough of Bronx.

## COMMUNITY BOARD #7BX

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 24,  
2014, at 10 A.M., for decision hearing closed.

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## 326-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 5225, LLC, owner.

SUBJECT – Application December 23, 2013 – Special Permit (§73-44) to reduce required off-street parking accessory to office building (UG 6) B-1 parking category. M1-1 (CP) zoning district.

PREMISES AFFECTED – 16-16 Whitestone Expressway, West Side of Whitestone Expressway (service road), 920.47 ft. north of 20th Avenue. Block 4148, Lot 50, 65. 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.

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## 327-13-BZ

APPLICANT – Goldman Harris LLC, for JCWH Coney Island LLC, owner.

SUBJECT – Application December 23, 2013 – Special Permit (§73-44) to reduce the required number of accessory parking spaces contrary to §36-21 for ambulatory diagnostic or treatment facility use and Use Group 6 uses with Parking Requirement Category B1. C8-2, C2-3/R5 zoning district.

PREMISES AFFECTED – 1504 Coney Island Avenue, property occupies the northwest corner of Coney Island Avenue and Avenue L. Block 6536, Lot 28, 30, 34, 40, 41, 42, 43. Borough of Brooklyn.

### COMMUNITY BOARD #12BK

**ACTION OF THE BOARD** – Laid over to July 15, 2014, at 10 A.M., for postponed hearing.

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## 9-14-BZ

APPLICANT – Warsaw Burstein, LLP, for 177th Upper Broadway Holdings LLC, owner; 4168 Broadway Fitness Group LLC, lessee.

SUBJECT – Application January 17, 2014 – Special Permit (§73-36) & (§73-52) to allow the operation of a physical culture establishment fitness center (*Planet Fitness*) within the existing building and to permit the fitness center use to extend 25 feet into the R7-2 zoning district, contrary to §§32-10 & 22-10. C8-3 and R7-2 zoning district.

PREMISES AFFECTED – 4168 Broadway, southeast corner of the intersection formed by West 177th Street and Broadway, Block 2145, Lot 15, Borough of Manhattan.

### COMMUNITY BOARD #12M

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 24, 2014, at 10 A.M., for decision hearing closed.

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## 17-14-BZ

APPLICANT – Moshe M. Friedman, PE, for Cong Chasdei Belz Beth Malka, owner.

SUBJECT – Application January 28, 2014 – Variance (§72-21) proposed to add a third and fourth floor to an existing school building, contrary to §24-11 floor area and lot coverage, §24-521 maximum wall height, §24-35 side yard, §24-34 requires a 10' front yard and §24-361 rear yard of the zoning resolution. R5 zoning district.

PREMISES AFFECTED – 600 McDonald Avenue aka 14 Avenue C, aka 377 Dahill Road, south west corner of Avenue C and McDonald Avenue 655', 140'W, 15'N, 100'E, 586'N, 4"E, 54'N, 39.67'East, Block 5369, Lot 6, Borough of Brooklyn.

### COMMUNITY BOARD #12BK

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

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## 18-14-BZ

APPLICANT – Warsaw Burstein, LLP, for Infinity Fulton Street, LLC, owner; 1245 Fulton Fitness Group, LLC, lessee.

SUBJECT – Application January 29, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) within an existing building. C4-5 zoning district.

PREMISES AFFECTED – 1245 Fulton Street, north side of Fulton Street between Bedford Avenue and Arlington Place, Block 1842, Lot 47, Borough of Brooklyn.

### COMMUNITY BOARD #3BK

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 24, 2014, at 10 A.M., for decision hearing closed.

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*Jeff Mulligan, Executive Director*

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## \*CORRECTION

This resolution adopted on February 25, 2014, under Calendar No. 238-07-BZ and printed in Volume 99, Bulletin Nos. 8-9, is hereby corrected to read as follows:

### 238-07-BZ

APPLICANT – Goldman Harris LLC, for OCA Long Island City LLC; OCAII & III, owners.

SUBJECT – Application October 28, 2013 – Amendment of a previously approved Variance (§72-21) which permitted the construction of a 12-story mixed-use building and a 6-story community facility dormitory and faculty housing building (*CUNY Graduate Center*), contrary to use and bulk regulations. The amendment seeks the elimination of the cellar and other design changes to the Dormitory Building, M1-4/R6A (LIC) zoning district.

PREMISES AFFECTED – 5-11 47th Avenue, 46th Road at north, 47th Avenue at south, 5th Avenue at west, Vernon Boulevard at east, Block 28, Lot 12, 15, 17, 18, 21, 121, Borough of Queens.

### COMMUNITY BOARD #2Q

**ACTION OF THE BOARD** – Application granted on condition.

### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5

Negative:.....0

### THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously granted variance which permitted, on a site partially in an M1-4 zoning district and partially in an M1-4/R6A district within the Special Long Island City Mixed-Use District, the construction of a 12-story mixed residential and commercial building (the “Mixed-Use Building”) and a six-story student dormitory building (the “Dormitory Building”) for the City University of New York (“CUNY”) Graduate Center, contrary to use and bulk regulations; and

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

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

WHEREAS, the subject site is bounded by Fifth Street to the west, 46th Road to the north, and 47th Avenue to the south, with a total lot area of 66,838 sq. ft.; and

WHEREAS, the Board has exercised jurisdiction over the site since September 23, 2008 when, under the subject calendar number, the Board granted a variance pursuant to ZR § 72-21, which permitted the construction of a 12-story mixed residential and commercial building and a six-story student

dormitory building and faculty housing building connected by a cellar-level accessory parking garage, contrary to ZR §§ 42-00, 117-21, 23-145, 24-632, 23-633, and 23-711; and

WHEREAS, the Board issued a letter of substantial compliance on June 10, 2009, to permit certain modifications to the approved plans, and to acknowledge that although the project was originally filed at the Department of Buildings (“DOB”) under a single permit application (NB # 402661945), the project was subsequently filed as two separate projects, with the Mixed-Use Building retaining the original application number, and the Dormitory Building filed under new NB # 420006111; and

WHEREAS, the Board issued a second letter of substantial compliance on December 8, 2009, stating that the Board has no objection to the issuance of a temporary and permanent certificate of occupancy for the Mixed-Use Building prior to the construction of the Dormitory Building and the connection between the buildings; and

WHEREAS, the applicant states that the issuance of the December 8, 2009 letter was based on the anticipated occupancy of the Dormitory Building by the CUNY Graduate Center; however, subsequent to the issuance of the letter, the CUNY Graduate Center withdrew from the project; and

WHEREAS, on February 15, 2011, the Board approved an amendment to clarify that either the Mixed-Use Building or the Dormitory Building may be constructed prior to the construction and occupancy of the other building and the connection between the buildings; and

WHEREAS, the applicant notes that the February 15, 2011 amendment allows each building to proceed independently and provides flexibility for the commencement of construction at the earliest possible time; and

WHEREAS, the applicant also notes that CUNY has resumed participation in the project; and

WHEREAS, substantial construction was to be completed by September 23, 2012, in accordance with ZR § 72-23; however, by that date, construction had not been completed due to budgetary constraints; accordingly, on July 24, 2012, the Board granted an extension of time to complete construction, to expire on September 23, 2016; and

WHEREAS, the applicant now seeks an amendment to permit the following: (1) the elimination of the cellar level of the Dormitory Building, which includes accessory parking for 91 automobiles and approximately 6,600 sq. ft. of amenity and storage space; (2) a reduction in floor area for the Dormitory Building from 183,472 sq. ft. to 177,693 sq. ft.; (3) the elimination of the seventh floor; (4) reduction in size of the stair, elevator, and mechanical bulkheads, and reduction in building height; (5) addition of balconies on the fifth and sixth floors; and (6) minor modifications to interior layouts and roof; and

WHEREAS, specifically, the applicant states that the site is, in the wake of Superstorm Sandy, now within ZONE AE on the Federal Emergency Management Agency’s Flood Insurance Rate Map, which means the site is now considered to be within a high-risk, high-vulnerability zone, making a

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cellar more expensive to insure; and

WHEREAS, in addition, the applicant states that CUNY has reassessed its needs and determined that parking on the originally-proposed scale is neither necessary, nor desirable; and

WHEREAS, the applicant also notes that the zoning district does not require any parking, and that the area is well-served by mass transit; as such, a significant demand for parking onsite is not anticipated; likewise, what little demand exists can be accommodated by nearby facilities; and

WHEREAS, in support of this statement, the applicant provided a parking study, which reflects that the site will have sufficient parking without the cellar parking garage, due in part to the recent construction of new major parking facilities in the vicinity; and

WHEREAS, as for the other proposed modifications to the plans, the applicant states that they are minor in nature and are consistent with the programmatic needs articulated by the applicant and recognized by the Board in its original grant; and

WHEREAS, accordingly, the applicant states that the proposed amendment will have no negative impacts on the surrounding area; and

WHEREAS, at hearing, the Board requested clarification regarding whether excavation had been performed at the site; and

WHEREAS, in response, the applicant stated that excavation has proceeded and is required under the New York State Department of Environmental Conservation-mandated site-management plan; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated September 23, 2008, to include the above-noted modifications; *on condition* that any and all work shall substantially conform to drawings filed with this application marked “Received February 10, 2014”- (20) sheets; and *on further condition*;

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

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

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

(DOB Application No. 402661945)

Adopted by the Board of Standards and Appeals, February 25, 2014.

*sheets, now reads: “Received February 10, 2014”- (20) sheets. Corrected in Bulletin No. 21, Vol. 99, dated May 28, 2014.*

**\*The resolution has been revised to correct the Plans Dates which read: “Received February 10, 2014”- (18)**