
BULLETIN

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130-14-BZ

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131-14-BZ

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132-14-BZ

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133-14-BZ

175 Father Capodanno Blvd., Located in the Arrochar neighborhood a low density neighborhood on Staten Island East Shore, Block 3122, Lot(s) 118, Borough of **Staten Island, Community Board: 2**. Special Permit (§73-36) to waive bulk regulation for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program,located within an R3-1 zoning district. R3-1 district.

134-14-BZ

53 Doty Avenue, Located in the Arrochar neighborhood, a low density neighborhood on Staten Island's East Shore., Block 3124, Lot(s) 147, Borough of **Staten Island, Community Board: 2**. Special Permit (§73-36) to waive bulk regulation for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program, located within an R3-1 zoning district. R3-1 district.

135-14-A

19 Sunnymeade Village, Surrounded by Sunnymeade Village, Block 3122, Lot(s) 174, Borough of **Staten Island, Community Board: 2**. GCL 36 WAIVER: for reconstruction of a home that do not front on a unmapped street. Pursuant to Article 3 of the General City Law. R3-1 district.

136-14-BZ

16 Mapleton Avenue, In the inland area of the Midland Beach neighborhood of Staten Island, Block 3799, Lot(s) 45, Borough of **Staten Island, Community Board: 2**. Special Permit (§73-36) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on property which are registered in the NYC Build it Back Program.: R3-1 district.

137-14-BZ

174 Kiswick Street, In the Inland area of the Midland Beach neighborhood of Staten Island., Block 3736, Lot(s) 21, Borough of **Staten Island, Community Board: 2**. Special Permit (§73-36) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program. R3-1 district.

138-14-BZ

1099 Olympia Boulevard, In the Inland area of the Midland Beach neighborhood of Staten Island which were destroyed by Hurricane Sandy., Block 3804, Lot(s) 33, Borough of **Staten Island, Community Board: 2**. Special Permit (§73-36) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program. R3-1 district.

139-14-BZ

555 Lincoln Avenue, In the Inland area of the Midland Beach neighborhood of Staten Sandy which were destroyed by Hurricane Sandy, Block 3804, Lot(s) 8, Borough of **Staten Island, Community Board: 2**. Special Permit (§64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program. R3-1 district.

DOCKETS

140-14-A

1016 East 16th 13th Street, between Avenue" and Avenue "K, Block 6714, Lot(s) 11, Borough of **Brooklyn, Community Board: 14**. Determination "Vested Rights: seeks a determination that the owner has acquires a common law vested rights to complete construction under the prior C4-3A/R6 zoning district. R5 district.

141-14-BZ

2465 Broadway, East side of Broadway, 50ft. South of intersection with West 92nd Street, Block 1239, Lot(s) 52, Borough of **Manhattan, Community Board: 7**. Special Permit (§73-36) to all a physical culture establishment with portions of an existing commercial building, located within a C4-6A zoning district. C4-6A(EC-3) district.

142-14-A

92 Fulton Street, Lot on the south side of Fulton Street, between William Street to the West and gold Street to the east, Block 77, Lot(s) 22, Borough of **Manhattan, Community Board: 1**. Proposed construction of a mixed-use development to be located partially within the bed of a mapped but unbuilt portion of Fulton Street, contrary to General City law Section 35 and the bulk regulations pursuant to §72-01-(g). C6-4 zoning district. C6-4 district.

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

CALENDAR

JULY 15, 2014, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, July 15, 2014, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

765-50-BZ

APPLICANT – Kenneth H. Koons, for R.G. Ortiz Funeral Home, Ink., owner.

SUBJECT – Application April 14, 2014 – Extension of Term (§11-411) of an approved variance permitting an existing one-story funeral parlor, which expired on November 20, 2013. C1-2 zoning district.

PREMISES AFFECTED – 1430-36 Unionport Road, eastside 43 feet South of Olmstead Avenue, Block 3933, Lot 51, Borough of Bronx.

COMMUNITY BOARD #9BX

88-92-BZ

APPLICANT – Kenneth H. Koons, for 3007 Enterprise Ink., owner.

SUBJECT – Application March 12, 2014 – Extension of Term (§11-411) a previously granted variance for an existing diner, which will expire on June 28, 2014. R4-1 zoning district.

PREMISES AFFECTED – 3007 East Tremont Avenue, northeast corner of Ericson Place, Block 5381, Lot 38, Borough of Bronx.

COMMUNITY BOARD #10BX

152-07-BZ

APPLICANT – Eric Palatnik, P.C., for Joseph Dweck, owner.

SUBJECT – Application December 31, 2013 – Extension of Term of a previously granted Special Permit (§73-36) for the continued use of a Physical Culture Establishment (Dolphin) on the second floor of a two-story commercial building which expired on January 1, 2013; Extension of Time to obtain a Certificate of Occupancy which expired on February 5, 2009; Waiver of the Rules.

C4-2A zoning district.

PREMISES AFFECTED – 8701 4th Avenue, southwest corner of 4th Avenue and 87th Street, Block 6050, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEALS CALENDAR

92-14-A

APPLICANT – Greenberg Traurig, LLP, for MTS Propco. LPC/Rockpoint Group, LLC, owner.

SUBJECT – Application May 2, 2014 – Appeals filed pursuant to MDL Section 310(2) (c) for variance of court requirements and legally required windows under MDL Sections 26 (7) & 30 for the construction of a residential addition to an existing building. C6-7/C6-6(MID) zoning district.

PREMISES AFFECTED – 790 7th Avenue, West 51st Street, Broadway, West 52nd Street and 7th Avenue, Block 1023, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #10M

ZONING CALENDAR

185-13-BZ

APPLICANT – Eric Palatnik P.C., for 97 Franklin Avenue LLC, owner.

SUBJECT – Application June 20, 2013 – Variance (§72-21) to permit the development of a proposed three story, two-unit residential development, contrary to section 42-00 of the zoning resolution. M1-1 zoning district.

PREMISES AFFECTED – 97 Franklin Avenue, Franklin Avenue, Between Park and Myrtle Avenue, Block 899, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #3BK

264-13-BZ

APPLICANT – Francis R. Angelino, Esq., for David Lowenfeld, owner; BB Fitness dba Brick Crossfit NYC, lessee.

SUBJECT – Application September 6, 2013 – Special Permit (§73-36) to permit the operation of a physical culture (*Health Club*) on the ground floor and cellar of an existing ten (10) story building. C6-2A zoning district.

PREMISES AFFECTED – 257 West 17th Street, north side, West 17th Street, between 7th & 8th Avenues, Block 767, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #4M

327-13-BZ

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

SUBJECT – Application December 23, 2014 – 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, aka 1498, 1526, 1528, 1532-1538 Coney Island Avenue,

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property occupies the northwest corner of Coney Island Avenue and Avenue L. Block 6536, Lot(s) 28, 30, 34, 40, 41, 42, 43, Borough of Brooklyn.

COMMUNITY BOARD # 12BK

36-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP., for 201 Pearl LLLC., owner; Soulcycle Maiden Lane, LLC., lessee.

SUBJECT – Application February 27, 2014 – Special Permit (§73-36) to allow the construction of a physical culture establishment (*Soulcycle*) within a mixed use. C5-5(LM) zoning district.

PREMISES AFFECTED – 101 Maiden Lane aka 201 Pearl Street, northeast corner of Maiden Lane and Pearl Street, Block 69, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #1M

47-14-BZ

APPLICANT – John M. Marmora, Esq., for RKR Properties, Inc., owner; McDonald's USA, LLC., lessee.

SUBJECT – Application March 26, 2014 – Special Permit (§73-243) to allow for an eating and drinking establishment (UG 6) (McDonald's) with an accessory drive-through facility. C1-2/R5D zoning district.

PREMISES AFFECTED – 122-21 Merrick Boulevard, northwest corner of Merrick Boulevard and Sunbury Road, Block 12480, Lot(s) 32, 39, Borough of Queens.

COMMUNITY BOARD #12Q

55-14-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for RK&G Associates LLC., owner; 388 Athletic Club, LLC, c/o Stah Real Estate Com., lessee.

SUBJECT – Application April 8, 2014 – Special Permit (§73-36) to allow the physical culture establishment (*388 Athletic Club*) to operate on the fifth and sixth floors of a new 53 Story commercial and residential building. C6-45 zoning district.

PREMISES AFFECTED – 388 Bridge Street, aka 141 Lawrence Street, Block 152, Lot 1001/06, Borough of Brooklyn.

COMMUNITY BOARD #2BK

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, JUNE 17, 2014
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

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

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term for an accessory drive-through, which expired on January 18, 2013, and an amendment to permit a minor enlargement and certain modifications to the site plan; and

WHEREAS, a public hearing was held on this application on May 13, 2014, after due notice by publication in *The City Record*, with a continued hearing on June 17, 2014, and then to decision on June 17, 2014; and

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

WHEREAS, Community Board 9, Bronx, offers no objection to the application; and

WHEREAS, the subject site is located on a corner through lot bounded by Metcalf Avenue to the west, Bruckner Boulevard to the north, and Fteley Avenue to the east, within a C1-2 (R5) zoning district; and

WHEREAS, the site has 52,421 sq. ft. of lot area and is occupied by a one-story eating and drinking establishment (Use Group 6) with 2,755 sq. ft. of floor area (0.05 FAR), 56 parking spaces, and accessory drive-through; and

WHEREAS, the site is operated as a White Castle; its

hours of operation are 24 hours per day, seven per week; and

WHEREAS, the Board has exercised jurisdiction over the site since November 25, 1986, when, under BSA Cal. No. 278-86-BZ, the Board granted a special permit for the operation of a drive-through facility accessory to an eating and drinking establishment, for a term of five years; and

WHEREAS, the term was extended by the Board on April 7, 1992, for a term of ten years, to expire on November 25, 2001, and on December 4, 2001, for a term of ten years, to expire on November 25, 2011; and

WHEREAS, most recently, on April 24, 2012, under BSA Cal. No. 167-11-BZ, the Board authorized the demolition and reconstruction of the building at the site and an extension of the term of the grant for five years, to expire on April 24, 2017; and

WHEREAS, the applicant represents that the construction contemplated under BSA Cal. No. 167-11-BZ was never undertaken and that the owner seeks to surrender that grant, reinstate the grant under the subject calendar number, amend it to allow a minor enlargement (an increase of 34 sq. ft.) of the building, an increase in the surface area of the service window, and minor modifications to the site plan, and extend its term for an additional five years; and

WHEREAS, the applicant notes that neither the site circulation, nor the location of the curb cuts, nor the number of reservoir spaces for the drive-through will be materially altered under the revised site plan; likewise, the number of parking spaces (56) will remain as approved under the original grant; and

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

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated November 25, 1986, so that as amended this portion of the resolution reads: “to permit the noted modification and an extension of the term of the special permit for an additional five years, to expire on June 17, 2019; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked ‘Received April 16, 2014’- (8) sheets; and *on further condition*:

THAT the grant will expire on June 17, 2019;

THAT signage will comply with C1 regulations;

THAT the above conditions and all relevant conditions from prior grants will appear on the certificate of occupancy; and

THAT a certificate of occupancy will be obtained by June 17, 2015;

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

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its

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jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, June 17, 2014.

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 7th Avenue, Block 1084, Lot 36, 164, 1001/1002, Borough of Brooklyn.

COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment of a previous approval, which, pursuant to ZR § 73-48, allowed the construction of 518 parking spaces contrary to ZR §§ 25-31 and 36-21; the proposed amendment seeks to: (1) enlarge the subject zoning lot; (2) reduce and reclassify certain parking spaces authorized under the special permit; and (3) permit other alterations related to the redevelopment of the site; and

WHEREAS, a public hearing was held on this application on April 8, 2014, after due notice by publication in *The City Record*, with a continued hearing on April 29, 2014, and then to decision on June 17, 2014; and

WHEREAS, at the April 29, 2014 public hearing, the Board set a May 20, 2014 decision date; and

WHEREAS, however, subsequent to the April 29, 2014 hearing, a representative of Preserve Park Slope communicated with Board staff and NYM about its request for supplemental documents from NYM; the Board declined to request the documents and NYM declined to provide the documents directly; and

WHEREAS, Preserve Park Slope then sought judicial relief to obtain the documents in New York State Supreme Court by Order to Show Cause; and

WHEREAS, the court issued a stay which prohibited the Board from closing the hearing and rendering a decision as scheduled on May 20, 2014; on June 4, 2014, the court lifted the stay but did not issue a ruling on the subpoena request, which is pending; and

WHEREAS, a companion application for a variance

pursuant to ZR § 72-21 required for development of the site was filed under BSA Cal. No. 289-13-BZ and decided at the same hearing; and

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

WHEREAS, this application is brought on behalf of New York Methodist Hospital (“NYM”), a non-profit hospital, research, and educational facility; and

WHEREAS, the subject site comprises the majority of Block 1084; it includes Tax Lots 164, 1001, and 1002, and has frontages along Fifth Street, Sixth Street, Seventh Avenue, and Eighth Avenue; the applicant notes that when the subject special permit was granted, the site comprised Lots 164, 1001, and 1002, however, at the time the lots were designated as Lots 1, 17, and 64; as for Lot 39, it was formed by the merger of former Lots 25, 26, 28, 40-44, 46, 48, and 50-59; and

WHEREAS, the site is located partially within an R6 (C1-3) zoning district, partially within an R6 zoning district, and partially within an R7B zoning district; and

WHEREAS, the site has approximately 510 feet of frontage along Fifth Street, approximately 696 feet of frontage along Sixth Street, 200 feet of frontage along Seventh Avenue, 200 feet of frontage along Eighth Avenue, and 120,569 sq. ft. of lot area; and

WHEREAS, the Board has exercised jurisdiction over the site since January 11, 1994, when, under the subject calendar number, the Board granted, pursuant to ZR §§ 72-21, 73-481, and 73-482, a variance and special permit to allow the construction of a five-story mixed commercial and medical office building (“MOB”) and a parking garage for 518 automobiles, contrary to ZR § 33-431 (height and setback), ZR §§ 22-10, 77-12, and 77-332 (location of entrance to a group parking facility accessory to commercial uses, ZR § 36-63 (required number of loading berths), ZR §§ 22-10, 36-683, 77-12, and 77-332 (enclosure of and location of entrance to loading berths), and ZR §§ 25-31 and 36-21 (maximum number of parking spaces); and

WHEREAS, the site is occupied by the MOB, a 12-story hospital building containing hospital-related facilities and staff dwellings (the “Wesley House”), the subject parking garage, which consists of three-below grade parking levels and surface parking, a surface parking lot on the southeast corner of the site, and a series of townhouses; and

WHEREAS, the applicant notes that, under the special permit, the parking spaces are designated required accessory spaces for retail uses (76 spaces), required accessory to the Wesley House (49 spaces), and permitted accessory spaces to hospital-related uses (393 spaces); and

WHEREAS, the applicant states that NYM seeks a variance to construct a new seven-story ambulatory care facility (the “Center for Community Health” or the “Center”) on adjacent Lot 39; the applicant states that, in connection with that proposal, it requests an amendment to the prior approval to allow: (1) enlargement of the subject zoning lot; (2) reduction and reclassification of parking spaces authorized

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under the special permit; and (3) other alterations to the site plan and to the existing garage related to the construction of the Center for Community Health; and

WHEREAS, as to the enlargement of the zoning lot, the applicant states that Lot 39 will be combined with the lots that are the subject of the prior variance and special permit (Lots 164, 1001, 1002) and the Center will be built on that portion of the new zoning lot; and

WHEREAS, as to the reduction and reclassification of parking spaces, the applicant states that 60 of the 393 permitted accessory parking spaces will be reclassified as required accessory parking for the Center, 49 of the 393 permitted accessory parking spaces will be reclassified as accessory to existing hospital uses within the MOB, and 38 of the 393 permitted accessory spaces will be eliminated to allow the construction of the Center's loading area; the result will be a decrease in the total number of permitted accessory parking spaces within the garage from 393 to 246 and an increase in the total number of required accessory spaces for new and existing hospital uses from 0 to 109; the designations for the required accessory parking for the retail (76 spaces) and the Wesley House (49 spaces) will not change; accordingly, the proposal reflects a net reduction in the total number of spaces authorized under the special permit from 518 to 480; and

WHEREAS, the applicant also notes that an additional parking garage will be constructed on the site to accommodate the 350 accessory spaces required in connection with the Center; and

WHEREAS, finally, as to the alterations to the site plan, the applicant states that portions of the existing garage must be demolished in order to accommodate the loading areas for the Center; and

WHEREAS, as addressed in BSA Cal. No. 289-13-BZ, the Board agrees with the applicant that the proposed changes to the existing parking garage and the proposed development of the Center for Community Health are in furtherance of NYM's programmatic needs as a non-profit teaching hospital and will not alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare; and

WHEREAS, based upon its review of the record, the Board finds the requested amendments to the plans are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens*, and *amends* the resolution to permit the noted modifications; *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 June 13, 2014'— eight (8) sheets; and *on further condition*:

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

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, June 17, 2014.

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

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....5

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, reopening, an extension of term for the operation of an eating and drinking establishment, which expired on March 15, 2014, and an extension of time to obtain a certificate of occupancy, which expired on March 20, 2013; and

WHEREAS, a public hearing was held on this application on February 25, 2014, after due notice by publication in the City Record, with a continued hearing on May 20, 2014, and then to decision on June 17, 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 7, Queens, recommends disapproval of the application, citing the following concerns regarding the eating and drinking establishment at the site: (1) that the establishment is serving alcohol with an expired liquor license; (2) that it is being operated as a catering facility without a public assembly certificate of operation (“PA”) or an amended certificate of occupancy (“CO”); and (3) that it has open violations from the Department of Buildings (“DOB”); and

WHEREAS, the subject site is located on the northeast corner of the intersection of Kissena Boulevard and Laburnum Avenue, within a C2-2 (R3-2) zoning district; and

WHEREAS, the site has 40,830 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story building operated as a restaurant (Use Group 6); and

WHEREAS, the Board has exercised jurisdiction over

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the subject site since May 6, 1958 when, under BSA Cal. No. 788-57-BZ, the Board granted a variance to permit the construction of a one-story storage garage and motor vehicle repair shop, with two gasoline dispensing pumps, for a term of 20 years; and

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

WHEREAS, on March 15, 1994, under the subject calendar number, the Board granted a special permit under ZR § 11-413 to permit the change of use from motor vehicle storage and repair to an eating and drinking establishment with accessory parking, for a term of ten years, which expired on March 15, 2004; and

WHEREAS, on October 5, 2010, the Board granted a ten-year extension of term from the expiration of the prior grant, to expire on March 15, 2014, and an amendment pursuant to ZR § 11-412 to permit certain modifications to the building; a condition of the grant was that a CO be obtained by October 5, 2011; and

WHEREAS, most recently, on March 20, 2012, the Board granted an extension of time to obtain a CO, to expire on March 20, 2013; and

WHEREAS, the applicant now requests an extension of term and an extension of time to obtain a CO; and

WHEREAS, at hearing, the Board directed the applicant to: (1) respond to the concerns of the community board; (2) remove the food storage trucks from the site; and (3) clarify the location and screening of the proposed garbage storage area; and

WHEREAS, in response, the applicant confirmed that: (1) alcohol is not available for purchase at the establishment; (2) it will be seeking a PA and a CO for a Use Group 6 eating and drinking establishment; (3) there is no catering (Use Group 9) at the site; and (4) the nine remaining open DOB violations are related to the lack of PA and CO for Use Group 6; and

WHEREAS, as to the food storage trucks, the applicant submitted photographs demonstrating that such trucks had been removed; and

WHEREAS, as to the garbage storage area, the applicant provided an amended plot plan, which details the location and screening of the area; the applicant also represents that there is a drain in the area and that the dumpster will be cleaned twice per day; and

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

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens, and amends the resolution, as adopted on March 15, 1994, to grant a one-year extension of time to obtain a certificate of occupancy, to expire on June 17, 2015 and to grant a ten-year extension of term, to expire on March 15, 2024; 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 June 3, 2014' - (3) sheets; and on further condition:

THAT use of the site shall be limited to a restaurant (Use Group 6) with accessory parking for 65 automobiles;

THAT all signage shall comply with C2 zoning district regulations;

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

THAT a new certificate of occupancy will be obtained by June 17, 2015;

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);

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, June 17, 2014.

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) for the development of four mixed use buildings (*Flushing Commons*), which expires on July 27th 2014. C4-4 zoning district.

PREMISES AFFECTED – 37-10 Union Street aka 38-15 138th 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

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for an extension of time to complete construction pursuant to a special permit, which permitted the construction of four buildings contrary to the height restrictions applicable to buildings within a certain distance of LaGuardia Airport, per ZR § 61-21; and

WHEREAS, a public hearing was held on this application on May 20, 2014, after due notice by publication in *The City Record*, and then to decision on June 17, 2014; and

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

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Commissioner Montanez; and

WHEREAS, the subject site is located on the majority of the block bounded by 138th Street to the west, 37th Avenue to the north, 39th Avenue to the south and Union Street to the east, within a C4-3 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 27, 2010, when, under the subject calendar number, the Board granted a special permit authorizing, within a C4-3 zoning district, the construction of four buildings in a mixed residential, commercial, and community facility development, which exceed the maximum height limits around airports, contrary to ZR § 61-21; and

WHEREAS, pursuant to ZR § 73-70, construction was to be substantially completed by July 27, 2014; however, the applicant represents that construction has not yet commenced and will not be completed by that date; and

WHEREAS, the applicant states that after receiving the special permit, ULURP approvals, and rezoning in 2010, the developer encountered difficulties obtaining financing for the project; and

WHEREAS, the applicant states that it has secured the necessary financing to complete the project; and

WHEREAS, accordingly, the applicant now seeks an extension of time to substantially complete construction; and

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

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated July 27, 2010, so that as amended this portion of the resolution reads: “to grant an extension of time to complete construction to July 27, 2018; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT substantial construction will be completed by July 27, 2018;

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

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.”

(DOB Application No. 410186427)

Adopted by the Board of Standards and Appeals, June 17, 2014.

49-11-BZ

APPLICANT – Warshaw 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) to allow 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

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment of a previously-granted special permit for a physical culture establishment (“PCE”) to legalize the enlargement of the PCE; and

WHEREAS, a public hearing was held on this application on May 20, 2014, after due notice by publication in *The City Record*, and then to decision on June 17, 2014; and

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

WHEREAS, the subject site is located on the north side of West 20th Street, between Sixth Avenue and Seventh Avenue, within a C6-3A zoning district; and

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

WHEREAS, the PCE occupies 5,279 sq. ft. of floor area on the ground floor and 4,266 sq. ft. of floor space in the cellar, for a total PCE size of 9,545 sq. ft.; and

WHEREAS, the PCE is operated as Barry’s Bootcamp; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 12, 2011 when, under the subject calendar number, the Board granted a special permit operation of the PCE in the subject building for a term of ten years, to expire on July 12, 2021; under the original grant, the PCE was permitted to occupy 3,561 sq. ft. of floor area on the ground floor and 2,873 sq. ft. of floor space in the cellar for a total PCE size of 6,434 sq. ft.; and

WHEREAS, the applicant now seeks an amendment to permit legalize the enlargement of the PCE into other portions of the ground floor and cellar of the building; specifically, the proposal would increase the total permitted size of the PCE from 6,434 sq. ft. to 9,545 sq. ft.; and

WHEREAS, the Board referred the application to the Fire Department and by letter dated May 15, 2014, the Fire Department offered no objection to the expansion of the PCE; and

WHEREAS, based upon its review of the record, the Board finds the requested amendments to the plans are appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens*, and *amends* the resolution to permit the noted modifications; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked ‘Received February 21, 2014’–(4) sheets; and *on further*

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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);

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.”

(DOB Application No. 120612774)

Adopted by the Board of Standards and Appeals, June 17, 2014.

611-52-BZ

APPLICANT – Gerald J. Caliendo, for John Blumenfield - HL Dalis, Inc., owner.

SUBJECT – Application October 15, 2013 – Extension of Term (§11-411) of a previously approved variance permitting a one story warehouse building, which expired on May 5, 2013. R5 zoning district.

PREMISES AFFECTED – 35-35 24th Street, east side of 24th Street, 130.63 feet south from the intersection of 35th Avenue and 24th Street, Block 338, Lot 8, Borough of Queens.

COMMUNITY BOARD #1Q

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

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 July 29, 2014, at 10 A.M., for continued hearing.

997-84-BZ

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

SUBJECT – Application January 23, 2014 – Amendment (§11-413) to a previous variance for a public parking garage. The amendment would convert the building to mixed use, 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

ACTION OF THE BOARD – Laid over to July 22, 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 regulations, which expired on February 24, 2012; Amendment to modify the parking layout, eliminate buffering and eliminate the term; 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

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

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 (UG 16) which expired on July 15, 2013; Waiver of the Rules. C1-2/R2A 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

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

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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

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

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 (§73-36) and variance (§72-21) authorizing a physical culture establishment (*Crunch*) by allowing a change in operator, Extension of Term, Extension of Time to obtain a Certificate of Occupancy, and Waiver of the Rules. 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

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

APPEALS CALENDAR

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 located 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

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 Department of Buildings (“DOB”), dated January 18, 2013 acting on DOB Application No. 420790424, reads in pertinent part:

A portion of the building site and proposed building lies in the bed of a mapped street, contrary to GCL 35; and

WHEREAS, a public hearing was held on this application on May 20, 2014, after due notice by publication in *The City Record*, and then to decision on June 17, 2014; and

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

WHEREAS, this is an application to allow the construction of one-story warehouse, which will be partially located in the bed of Metropolitan Avenue, a mapped street; and

WHEREAS, the subject site lies at the southwest corner of the intersection of Metropolitan Avenue and Woodward Avenue, within an M3-1 zoning district; and

WHEREAS, Community Board 5, Brooklyn, recommends disapproval of the application, citing traffic safety concerns; and

WHEREAS, by letter dated April 16, 2013, the Fire Department states that it has reviewed the proposal and offers no objections; and

WHEREAS, by letter dated April 22, 2013, the Department of Environmental Protection (“DEP”) states that: (1) there is an existing 36-inch diameter combined sewer, a 12-inch diameter and an eight-inch diameter City water main in the bed of Metropolitan Avenue fronting the above referenced location; and (2) Amended Drainage Plan No. 21(30), dated May 22, 1925, for the above-referenced location, shows a ten-inch diameter sanitary sewer, a 36-inch diameter storm sewer and a ten-inch diameter force main in

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Metropolitan Avenue west of Woodward Avenue; and

WHEREAS, DEP further states that it requires the applicant to submit a survey/plan showing: (1) the distances from the lot line of Lot 49 to the 36-inch diameter combined sewer, and the 12-inch diameter and eight-inch diameter City water main in the bed of Metropolitan Avenue; and

WHEREAS, in response to DEP's request, by letter dated May 6, 2013, the applicant submitted a revised architectural survey, which shows a 100-foot mapped-width for Metropolitan Avenue and a 34-foot widening portion of Metropolitan Avenue southwest of Woodward Avenue; the remaining 66-foot traveled portion of the street will be available for the reconstruction and/or maintenance of the existing and future sewers, and the existing water mains; and

WHEREAS, based on the above DEP has no further objections; and

WHEREAS, by correspondence dated September 6, 2013, the Department of Transportation ("DOT") has reviewed the above project and has no objections; and

WHEREAS, DOT notes that according to the Queens Borough President's Topographical Bureau: (1) Metropolitan Avenue between Onderdonk Avenue and Flushing Avenue is mapped to a 100-foot width on the Final City Map; and (2) the City has title to the northerly 66 feet by a deed recorded on June 2, 1873; and

WHEREAS, DOT also notes that the improvement of Metropolitan Avenue fronting the site is not presently included in DOT's Capital Improvement Program; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the Board modifies the decision of the DOB, dated January 8, 2013, acting on DOB Application No. 420790424 by the power vested in it by Section 35 of the General City Law, limited to the decision noted above, *on condition* that construction will substantially conform to the drawing filed with the application marked "Received June 4, 2014"--(1) sheet; and *on further condition*:

THAT DOB will review and approve plans associated with the Board's approval for compliance with the underlying zoning regulations as if the unbuilt street were not mapped;

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

THAT DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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 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 on June 17, 2014.

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 General City Law Section 35. 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

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 Department of Buildings ("DOB"), dated January 18, 2013, acting on DOB Application No. 420619539, reads in pertinent part:

Proposed construction of a new building in the bed of a mapped street is contrary to the General City Law Section 35 and is hereby denied; and

WHEREAS, a public hearing was held on this application on May 20, 2014, after due notice by publication in *The City Record*, and then to decision on June 17, 2014; and

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

WHEREAS, this is an application to allow the construction of one-story, one-family dwelling that will be partially located in the bed of 13th Avenue, a mapped street; and

WHEREAS, the subject site lies at the west side of 143rd Place approximately 259 feet south of 11th Avenue, within an R1-2 zoning district; and

WHEREAS, by letter dated April 13, 2013, the Fire Department states that it has reviewed the proposal and offers no objection, provided that the building is fully-sprinklered; and

WHEREAS, in response, the applicant submitted a revised site plan, dated May 30, 2014, which indicates that the building will be fully-sprinklered; and

WHEREAS, by letter dated April 16, 2013, the Department of Environmental Protection ("DEP") states that: (1) there is an existing 12-inch diameter private sanitary sewer, an eight-inch diameter City water main in 143rd Place fronting the above referenced property; and (2) Amended Drainage Plan No. 37A(5), 37C(1), and 37FS(2), Sheet 4 of 9, 1942, for the above-referenced location, calls for a future ten-inch diameter sanitary sewer and a 12-inch diameter storm sewer to be installed in 13th Avenue, between 143rd Place and 142nd Street; and

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WHEREAS, DEP states that the applicant has submitted a survey for the above location which shows: (1) 60-foot width of 13th Avenue between 143rd Place and 142nd Street; and (2) shows that the property is located in the bed of mapped 13th Avenue; and

WHEREAS, DEP further states that it requires the applicant to submit a revised survey/plan showing: (1) the distances from the westerly lot line of the site to the terminal manhole of the ten-inch diameter private sanitary sewer and to the end cap of the eight-inch diameter City water main in the bed of 13th Avenue; (2) show a 32-foot wide sewer corridor in the bed of 13th Avenue along the site for the installation, maintenance and/or reconstruction of the future ten-inch diameter sanitary sewer and the 12-inch diameter; alternatively, the applicant may seek to amend the drainage plan; and

WHEREAS, in response to DEP's request, by letter dated March 19, 2014, the applicant has submitted a revised architectural survey; the revised survey shows a distance of 25 feet from the terminal manhole of the ten-inch diameter private sanitary sewer and a distance of one foot from the hydrant on the eight-inch diameter City water main to the westerly lot line of the site; and

WHEREAS, DEP states that based on the Topographical Bureau Map No. 3711, dated September 30, 1953, the Drainage Review Section determined that Lots 27 and 151 would benefit from the existing ten-inch diameter sanitary sewer and will discharge storm flow to the future storm sewer in 13th Avenue; and

WHEREAS, based on the above DEP has no further objections; and

WHEREAS, by correspondence dated September 6, 2013, the Department of Transportation ("DOT") has reviewed the above project and has no objection; and

WHEREAS, the DOT notes that according to the Queens Borough President's Topographical Bureau: (1) 13th Avenue between 142nd Street and 13th Place is mapped to a 60-foot width on the Final City Map; and (2) the City has no title to the mapped street; and

WHEREAS, DOT also notes that the improvement of 13th Avenue in the location of the site is not presently included in DOT's Capital Improvement Program; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the Board modifies the decision of DOB, dated January 18, 2013, acting on DOB Application No. 420619539 by the power vested in it by Section 35 of the General City Law, limited to the decision noted above, *on condition* that construction will substantially conform to the drawing filed with the application marked "Received May 30, 2014" – (1) sheet; and *on further condition*:

THAT DOB will review and approve plans associated with the Board's approval for compliance with the underlying zoning regulations as if the unbuilt street were not mapped;

THAT this approval is limited to the relief granted by

the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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 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 on June 17, 2014.

166-12-A

APPLICANT – NYC Department of Buildings.

OWNER – Sky East LLC c/o Magnum Real Estate Group, owner.

SUBJECT – Application June 4, 2012 – Application to revoke the Certificate of Occupancy. R8B zoning district.

PREMISES AFFECTED – 638 East 11th Street, south side of East 11th Street, between Avenue B and Avenue C, Block 393, Lot 26, Borough of Manhattan.

COMMUNITY BOARD #3M

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

107-13-A

APPLICANT – Law Office of Marvin B. Mitzner LLC, for Sky East LLC, owner.

SUBJECT – Application April 18, 2013 – An appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior R7- 2 zoning district. R7B zoning district.

PREMISES AFFECTED – 638 East 11th Street, south side of East 11th Street, between Avenue B and Avenue C, Block 393, Lot 25, 26 & 27, Borough of Manhattan.

COMMUNITY BOARD #3M

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

110-13-A

APPLICANT – Abrams Fensterman, LLP, for Laurence Helmarth and Mary Ann Fazio, owners.

SUBJECT – Application April 24, 2013 – Appeal challenging Department of Buildings' interpretation of the Building Code regarding required walkway around a below-grade pool. R6B zoning district.

PREMISES AFFECTED – 120 President Street, between Hicks Street and Columbia Street, Block 348, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #6BK

MINUTES

ACTION OF THE BOARD – Laid over to August 12, 2014, at 10 A.M., for continued hearing.

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

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to August 12, 2014, at 10 A.M., for decision, hearing closed.

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 a hotel (*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. 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

ACTION OF THE BOARD – Laid over to July 29, 2014, at 10 A.M., for postponed hearing.

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. 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

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

ZONING CALENDAR

54-12-BZ

CEQR #12-BSA-087Q

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

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 Department of Buildings (“DOB”), dated February 8, 2012, acting on DOB Application No. 420316535, reads in pertinent part:

Proposed community facility with dwelling above located in an R5 zoning district does not meet the following bulk regulations:

1. Exceeds the minimum allowed lot coverage for the residential portion of the building, per ZR 23-141;
2. Is not allowed to be built on an existing small lot that does not meet the minimum lot width, per ZR 23-32 and 23-33;
3. Does not meet the required front yard, per ZR 23-45 and 24-34;
4. Does not meet the required side yards, per ZR 23-46 and 24-35;
5. Does not meet the required side setback, per ZR 24-55; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site located within an R5 zoning district, the construction of a two-story mixed residential (Use Group 2) and community facility building (Use Group 4) that does not comply with the bulk regulations for lot coverage, minimum lot width, front yard, side yards, and side setback, contrary to ZR §§ 23-141, 23-32, 23-33, 23-45, 23-46, 24-34, 24-35, and 24-55; and

WHEREAS, a public hearing was held on this application on July 23, 2013, after due notice by publication in the *City Record*, with continued hearings on September 10, 2013, October 22, 2013, March 11, 2014, and May 20, 2014,

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and then to decision on June 17, 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, recommended approval of the original version of this application, provided that (1) the community facility operates within standard business hours and (2) the facility does not offer open MRI, PET scan, or CT scan procedures; and

WHEREAS, the subject site spans the east side of 102nd Street between 65th Road and 66th Avenue, within an R5 zoning district, within a predominantly built-up area; and

WHEREAS, the site has approximately 130 feet of frontage along 102nd Street, approximately 22 feet of frontage along 65th Road, approximately 18 feet of frontage along 66th Avenue, and 2,573 sq. ft. of lot area; and

WHEREAS, the applicant submitted excerpts of Sanborn maps from various years between 1914 and 1994, which indicate that the site has been a lot of record in its current size and configuration for at least 100 years; and

WHEREAS, the site is occupied by two buildings: (1) a two-story, semi-detached, single-family home (Use Group 2) with 1,446 sq. ft. of floor area (0.56 FAR) on the northern portion of the site; and (2) a one-story, detached medical office (Use Group 4) with 610 sq. ft. of floor area (0.24 FAR) on the southern portion of the lot; thus, the site has a total existing floor area of 2,056 sq. ft. (0.80 FAR); and

WHEREAS, the applicant notes that both the home and the medical office were completed on or about July 10, 1958 and that the owner of the home constructed the medical office for his private practice; and

WHEREAS, the applicant states that the home is occupied but the medical office is vacant and has been since the current owner took possession of the site; and

WHEREAS, the applicant originally proposed to demolish the medical office building and construct a four-story mixed residential (Use Group 2) and ambulatory diagnostic or treatment health care facility (Use Group 4) building with 3,731 sq. ft. of floor area (1.45 FAR) (2,799 sq. ft. of residential floor area and 932 sq. ft. of community facility floor area) and wall and building heights of 35'-0"; the original proposal included community facility on the first story and one dwelling on each of the second through fourth stories; this proposal required waivers for lot coverage, minimum lot width, front, rear, and side yards, and side setback; and

WHEREAS, through the hearing process, the proposal was scaled down significantly; the applicant now proposes to demolish the medical office building and construct a two-story mixed residential (Use Group 2) and ambulatory diagnostic or treatment health care facility (Use Group 4) building with 1,866 sq. ft. of floor area (0.73 FAR) (933 sq. ft. of residential floor area and 933 sq. ft. of community facility floor area), a wall height of 22'-0" and a building height of 28'-0", and complying rear yard depth of 27'-5"; the revised proposal has a community facility on the first story and one dwelling unit on the second story and requires waivers for lot coverage,

minimum lot width, front and side yards, and side setback; the revised proposal will increase the total floor area on the site from 2,056 sq. ft. (0.80 FAR) to 3,321 sq. ft. (1.28 FAR), which is well within the maximum permitted floor area for the site (5,177 sq. ft. (2.0 FAR)); and

WHEREAS, as to the waivers, the applicant states that the proposal includes 64 percent lot coverage (a maximum lot coverage of 60 percent is permitted for a community facility building), one front yard with a depth of 15'-0" (the requirement is two front yards with minimum depths of 10'-0" and 18'-0"), no side yard (the requirement is one side yard with a minimum width of 8'-0"), and no side setback (a side setback with a minimum width of 8'-0" is required for a community facility building); and

WHEREAS, in addition, the applicant states that because the existing lot width is 17'-6" and the minimum lot width in the subject R5 district is 18'-0", any increase in the existing floor area on the lot requires a minimum lot width waiver; 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; (2) the site's three frontages; and (3) the relative underdevelopment of the site and inability to enlarge; and

WHEREAS, the applicant states that, unlike nearby sites, the subject site is occupied by a small, functionally-obsolete community building that creates practical difficulties in redeveloping the site; and

WHEREAS, in particular, the applicant states that the building, which is more than 55 years old, has only 610 sq. ft. of rentable floor area and no cellar or basement; as such, the space is too small to meet even the minimum requirements of a modern medical office, which include a waiting room, a reception area, an examination room, record storage areas, a restroom, and some private office space for medical professionals; and

WHEREAS, the applicant represents that the space has no market potential in its current condition and configuration and the owner has made numerous attempts to secure a tenant over the years, without success; and

WHEREAS, the applicant also asserts that the site's three frontages along 102nd Street, 65th Road and 66th Avenue (which is a historic condition) create a unique burden that makes as-of-right development of the site infeasible; and

WHEREAS, the applicant states that because the site has three frontages, it must provide three front yards with minimum depths of 10'-0" along the portion of its perimeter fronting on a street (a linear distance of approximately 170'-0"); as such, the front yard requirements alone reduce the developable area of the site by approximately 1,700 sq. ft.; the rear and side yards and lot coverage requirements further reduce the portion of the site where development may occur as-of-right; and

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WHEREAS, finally, the applicant states that the site has history of underdevelopment with little potential to develop as-of-right; and

WHEREAS, as noted above, the applicant states that the site's 2,056 sq. ft. of floor area (0.80 FAR) was developed in 1958 represents less than half of the maximum permitted FAR for the site (1.65 FAR); and

WHEREAS, the applicant states that despite its underdevelopment, its location on a corner and the applicable yard and lot coverage requirements make further development—or even complete redevelopment—impractical; and

WHEREAS, specifically, the applicant states that an as-of-right community facility building on the site would have only 203 sq. ft. of floor area, which, is not enough to accommodate even the smallest community facility use (the applicant notes that typical medical offices range from 1,000 sq. ft. to 1,200 sq. ft., including storage space); thus, an as-of-right office at the site would be one-fifth the size of a typical office; and

WHEREAS, the applicant also analyzed the technical feasibility of enlarging the site's single-family home, in order to realize a greater portion of the site's development potential (the home has 1,446 sq. ft. of floor area (0.56 FAR); a maximum of 4,246 sq. ft. (1.65 FAR) is permitted because the site is within a predominantly built-up area); however, the applicant submitted an analysis, which reflects that yard requirements prevent *any* enlargement of the existing home; in contrast, other homes on the subject block with similar FARs on similarly-sized sites but without three frontages are able to enlarge both vertically and horizontally by an average of 1,310 sq. ft.; and

WHEREAS, thus, the applicant states that the site is significantly disadvantaged by the site's obsolescent building, its three frontages, and its historic underdevelopment; and

WHEREAS, based upon the above, the Board finds that, in accordance with ZR § 72-21(a), the aforementioned unique physical conditions create unnecessary hardship and practical difficulty in developing the site in conformance with the use regulations; and

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

WHEREAS, the applicant assessed the financial feasibility of four scenarios: (1) the status quo; (2) the construction of a new as-of-right community facility building; (2) a lesser scenario involving the enlargement of the existing community facility building with front and side yard waivers only; and (4) the proposal; and

WHEREAS, thus, the applicant concludes that only the proposal would result in a sufficient return; and

WHEREAS, at hearing, the Board questioned the value of the site in comparison to nearby sites; and

WHEREAS, in response, the applicant amended its analysis and reduced the site value; and

WHEREAS, based upon its review of the applicant's

submissions, the Board concludes that because of the site's unique physical conditions, there is no reasonable possibility that development in strict compliance with applicable zoning requirements will provide a reasonable return; 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 predominantly occupied by residential and community facility uses, with diverse mix of rowhouses, high-rise multiple dwellings, medical facilities, and schools; and

WHEREAS, the applicant states that the site has been occupied by a medical facility for more than 55 years, that Use Group 4 is permitted as-of-right in the subject zoning district; and

WHEREAS, as to adjacent properties, the applicant states that two-story residential building are located north, east, and west of the site; south of the site across the 66th Avenue is the ten-story Forest Hills Hospital and southwest of the site, where 66th Avenue terminates at 102nd Street, and there is a seven-story multiple dwelling; and

WHEREAS, the applicant states that the proposed enlargement will have no discernable impact on any adjacent use; and

WHEREAS, the applicant states that although there are taller buildings in the vicinity of the site, there is a strong two-story context directly north, east and west of the site and the proposal is in keeping with this context; and

WHEREAS, the applicant also states that the proposed yard waivers actually allow the building to have its minimum impact on adjacent uses, by allowing the building to be constructed at the southwesternmost portion of the site (the exclusively residential uses on the subject block are north and east of the proposed building); and

WHEREAS, as to lot minimum lot width, the applicant states that the proposed width of 17'-6" is deficient by only 0'-6" and is an existing condition, which does not impact adjacent uses; and

WHEREAS, as to lot coverage, the applicant states that the proposed 64-percent lot coverage is both modest (the maximum permitted is 60 percent) and necessary to allow construction of a building with viable residential and community facility floorplates; and

WHEREAS, finally, as with lot coverage and yards, the side setback waiver is necessary to construct a building that is both marketable and responsive to the low-rise context of the block; 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 asserts and the Board agrees that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is due to

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the site's unique physical conditions; and

WHEREAS, the applicant states that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board agrees that the proposal is the minimum variance necessary, per ZR § 72-21(e), and it notes that the proposal has been reduced by two stories and 1,865 sq. ft. of floor area since its original iteration; 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. 12-BSA-087Q, dated March 7, 2012; 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 under ZR § 72-21 and grants a variance, to permit, on a site located within an R5 zoning district, the construction of a two-story mixed residential (Use Group 2) and community facility building (Use Group 4) that does not comply with the bulk regulations for lot coverage, minimum lot width, front yard, side yards, and side setback, contrary to ZR §§ 23-141, 23-32, 23-33, 23-45, 23-46, 24-34, 24-35, and 24-55; *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 June 11, 2014" – five (5) sheets; and *on further condition*;

THAT the following shall be the bulk parameters of the building: two stories; 1,866 sq. ft. of floor area (0.73 FAR) (933 sq. ft. of residential floor area and 933 sq. ft. of community facility floor area), a maximum wall height of 22'-0"; a maximum building height of 28'-0"; and a minimum rear yard depth of 27'-5"; as indicated on the BSA-approved plans;

THAT the zoning lot will have a maximum floor area of

3,321 sq. ft. (1.28 FAR);

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);

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, June 17, 2014.

263-12-BZ CEQR #13-BSA-029X

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). 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 – 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 Department of Buildings ("DOB"), dated May 21, 2013, acting on DOB Application No. 220206783, reads, in pertinent part:

Residential use is not permitted in an M1-1 zoning district, per ZR Section 42-00

Residential use does not have the required front yard along the zoning district boundary, as required by ZR Section 43-304; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-1 zoning district, within the Special City Island District, the construction of a three-story residential building with age-restricted dwelling units (Use Group 2) with a front yard depth of 10'-0", contrary to ZR §§ 42-00 and 43-304; and

WHEREAS, a public hearing was held on this application on June 11, 2013, after due notice by publication in the *City Record*, with continued hearings on October 29, 2013, and February 25, 2014. On May 20, 2014, the case was reopened and closed, and then to decision on June 17, 2014; and

WHEREAS, the premises and surrounding area had site

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

WHEREAS, the Board notes that the application has been significantly altered through the hearing process; the original application included four stories, 132,271 sq. ft. of floor area (2.4 FAR), 65 percent lot coverage, 214 assisted-living dwelling units, 102 parking spaces, no front yards, a rear yard depth of 20'-0", and a variance of Building Code Section BC G304 (which, among other things, requires that residential buildings be elevated above the design flood elevation) under BSA Cal. No. 264-12-A (the "Original Application"); the amended proposal includes three stories, 33,310 sq. ft. of floor area (0.6 FAR), 22-percent lot coverage, 45 age-restricted (persons 55 years of age or older) dwelling units, 48 parking spaces, two front yards with depths of 10'-0", a rear yard depth of 30'-0", and construction in accordance with Building Code Section BC G304 (the "Amended Application"); and

WHEREAS, Community Board 10, Bronx, recommended disapproval of the Original Application and recommends disapproval of the Amended Application, citing concerns regarding: (1) the placement of housing on a site within a manufacturing district and a flood plain; (2) the amount of open space provided on the lot; and (3) the absence of "green" initiatives and flood-prevention measures at the building and site; and

WHEREAS, State Senator Jeffrey Klein and City Councilmember James Vacca recommended disapproval of the Original Application; and

WHEREAS, the City Island Chamber of Commerce recommends approval of the Amended Application; and

WHEREAS, certain members of the surrounding community submitted testimony in support of both Original and Amended Applications; and

WHEREAS, certain members of the surrounding community and the City Island Civic Associated (through counsel) submitted testimony in opposition to the Original Application (the "Opposition"); and

WHEREAS, the Opposition identified the following reasons for its objection to the Original Application: (1) the applicant lacks the legal capacity to develop or operate a residence for the elderly; (2) the proposed building is grossly incompatible with the surrounding community and puts building and neighborhood residents at risk; (3) the applicant fails to make the required findings to justify the variances it seeks under the Zoning Resolution and the Building Code; and (4) the application does not reflect the January 2012 Federal Emergency Management Agency ("FEMA") Advisory Flood Insurance Rate Map changes, which increased the minimum elevation requirement of the building's lowest floor to an adjusted height of 13'-6"; and

WHEREAS, a member of the City Island Civic Association states that the group does not oppose the Amended Application; however, it requests the following modifications: (1) the inclusion of a permeable paved surface; and (2) the inclusion of a "green" roof; and

WHEREAS, in response, the applicant states that it is unable to utilize a permeable paved surface because it must cap the soil prevent the risk of human exposure to certain contaminants that may be present in the soil; the applicant notes that the drainage for the site will be in accordance with the applicable provisions of the building code; and

WHEREAS, as to the green roof, the applicant states that 34 percent of the roof is dedicated as a "green" roof; and

WHEREAS, this application is brought on behalf of the Italian Hospital Society, a not-for-profit organization, which the applicant states was established in 1937 in conjunction with the founding of the Italian Hospital of New York on West 110th Street; and

WHEREAS, the subject site is an irregularly-shaped parcel located on the southeast corner of the intersection of City Island Avenue and Schofield Street, within an M1-1 zoning district, within the Special City Island District; and

WHEREAS, the site has approximately 191 feet of frontage along Schofield Street, approximately 237 feet of frontage along City Island Avenue, and 55,529 sq. ft. of lot area; and

WHEREAS, the site is currently used as a contractor's yard (Use Group 17); and

WHEREAS, as noted above, the applicant seeks to construct a three-story building with three stories 33,310 sq. ft. of floor area (0.6 FAR), 22 percent lot coverage, 45 age-restricted dwelling units, 48 parking spaces, two front yards with depths of 10'-0", and a rear yard depth of 30'-0"; the applicant notes that although the residence will be age-restricted, no assisted-living services will be provided; and

WHEREAS, because, per ZR § 42-00, Use Group 2 is not permitted within the subject M1-1 zoning district, the applicant requests a use variance; and

WHEREAS, in addition, because Schofield Street is a narrow street and its center line is a district boundary between the subject M1-1 zoning district and an R3A zoning district, a front yard depth of 20'-0" is required along the Schofield Street frontage, per ZR § 43-304; however, the applicant seeks to provide a front yard depth of 10'-0" along Schofield Street, and, as such, a variance of ZR § 43-304 is requested; and

WHEREAS, the applicant states that, per ZR § 72-21(a), the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the site's contaminated soil; (2) its high water table; and (3) its location within a flood plain; and

WHEREAS, the applicant states that the site suffers from high levels of contamination, including the presence of a layer of coal ash, slag and petroleum, volatile organic compounds, semi-volatile organic compounds, and metals; as such, the site will require significant remediation, including soil removal, disposal, and replacement of soils; further, the foundation will require special ventilation to allow trapped vapors to be safely exhausted and the underlying soil will be sealed with a concrete cap; and

WHEREAS, the applicant also notes that the site has been admitted into the New York State Department of

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Environmental Conservation Brownfields Cleanup Program, which will help to defray some but not all of the costs associated with redevelopment of the site; and

WHEREAS, the applicant states that ground water at the site fluctuates between five and ten feet below grade, which prevents the use of sub-grade spaces for administrative offices and common dining and recreational areas; and

WHEREAS, in addition, the applicant represents that the high water table will require dewatering and shoring of excavation walls during the construction of the foundation, at significant costs; and

WHEREAS, lastly, the applicant states that the site's location within a flood plain results in additional premium construction costs; and

WHEREAS, specifically, the applicant states that the site is within Zones AE and X of FEMA Advisory Flood Insurance Rate Map; as such, the lowest story of the building must be elevated above the design flood elevation, dry flood-proofing materials must be utilized at the cellar and first story, and utilities and equipment must be located at or above the design flood elevation or constructed so as to prevent water from entering or accumulating within the components during flooding; and

WHEREAS, as to the uniqueness of the site's physical conditions, the applicant states that while many sites on City Island are either contaminated, have a high water table, or are within a flood plain, no other site of remotely comparable size has all three conditions; accordingly, the applicant asserts that the site is unlike any other site on City Island; and

WHEREAS, thus, the applicant asserts that the site's unique combination of physical conditions—and their attendant premium construction costs—make a conforming development at the site impractical; and

WHEREAS, in particular, the applicant states that an as-of-right three-story office building with 34,800 sq. ft. of floor area (0.63 FAR) and 116 surface parking spaces does not produce sufficient returns to offset the above-noted premium construction costs; and

WHEREAS, the Board agrees that the aforementioned unique physical conditions, when considered individually and in the aggregate, create unnecessary hardship and practical difficulty in developing the site in accordance with the applicable zoning regulations; and

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

WHEREAS, in particular, in addition to the proposal, the applicant examined the economic feasibility of: (1) an as-of-right office building with (0.63 FAR); (2) an as-of-right office building with (1.0 FAR); (3) a lesser variance multiple dwelling with 0.5 FAR; (4) a lesser variance 0.5 FAR residential scenario with 21 single-family dwellings; and (5) the proposal; and

WHEREAS, the applicant concluded that only the proposal results in a positive rate of return, making it economically viable; and

WHEREAS, based upon its review of the applicant's economic analysis, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance and compliance with applicable zoning requirements will provide a reasonable return, in accordance with ZR § 72-21(b); and

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

WHEREAS, the applicant states that the surrounding neighborhood is characterized by a predominance of two-story residential buildings, except along City Island, which, to the north, includes local retail and office uses, and, to the south, P.S. 175, a portion of Ambrosini Field along City Island Avenue, and a yacht club; and

WHEREAS, as to immediately adjacent uses, the applicant states that there are residences or mixed residential and commercial buildings directly north and west of the site, an unmapped street (Centre Street) and Ambrosini Field directly south of the site, and a Verizon telephone exchange building directly east of the site; and

WHEREAS, thus, the applicant contends that the proposed residential use is entirely consistent with surrounding neighborhood; and

WHEREAS, turning to bulk, the applicant states that while the proposed 0.6 FAR is higher than the 0.5 FAR permitted in the nearby R3A district, it is well within the 1.0 FAR permitted for a conforming use at the site; and

WHEREAS, as noted above, through the hearing process and in response to concerns articulated by the community and by the Board, the applicant significantly scaled down the size and changed the nature of the project, from a four-story, assisted-living facility with 132,271 sq. ft. of floor area (2.4 FAR) and 214 dwelling units to a three-story, age-restricted apartment building with 33,310 sq. ft. of floor area (0.6 FAR) and 45 dwelling units; and

WHEREAS, additionally, the applicant notes that the proposed height complies with height regulations of the Special City Island District (ZR § 112-106) and the proposed density (45 dwelling units) is less than would be permitted if the site were subject to the density regulations of an R3A zoning district (47 dwelling units); and

WHEREAS, as to the requested front yard waiver, the applicant states that providing a front yard depth of 20'-0" along Schofield Street for the proposed residential building is impractical and unnecessary, and would result in a loss of dwelling units that would make the proposal infeasible; and

WHEREAS, the applicant asserts that the neighborhood context, parking and open space requirements of an R3A zoning district, and programmatic needs of the Italian Hospital Society in creating an appropriate age-restricted living environment with easily accessible parking and outdoor recreation space must be considered in determining the

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appropriate depth of the front yard along Schofield Street; and

WHEREAS, further, the applicant states that providing a front yard depth of 20'-0" along Schofield Street does not further the purposes of the ZR § 43-304, because the section was clearly intended to provide an added buffer between residential uses and manufacturing uses and the proposed building is residential within the manufacturing district; thus, no buffer is necessary and a front yard depth of 10'-0" (the requirement in the adjacent R3A zoning district) is appropriate; and

WHEREAS, thus, the applicant states that the proposed bulk is consistent with the built character of the surrounding neighborhood; and

WHEREAS, the Board agrees that the character of the area is residential, and finds that, pursuant to ZR § 72-21(c), this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board also finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the site's soil contamination, high water table, location within a flood plain, as well as the limited economic potential of conforming uses on the lot; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 13BSA029X, dated August 31, 2012; 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 has been submitted for entry into the New York State Brownfield Cleanup Program ("BCP") administered by the New York State Department of Environmental Conservation ("DEC"); 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 ("DEP") 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 Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an M1-1 zoning district, within the Special City Island District, the construction of a three-story residential building with age-restricted dwelling units (Use Group 2) with a front yard depth of 10'-0", contrary to ZR §§ 42-00 and 43-304, *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 June 13, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: three stories, a maximum floor area of 33,310 sq. ft. (0.6 FAR), a maximum lot coverage of 22 percent, a maximum of 45 age-restricted dwelling units, 48 parking spaces, two front yards with minimum depths of 10'-0", and a minimum rear yard depth of 30'-0";

THAT the occupancy of the building will be limited to persons 55 years of age or older;

THAT landscaping will be in accordance with the BSA-approved drawings;

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

THAT, an E designation (E-347) is placed on the subject property to ensure proper hazardous materials remediation;

THAT, prior to the issuance by DOB of permits that involve soil disturbance, the applicant shall obtain from OER a Notice to Proceed, which shall be based on DEC's letter of acceptance into the Brownfield Cleanup Program;

THAT, prior to the issuance by DOB of a certificate of occupancy, the applicant shall obtain from OER a Notice of Satisfaction, which shall be based on DEC's letter of satisfaction regarding completion of the Brownfield Cleanup Program;

THAT, should the applicant not obtain an approval from DEC for completion of the BCP, the applicant must obtain approval from OER for a hazardous materials remediation plan and construction health related safety plan prior to the issuance of a Certificate of Occupancy;

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

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

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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, June 17, 2014.

347-12-BZ

CEQR #13-BSA-072Q

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

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 Department of Buildings (“DOB”), dated November 26, 2012, acting on DOB Application No. 420213219, reads in pertinent part:

1. Proposed building height exceeds the maximum height limitation by the flight obstruction map of LaGuardia Airport, per ZR 61-20;
2. Proposed transient hotel is not within uses permitted as-of-right in R7-1 zoning district, per ZR 22-10; and

WHEREAS, this is an application under ZR § 72-21, 73-66, and 73-03, to permit, on a site partially within an R7-1 (C1-2) zoning district and partially within an R7-1 zoning district, the construction of a 18-story mixed community facility and commercial building to be occupied as a transient hotel (Use Group 5) with 180 rooms and an ambulatory diagnostic or treatment health care facility (Use Group 4), contrary to the use and height regulations set forth in ZR §§ 22-10 and 61-20; and

WHEREAS, a public hearing was held on this application on March 25, 2014, after due notice by publication in the *City Record*, with a continued hearing on May 13, 2014, and then to decision on June 17, 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 7, Queens, recommends approval of the application, subject to the following conditions: (1) the parking will be attended and open to the public at daily rates; (2) a shuttle will be provided to Main Street in Flushing and to LaGuardia Airport; (3) curbside drop off will be prohibited by the hotel and by the health care facility; (4) the health care facility will operate during regular business hours; (5) there will be no catering or restaurant connected to the hotel; (6) the hotel will not obtain a liquor license; (7) the hotel and the health care facility will maintain orderly pickup and delivery of materials; (8) a community room will be provide for community board and civic association organization with free parking upon request; (9) the building will be LEED-certified “Gold” and have a “green” roof; and (10) the hotel will have 161 rooms; and

WHEREAS, certain members of the surrounding community submitted testimony in opposition to application (the “Opposition”), citing the following concerns: (1) the excessive height of the building; (2) the inconsistency of transient use with the nearby residential uses; (3) the ability of the sewer system to accommodate a 180-room hotel; (4) the construction practices and after-hours work occurring at the site at present; and (5) increased traffic around the site during construction and after the hotel and medical facility begin operation; and

WHEREAS, the subject site is an irregularly-shaped through lot that comprises Tax Lots 11, 14, and 15 (Tentative Lot 15), partially within an R7-1 (C1-2) zoning district and partially within an R7-1 zoning district; and

WHEREAS, the site has approximately 126 feet of frontage along Union Street, approximately seven feet of frontage along Bowne Street, and 32,532 sq. ft. of lot area; and

WHEREAS, in addition, the site is within a flight obstruction area for LaGuardia Airport, which limits the height of any building at the site to 155’-0”;

WHEREAS, the applicant represents that, at present, the site is a construction site for an as-of-right residential development; and

WHEREAS, the applicant proposes to construct an 18-story mixed community facility (Use Group 4) and commercial (Use Group 5) building; the proposed bulk parameters are as follows: 156,154 sq. ft. of floor area (4.8 FAR)(44,895 sq. ft. of community facility floor area (1.38 FAR) and 111,259 sq. ft. of commercial floor area (3.42 FAR)); total building height of 229’-6” (243’-0”, including bulkheads); 31-percent lot coverage; a rear yard depth of 60’-0”;

WHEREAS, because Use Group 5 is not permitted as-of-right in the R7-1 portion of the site, the applicant seeks a use variance; and

WHEREAS, because, as noted above, the site is within a flight obstruction area, and the proposed height (243’-0”) exceeds 155’-0”, the applicant seeks a special permit

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pursuant ZR § 73-66; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable zoning district regulations: (1) the site's substandard soil conditions; and (2) its unusual shape; and

WHEREAS, the applicant asserts that the site's soil is substandard, resulting in premium construction costs; and

WHEREAS, specifically, the applicant states that, based the report of its geotechnical consultant, the soil at the site is particularly unstable, loose, and uneven; as such, deep excavation (to a depth of 50'-0" below grade) and piling at closer intervals are required in order to protect adjacent sites during foundation and sub-grade construction work; in addition, the site contains a significant number of intrusions (boulders), which further increase the costs owing to the unstable soil; and

WHEREAS, at hearing, the Board sought clarification regarding the necessity of the proposed deep excavation when borings showed quality soil at significantly shallower depths; and

WHEREAS, in response, the applicant clarified that although suitable soil on which to construct a foundation was found at shallower depths, such soil also contained large boulders, which must be removed in order to properly construct the building; as such, a deep excavation was not anticipated by the borings, but became necessary after excavation began; and

WHEREAS, the applicant also states that the poor quality of the soil is unique in the surrounding area; according to the geotechnical report, the soils in the area were deposited during the glacial era, which is characterized by a variable pattern in soil composition; thus, a significant number of nearby sites have soil conditions more conducive to development; and

WHEREAS, the applicant states that the site's shape makes it infeasible to develop the site with a conforming use; and

WHEREAS, the applicant states that the site's northern and southern boundaries have a jagged quality, which gives the site its unique shape; the northern boundary jogs as it proceeds east and changes direction five times at five different angles before it reaches Bowne Street; the southern boundary is similar irregular, although not as angled – it changes direction four times at right angles; the overall effect of the jogging boundary lines is a dramatic tapering of the site from Union Street, where the site has approximately 126 feet of frontage, to Bowne Street, where the site's frontage is just seven feet; and

WHEREAS, the applicant asserts that the irregularity and tapering of the site limits the buildable areas of the lot, constrains the building envelope, creates design inefficiencies, and prevents utilization of the available floor area on the site; and

WHEREAS, for example, the applicant states that—in contrast to an ordinary four-cornered building—a building at the site must have no fewer than 11 corners, each of which

requires corner structural panels; accordingly, because corner panels cost more than typical panels, increased construction costs are a direct result of the site shape; and

WHEREAS, additionally, the applicant states that the site's shape adversely affects standard dwelling unit layouts in a conforming building; because of the angles and curves of the building envelope, the interior environment of a dwelling unit must be adjusted using custom installation, curvilinear materials and non-standard equipment and appliances; accordingly, the applicant states that the site's shape prevents a sufficient number of suitably-sized, modern dwelling units to offset the premium costs of construction; and

WHEREAS, finally, the applicant contends that the site's shape—particularly the jogging of the site's boundary lines—results in a disproportionately long perimeter (in comparison to the site's lot area), which in turn increases the number of adjacent sites to be protected with underpinning and shoring during construction, at significant cost; and

WHEREAS, as to uniqueness, the applicant represents that there are no sites of even remotely similar shape within ten blocks of the site, making its shape unique in the surrounding area; and

WHEREAS, the applicant states that it analyzed the feasibility of developing the site as-of-right with a mixed residential and community facility building (rental) with the following bulk parameters: 156,154 sq. ft. of floor area (4.8 FAR)(44,485 sq. ft. of community facility floor area (1.38 FAR) and 111,259 sq. ft. of commercial floor area (3.42 FAR)); 14 stories; a total building height of 139'-11"; 161 dwelling units; and 200 accessory parking spaces; and

WHEREAS, the applicant states that although the as-of-right scenario's floor-to-ceiling heights are significantly reduced in order to achieve an as-of-right height within the FAA height limitations and such reductions reduce the value of the building significantly; and

WHEREAS, accordingly, the applicant states that a conforming development does not produce enough revenue to offset the premium construction costs that result from the site's substandard soil conditions and unusual shape; and

WHEREAS, based upon the above, the Board finds that, in accordance with ZR § 72-21(a), the aforementioned unique physical conditions create unnecessary hardship and practical difficulty in developing the site in conformance with the use regulations; and

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

WHEREAS, the applicant assessed the financial feasibility the following scenarios: (1) a 14-story as-of-right mixed residential (rental) and community facility building with a total height of 139'-11"; (2) a 12-story as-of-right mixed residential (apartment hotel) and community facility building with a total height of 155'-0"; (3) a lesser-variance (no special permit) 12-story mixed hotel and community facility with a total height of 155'-0"; (4) an 18-story mixed residential (apartment hotel) and community facility

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building with a total height of 243'-0" pursuant to a special permit under ZR § 73-66; (5) an 18-story mixed residential (condominium) and community facility building with a total height of 243'-0" pursuant to a special permit under ZR § 73-66; (6) a 14-story mixed residential (rental) and community facility building with a total height of 177'-0" on a typical rectangular site; and (7) the proposal; and

WHEREAS, the applicant concludes that, other than the scenario involving the conceptual rectangular lot, only the proposal would result in a sufficient return; and

WHEREAS, at hearing, the Board questioned: (1) the size and the proposed number of hotel rooms, as the most efficient use of the bulk; and (2) the comparable sites used to determine the site value; and

WHEREAS, in response, the applicant provided: (1) a letter from Starwood hotels, the presumptive tenant of the building, which explains Starwood's requirements for room size and type; and (2) additional comparable sites and a revised analysis on site value; and

WHEREAS, based upon its review of the record, the Board has determined, per ZR § 72-21(b), 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 use 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 immediate area is characterized by a mix of commercial, community facility, and residential uses, including multiple dwellings, one- and two-family homes, schools, playgrounds, and the bustling commercial areas along and around Main Street; Bowne Street also includes a number of commercial uses at the ground floor; the wider area includes Downtown Flushing, the Queens Botanical Garden, Flushing Hospital Medical Center, and Citi Field; and

WHEREAS, the applicant represents that there are more than a dozen hotels three blocks north and west of the site in the Downtown Flushing area; and

WHEREAS, as to the immediately adjacent sites, the applicant states that directly south of the site are a four-story multiple dwelling and a nine-story nursing home and rehabilitation center, and directly north of the site are a two-story, two-family building, a two-story church, a six-story multiple dwelling, and a one-story supermarket; and

WHEREAS, as to bulk, the applicant states, as noted above, that the proposal is within the maximum 4.8 FAR permitted in the underlying R7-1 district, as well as all the bulk regulations regarding yards, sky-exposure plane, open space, and setback; and

WHEREAS, as to traffic and parking, the applicant provided a study, which reflects that the proposal will not have significant negative impacts on parking or traffic; in fact, the applicant asserts that an as-of-right residential

building would have a greater impact on parking and traffic, because hotel guests typically use public transportation and travel during different periods of the day than residents; and

WHEREAS, the applicant also notes that, consistent with the community board's request, there will be no delivery of materials or hotel guests to the curbside; instead, the underground parking area will be used so as to minimize the number of vehicles in front of the building; and

WHEREAS, accordingly, the Board finds that this action will neither alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the practical difficulties and unnecessary hardships associated with the site result from its soil conditions and shape; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the unique physical characteristics of the site; and

WHEREAS, finally, the applicant asserts that the current proposal is the minimum necessary to offset the hardship associated with the uniqueness of the site and to afford the owner relief; and

WHEREAS, the Board notes that the applicant explored six other scenarios, including a hotel scenario with fewer rooms, in order to demonstrate that the proposal is the minimum necessary to afford relief; accordingly, the Board is persuaded that the proposal satisfies ZR § 72-21(e); 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 applicant asserts that the proposal satisfies all findings required for the Board to grant a special permit pursuant to ZR § 73-66; and

WHEREAS, the Board notes that under ZR § 73-66, it may permit the construction, enlargement, or reconstruction of a building or other structure in excess of the height limits established under ZR §§ 61-21 and 61-22, provided that: (1) the applicant submits a site plan, with elevations, showing the proposed building or other structure in relation to such maximum height limits; and (2) the Board finds that such proposed building or other structure, enlargement, or reconstruction would not constitute a hazard (either under the existing layout of the airport or under any planned reorientation or lengthening of the airport runways) to the safety of the occupants of such proposed building, to other buildings in the vicinity or to the safety of air passengers, and would not disrupt established airways; and

WHEREAS, finally, ZR § 73-66 specifically requires that the Board refer the application to the Federal Aeronautics Administration ("FAA") for a report as to whether such construction will constitute a danger to the safety of air passengers or disrupt established airways; and

WHEREAS, the Board notes that the height limit established for any building at the site under ZR §§ 61-21 and 61-22 is 155'0" and the proposal reflects a maximum building

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height of 243'-0" (including bulkheads); and

WHEREAS, the applicant submitted the required site plan showing the proposed building in relation to the maximum height limits; and

WHEREAS, the applicant also submitted a July 23, 2009 letter from the FAA, which states that the proposed height (either under the existing layout of the airport or under any planned reorientation or lengthening of the airport runways) will not constitute a danger to the safety of air passengers or disrupt established airways; and

WHEREAS, accordingly, the Board finds that the proposal will not constitute a hazard to the safety of the occupants of such proposed building, to other buildings in the vicinity or to the safety of air passengers, and would not disrupt established airways; and

WHEREAS, the Board finds, consistent with ZR § 73-03, 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, further, 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 §§ 73-66 and 73-03; and

WHEREAS, the project is classified as a Unlisted action pursuant to Sections 617.2 and 617.6 of 6NYCRR; 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. 13-BSA-072Q, dated June 3, 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, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of

1977, as amended, and makes each and every one of the required findings ZR § 72-21, 73-66, and 73-03, to permit, on a site partially within an R7-1 (C1-2) zoning district and partially within an R7-1 zoning district, the construction of a 18-story mixed community facility and commercial building to be occupied as a transient hotel (Use Group 5) with 180 rooms and an ambulatory diagnostic or treatment health care facility (Use Group 4), contrary to the use and height regulations set forth in ZR §§ 22-10 and 61-20, *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 June 13, 2014" – twenty-one (21) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: 18-stories; a maximum of 156,154 sq. ft. of floor area (4.8 FAR)(44,895 sq. ft. of community facility floor area (1.38 FAR) and 111,259 sq. ft. of commercial floor area (3.42 FAR)); a maximum total building height of 229'-6" (243'-0", including bulkheads); a maximum of 31-percent lot coverage; a minimum rear yard depth of 60'-0"; two side yards with minimum widths of 8'-0" in the commercial portion of the building; 180 hotel rooms; and 300 accessory parking spaces;

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

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, June 17, 2014.

**103-13-BZ
CEQR #13-BSA-032K**

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

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

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

COMMUNITY BOARD #3BK

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

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Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 28, 2013, acting on Department of Buildings Application No. 320540866, reads in pertinent part:

Proposed use is not permitted in M1-1 zoning district, as per ZR 42-00; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-1 zoning district, the construction of a four-story multiple dwelling (Use Group 2), contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on December 17, 2013, after due notice by publication in the *City Record*, with continued hearings on February 4, 2014 and March 4, 2014, and then to decision on June 17, 2014; and

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

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

WHEREAS, the subject site is located on the north side of Jefferson Street, between Stanwix Street and Evergreen Avenue, within an M1-1 zoning district; and

WHEREAS, the site has 25 feet of frontage along Jefferson Street, a depth of 100 feet, and 2,500 sq. ft. of lot area; and

WHEREAS, the site is currently vacant; however, the applicant notes that, historically (since at least 1921, according to that year's Belcher Hyde Atlas Map), the site was occupied by a two-story multiple dwelling, which was fire-damaged in the 1990s and eventually demolished in 2001; and

WHEREAS, the applicant proposes to construct a four-story multiple dwelling in accordance with the bulk regulations applicable for a quality housing building in an R6 district; specifically, the building will have approximately 5,490 sq. ft. of floor area (2.2 FAR) and, 60 percent lot coverage, eight dwelling units, a rear yard depth of 36'-0", no side yards or parking spaces, and a total building height of 43'-6"; and

WHEREAS, because residential use is not permitted in the subject M1-1 zoning district, the applicant requests the subject variance; and

WHEREAS, the applicant represents that, per ZR § 72-21(a), the following are unique physical conditions which create unnecessary hardship in developing the site in conformance with applicable regulations: (1) the site has a small lot size of 2,500 sq. ft., a narrow lot width of 25 feet and is vacant; (2) the site has a history of residential use and is adjacent to residential buildings on two sides, and across the street; and (3) the site is located just outside the nearby North Brooklyn Industrial Business Zone ("IBZ"); and

WHEREAS, the applicant represents that the site's narrowness and small lot size would result in a conforming manufacturing or commercial building with inefficient, narrow

floor plates that would be inadequate space for providing a loading dock; further, the applicant states based on the small lot size, a conforming development would provide a maximum floor plate of 2,500 sq. ft., which the applicant represents is substandard for modern manufacturing uses; and

WHEREAS, in support of its claim that the site—with its narrow lot width and small lot size—is not feasible for modern manufacturing use, the applicant surveyed the surrounding manufacturing uses and found that all seven manufacturing uses on the subject block and the block across the street are located on wider lots with more lot area than the site; and

WHEREAS, the applicant also submitted a study of the vacant sites within the subject M1-1 district to support its assertions that such vacancy constitutes a unique hardship for the site; and

WHEREAS, based on the study, the applicant concludes that the site is the only vacant site within the study area that is not already used in conjunction with an adjacent site, in common ownership with one or more adjacent sites (which would allow for an assemblage that would be more conducive to the construction of a building for conforming uses), or located on a corner (corner lots are more conducive to a commercial or manufacturing use because of the increased visibility and street frontage access points); and

WHEREAS, in addition, the applicant states, as noted above, that for approximately 70 years, the site was occupied by a multiple dwelling; as such, the size and width of the site has historically been to accommodate residential uses; and

WHEREAS, the applicant further represents that the site is adjacent to residential uses on two sides and across the street, and that the existence of residential buildings on the nearby lots further devalues the site for a conforming use and would result in lower rental incomes and higher vacancy rates; and

WHEREAS, finally, the applicant states that the site is located just outside of an IBZ, which makes it ineligible for certain financial benefits associated with locating new businesses within an IBZ; as such, the applicant asserts that the site cannot compete with similar sites within the IBZ; and

WHEREAS, the applicant concludes that the site is uniquely unsuitable for conforming uses because of its width, size, vacancy, history of residential use, adjacency to residential uses, and location just outside the IBZ; and

WHEREAS, the Board agrees that the site has a combination of unique physical conditions including its lot width and size, vacancy, historic residential use, and adjacency to other residential uses, which, in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, to satisfy ZR § 72-21(b), the applicant submitted a feasibility study which analyzed the rate of return on an as-of-right industrial building at the site and the proposal; and

WHEREAS, according to the study, a one-story building with approximately 2,500 sq. ft. of floor area occupied by a

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conforming use would yield a negative rate of return; the proposed residential building, on the other hand, would realize a reasonable return; and

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

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

WHEREAS, the applicant states that the subject block is primarily developed with residential buildings with some manufacturing/industrial uses; the applicant notes that directly across Jefferson Street is an R6 zoning district, where the proposed use would be as-of-right; and

WHEREAS, as to adjacent uses, as noted above, residential uses about two sides of the lot (the north and west sides), a vacant one-story manufacturing building is located directly east of the site and south, across Jefferson Street, are multiple dwellings; and

WHEREAS, the applicant also notes that the site was occupied by a residential building from at least 1921 until 2001; thus, the applicant asserts that the site and the subject stretch of Jefferson Street have a long-standing residential character despite the site's M1-1 designation; and

WHEREAS, accordingly, the applicant contends that the proposal is more consistent with the neighborhood character than a conforming use would be; and

WHEREAS, as to bulk, the applicant states that the building complies in all respects with the bulk regulations for a quality housing building within an R6 zoning district; and

WHEREAS, at hearing, the Board expressed concerns regarding: (1) the compatibility of the proposed building height (43'-6") and number of stories (four) with the surrounding buildings; and (2) the compliance of the proposed interior court; and

WHEREAS, in response, the applicant provided a building height study and a streetscape, which reflects that 13 buildings along Jefferson Street between Stanwix Street and Evergreen Avenue have a height of at least 40'-0", five of which have a height of 45'-0"; and

WHEREAS, in addition, the applicant acknowledged that the originally-proposed court did not comply and revised the plans to eliminate the interior court; and

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

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the site's

unique physical conditions; and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617; and

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement ("EAS") CEQR No. 13BSA032K, dated April 12, 2013; and

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21, and grants a variance to permit, on a site within an M1-1 zoning district, the construction of a four-story multiple dwelling (Use Group 2), contrary to ZR § 42-00; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 16, 2014" – nine (9) sheets; and *on further condition*:

THAT the following are the bulk parameters of the building: a maximum floor area of 5,490 sq. ft. (2.2 FAR), maximum lot coverage of 60 percent, a minimum rear yard depth of 36'-0", no side yards or parking spaces, and a maximum building height of 43'-6", as indicated on the BSA-approved plans;

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

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

THAT the approved plans shall be considered approved

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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, June 17, 2014.

213-13-BZ

CEQR #14-BSA-009R

APPLICANT – Rothrug 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 Island.

COMMUNITY BOARD #2SI

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 Department of Buildings (“DOB”), dated June 12, 2013, acting on DOB Application No. 520073802, reads in pertinent part:

Proposed ambulatory diagnostic or treatment health care facility listed in Use Group 4 within lower density growth management area exceeds 1,500 sq. ft. allowed per ZR 22-14(A); and

WHEREAS, this is an application under ZR §§ 73-126 and 73-03, to permit, on a site within an R3A zoning district, the construction of a two-story mixed residential (Use Group 2) and community facility (Use Group 4) building, with 5,967 sq. ft. of floor area, to be occupied by an ambulatory diagnostic or treatment health care facility, contrary to ZR § 22-14; and

WHEREAS, a public hearing was held on this application October 22, 2013, after due notice by publication in The City Record, with a continued hearing on November 26, 2013, December 17, 2013, February 25, 2014, March 25, 2014, April 29, 2014, May 20, 2014, and then to decision on June 17, 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 2, Staten Island, recommends disapproval of this application; and

WHEREAS, certain members of the surrounding

community submitted testimony in opposition to the application; and

WHEREAS, the subject site is located on the northeast corner of the intersection of Victory Boulevard and Ridgeway Avenue, within an R3A zoning district; and

WHEREAS, the site has approximately 127 feet of frontage along Ridgeway Avenue, approximately 100 feet of frontage along Victory Boulevard, and 12,712 sq. ft. of lot area; and

WHEREAS, the applicant states that the site was historically two lots (Tax Lots 22 and 24); Lot 22 is occupied by a one-story mixed residential and commercial building; Lot 24 is occupied by a one-story residential building; and

WHEREAS, the applicant proposes to demolish the building on Lot 24 and alter and enlarge the building on Lot 22; the enlargement will increase the floor area of the building from 1,216.9 sq. ft. (0.1 FAR) (347.2 sq. ft. of residential floor area and 869.8 sq. ft. of community facility floor area) to 6,314.2 sq. ft. of floor area (0.5 FAR) (347.2 sq. ft. of residential floor area and 5,967.1 sq. ft. of community facility floor area); and

WHEREAS, the applicant notes that 17 accessory parking spaces will also be provided on the site; and

WHEREAS, the applicant notes that in the subject R3A zoning district, which also within a Lower Density Growth Management Area, an ambulatory diagnostic or treatment facility is limited to 1,500 sq. ft. of floor area, pursuant to ZR § 22-14; however, pursuant to ZR § 73-126, the Board may permit an ambulatory diagnostic or treatment health care facility with maximum floor area of 10,000 sq. ft., provided that: (a) the amount, type, and distribution of open area on the zoning lot are compatible with the character of the neighborhood; (b) the distribution of bulk on the zoning lot will not unduly obstruct access of light and air to adjoining properties or streets; and (c) the scale and placement of the building on the zoning lot relates harmoniously with surrounding buildings; and

WHEREAS, the Board notes that other than the increase in floor area beyond 1,500 sq. ft. authorized by the special permit, the ambulatory diagnostic or treatment health care facility must comply with all zoning parameters of the underlying district; and

WHEREAS, the applicant states that, aside from the requested increase in community facility floor area, the proposal complies in all respects with the zoning parameters of the subject R3A zoning district; and

WHEREAS, the applicant also states that the proposed building will have 5,967.1 sq. ft. (0.47 FAR) of community facility floor area, which is significantly less than the maximum permitted under the special permit (10,000 sq. ft.), and less than half of the maximum FAR permitted for community facilities in the subject R3A zoning district (1.0 FAR); and

WHEREAS, turning to the ZR § 73-126 findings, the applicant contends that the proposal’s the amount, type, and distribution of open area on the zoning lot are compatible with the character of the neighborhood; and

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WHEREAS, specifically, the applicant states that the proposed 37.5 percent lot coverage is significantly less than the maximum permitted lot coverage (55 percent); in addition, the applicant examined the nature and amount of open space of the 54 sites surrounding the site, and found that 44 sites provide less than open space than the subject site; the applicant also notes that 25 percent of the open space on the site will be grass or landscaped and that open space on nearby sites often includes grassy areas, paved surfaces, pools, and accessory garages; and

WHEREAS, accordingly, the applicant asserts that the site's proposed open area entirely compatible with the character of the neighborhood; and

WHEREAS, as to the distribution of bulk on the zoning lot and its impacts on the light and air of adjoining properties or streets, the applicant contends that the proposal has no impact on adjoining properties, in that it is only two stories (with a wall height of approximately 21 feet), it is located more than 65 feet from the nearest building, and it provides two front yards with depths of ten and 23 feet; and

WHEREAS, as to the harmoniousness of the building with the surrounding buildings in terms of scale and placement on the site, the applicant states that, as noted above, the building complies in all respects with the bulk regulations regarding FAR, height, yards, lot coverage, and parking; the applicant also notes that the footprint of the enlarged building will be substantially similar to the footprints of the existing buildings on the lot; thus, the historic site condition is reflected in the proposal; and

WHEREAS, at hearing, the Board expressed concerns regarding: (1) the compatibility of a flat-roof design with the surrounding buildings and directed the applicant to provide a streetscape comparing its design with the existing context; and (2) the number of examination rooms proposed; and

WHEREAS, in response, the applicant provided the streetscape and revised the proposal to reflect a hipped-roof; the applicant asserts also asserts that the surrounding neighborhood is characterized by its architectural diversity and that the proposal seeks to incorporate the disparate elements; and

WHEREAS, the Board agrees that the context is varied and it finds that the hipped-roof is more in keeping with the nearby residential buildings; and

WHEREAS, as to the number of examination rooms proposed, the applicant explained that the examination rooms shown on the drawings were actually examination, waiting, and specialized equipment rooms, and that many rooms will be used non-simultaneously; and

WHEREAS, based upon the above, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR § 73-125; and

WHEREAS, the Board further finds that the subject use will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board also finds that the proposal will

not interfere with the renovation of the adjacent fire station, and will otherwise not interfere with any pending public improvement project; and

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

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

WHEREAS, the project is classified as 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-009R, dated July 10, 2013; and

WHEREAS, the EAS documents that the operation of the facility 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, the Board has determined that the operation of the facility will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings ZR §§ 73-125 and 73-03, to permit, on a site within an R3A zoning district, the construction of a two-story mixed residential (Use Group 2) and community facility (Use Group 4) building, with 5,967 sq. ft. of floor area, to be occupied by an ambulatory diagnostic or treatment health care facility, contrary to ZR § 22-14; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received June 12, 2014" –(9) sheets; and *on further condition*:

THAT the parameters of the building shall be as follows: two stories, a maximum wall height of 21 feet, a maximum residential floor area of 347.2 sq. ft., a maximum community facility floor area of 5,967.1 sq. ft. of community facility floor area, a maximum lot coverage of 37.5 percent, and 17 parking spaces, as reflected on the BSA-approved plans;

THAT all landscaping will be provided and maintained in accordance with the approved plans;

THAT substantial construction will be completed in

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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, June 17, 2014.

273-13-BZ

CEQR #14-BSA-044M

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

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

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

COMMUNITY BOARD #8M

ACTION OF THE BOARD – 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 Department of Buildings (“DOB”), dated September 20, 2013, acting on DOB Application No. 121331362, reads, in pertinent part:

Proposed residential use (UG2) within C8-4 zoning district is not permitted; contrary to ZR 32-11; and

WHEREAS, this is an application under ZR § 72-21, to permit, within a C8-4 zoning district, the construction of an eight-story residential building (Use Group 2), contrary to ZR § 32-11; and

WHEREAS, a public hearing was held on this application on March 4, 2014, after due notice by publication in the *City Record*, and then to decision on June 17, 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 8, Manhattan, recommends approval of the application; and

WHEREAS, the subject site is an irregularly-shaped interior located on the north side of East 62nd Street between Second Avenue and First Avenue, within a C8-4 zoning

district; and

WHEREAS, the site has 8.15 feet of frontage along East 62nd Street and 3,749 sq. ft. of lot area; and

WHEREAS, the western boundary of the site has an arcing quality; it is formed by a tax lot that coincides with an exit from the Ed Koch Queensboro Bridge, giving the site a trapezoidal quality; as such, the lot narrows considerably from the rear lot line, which has a width of 48.33 feet, to the front lot line, which has a width of 8.15 feet; in addition, at ground level, the area beneath the exit is a paved roadway, complete with curbs and sidewalks; thus, the site is bounded on only two sides by buildings and has the appearance of a corner lot; and

WHEREAS, the site is vacant; applicant states that the current and historic use of the site is for parking automobiles; and

WHEREAS, the applicant proposes to construction an eight-story residential building with 24,368.5 sq. ft. of floor area (6.5 FAR), 28 dwelling units, a total building height of 93'-0", and nine accessory parking spaces; and

WHEREAS, because Use Group 2 is not permitted within the subject C8-4 zoning district, the applicant seeks a use variance; and

WHEREAS, the applicant states that, per ZR § 72-21(a), the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) trapezoidal shape and a narrow lot width; and (2) proximity to the exit of the Ed Koch Queensboro Bridge and the Roosevelt Island Tram; and

WHEREAS, the applicant states that the site has a trapezoidal shape, which narrows the lot width from 48.33 feet to 8.15 feet; and

WHEREAS, the applicant asserts that this unique condition—there are no remotely similar sites within 400 feet of the site—creates significant building inefficiencies and does not result in a marketable floorplate for a conforming use, which require two sets of stairs, elevators, and corridors; and

WHEREAS, likewise, the applicant states that, due to the site’s curved shape, a building that utilizes the available will have a curved façade, which is more expensive than a flat façade; and

WHEREAS, in addition, the site’s proximity to an exit of the Ed Koch Queensboro Bridge presents a unique burden in developing site, particularly with respect to cost; and

WHEREAS, specifically, the applicant represents that any development of the site will require higher site supervisory costs and insurance premiums (due to the risks associated with damaging a major thoroughfare), increased seismic monitoring, and a greater quantity of sidewalks, curbs, and plaza paving; and

WHEREAS, the applicant also states that a crane cannot be used during construction because of the location of the bridge and the exit, the narrow width of the site along East 60th Street, and the location of wires for the Roosevelt Island Tram (which run directly over East 60th Street); and

WHEREAS, the applicant notes that because a crane cannot be used, it must employ a reinforced concrete frame

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rather than a structural steel frame; and

WHEREAS, the applicant provided an analysis of the construction costs for the site; according to that report, the site's unique conditions result in \$709,365 in premium construction costs; and

WHEREAS, the applicant explored the feasibility of a conforming development with 24,368.5 sq. ft. of floor area (6.5 FAR) (18,745 sq. ft. of commercial floor area (5.0 FAR) and 5,623.5 sq. ft. of community facility floor area (1.5 FAR)); such development yields floorplates of 3,351 sq. ft. that vary in width from 48 feet to 17 feet, which the applicant states are not conducive to either commercial or community facility uses; and

WHEREAS, in addition, as noted above, the applicant states that the conforming development must include two sets of stairways and an elevator bank, which decreases the overall efficiency of the building and further limits its rentable portions; and

WHEREAS, accordingly, the applicant concludes that conforming uses are infeasible at the site, due to the inefficient building that results from its trapezoidal shape and narrow width, and the premium construction costs inherent in the development of a site in close proximity to one of the city's major bridges; and

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

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

WHEREAS, in addition to the proposal, the applicant examined the economic feasibility of: (1) an as-of-right 6.5 FAR mixed commercial and community facility building with parking on the first story, two stories of community facility use, and six stories of office use; and (2) a lesser-variance residential development with only six stories and 5.0 FAR; and

WHEREAS, the applicant concluded that the as-of-right scenario and the lesser variance scenario resulted in negative rates of return after capitalization; in contrast, the applicant represents that the proposal results in a positive rate of return, making it economically viable; and

WHEREAS, based upon its review of the applicant's economic analysis, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return, in accordance with ZR § 72-21(b); and

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

WHEREAS, the applicant states that the immediate area is characterized by a mix of medium- to high-density residential and commercial uses and, of course, the Ed Koch Queensboro Bridge and its many elevated approaches and structural elements; the applicant notes that the portion of East 60th Street east of the bridge is predominantly residential with some ground floor commercial; and

WHEREAS, as to adjacent uses, immediately north of the site are three five-story tenement buildings, immediately east of the site is a large commercial building that is 146 feet in height and spans the full width of the block from East 60th Street to East 61st Street; as noted above, streets abut the site to the west and south; and

WHEREAS, the Board agrees that the character of the area is mixed-use, and finds that the introduction of 28 dwelling units will not impact nearby conforming uses; and

WHEREAS, as to bulk, the applicant states that the building's wall and building height of 93'-0" is comparable to buildings in the immediate vicinity, 53'-0" feet shorter than the adjacent commercial building, and well within the maximum building height in the subject C8-4 district (210'-0"); and

WHEREAS, at hearing, the Board directed the applicant to provide additional details regarding: (1) why a crane cannot be used to lift materials into the site; (2) the proposed noise attenuation and air quality preservation measures; and

WHEREAS, in response, the applicant provided a supplemental statement from the project architect, which further describes the constraints of the site, including its inability to use a crane; and

WHEREAS, as to the Board's noise concerns, the applicant states that proposal includes specially-glazed windows, which will provide 25 dB(A) of attenuation, resulting in interior noise levels that are within acceptable ranges; as to air quality, the applicant states that the HVAC systems for the dwelling units will provide fresh air in addition to heating and cooling; therefore, residents will be able to receive fresh air without opening external windows; and

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

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the site's trapezoidal shape and its proximity to the Ed Koch Queensboro Bridge; the Board notes that the applicant provided copies of the 1969 and 1970 tax maps, which coincide with the construction of the bridge exit and reflect the formation of the site in its current form; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 14BSA044M, dated September 24, 2013; and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, within a C8-4 zoning district, the construction of an eight-story residential building (Use Group 2), contrary to ZR § 32-11, *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 June 16, 2014"- seven (7) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: a maximum of 24,368.5 sq. ft. of floor area (6.5 FAR); a maximum of 28 dwelling units; a maximum total building height of 93'-0"; one front yard along East 60th Street with a minimum depth of 10'-0"; and a maximum of nine accessory parking spaces;

THAT sound attenuation will be in accordance with the BSA-approved plans;

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

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

THAT 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 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, June 17, 2014.

289-13-BZ

CEQR #14-BSA-057K

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 8th Avenue, 480-496 & 542-548 5th Street & 249-267 7th Avenue, 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

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 Department of Buildings' Executive Zoning Specialist, dated February 6, 2014, acting on Department of Buildings Application No. 320576952, reads in pertinent part:

1. Proposed FAR in R6B and R7B portions both exceed maximum permitted because proposed "floor area" distribution across district boundary lines is not permitted; contrary to ZR 24-11, ZR 24-17, and ZR 77-02.
2. Proposed lot coverage of (a) corner lot in R6, (b) interior lot in R6, (c) through lot in R6/R6B districts, and (d) corner lot in R7B exceeds the maximum; contrary to ZR 24-11.
3. Proposed rear yard at through lot portion in zoning districts R6 and R6B is contrary to ZR 24-382 Required Rear Yard Equivalent.
4. Height and setback limitations for: (a) the R6 district portion, above both narrow (6th Street) and wide street (8th Avenue) and (b) the R6B . . . district portions above narrow street (5th Street) are both contrary to ZR 24-522.
5. Required rear setbacks for R6 and R6B district portions are contrary to ZR 24-552.
6. Proposed signs exceed maximum permitted number and surface area contrary to ZR 22-321.
7. Proposed building portion in required rear yard on interior lot portion, beyond 100 feet of a wide street, is not a permitted obstruction as per ZR 24-33(b)(3)(iii), and is therefore contrary to ZR 24-36; and

WHEREAS, this is an application under ZR § 72-21 to

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permit within R6, R6B, and R7B zoning districts, the construction of a new ambulatory care facility (the “Center for Community Health” or the “Center”) on the campus of New York Methodist Hospital (“NYM” or the “Hospital”) that does not comply with zoning regulations for FAR, lot coverage, rear setback, rear yard, rear yard equivalent, and signage, contrary to ZR §§ 22-321, 24-11, 24-17, 24-33, 24-36, 24-382, 24-522, 24-552, and 77-02; and

WHEREAS, a public hearing was held on this application on February 11, 2014, after due notice by publication in the *City Record*, with a continued hearing on April 8, 2014, and then to decision on June 17, 2014; and

WHEREAS, at the April 29, 2014 public hearing, the Board set a May 20, 2014 decision date; and

WHEREAS, however, subsequent to the April 29, 2014 hearing, a representative of Preserve Park Slope communicated with Board staff and NYM about its request for supplemental documents from NYM; the Board declined to request the documents and NYM declined to provide the documents directly; and

WHEREAS, Preserve Park Slope then sought judicial relief to obtain the documents in New York State Supreme Court by Order to Show Cause; and

WHEREAS, the court issued a stay which prohibited the Board from closing the hearing and rendering a decision as scheduled on May 20, 2014; on June 4, 2014, the court lifted the stay but did not issue a ruling on the subpoena request, which is pending; and

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

WHEREAS, Community Board 6, Brooklyn, recommends approval of this application with the following conditions: (1) height compliance within the R6 zoning district; (2) height and setback compliance within the R7B zoning district; (3) reduction of streetwall height and building height and the inclusion of an additional setback within the R6B zoning district; (4) that NYM provide notice of its New York State Department of Health Certificate of Need (CON) application at the time it is filed; (5) that NYM develops a long-range plan; (6) that signage be limited to the revised reduced amount; (7) that the usage of the Eighth Avenue and Sixth Street entrance be limited to employees, emergency egress, and Urgent Care facility use during late afternoon and evening hours; (8) that parking be reduced by at least 189 spaces; (9) that NYM participate with the Traffic Task Force to address transportation impacts and to perform a full scale traffic study; (10) that NYM participate in continued discussions regarding building design and materials; and (11) that NYM continue to participate in discussions with a Construction Task Force; and

WHEREAS, New York State Assemblymembers Joan L. Millman and James F. Brennan and New York City Councilmember Brad Lander provided testimony in support of the application; and

WHEREAS, the M.S. 51 public school provided

testimony stating that after initially having concerns about traffic safety and pollution as well as environmental impacts during the construction period and following completion of the building, it is satisfied after later communication with NYM demonstrated efforts to address these issues; and

WHEREAS, the P.S. 39 public school Parent Association provided a submission which identified concerns with traffic safety and air pollution; and

WHEREAS, Park Slope Neighbors, a community group, submitted testimony in support of the application on the condition that the offstreet parking be reduced; and

WHEREAS, Preserve Park Slope, a community group, represented by counsel, provided opposition to the application, citing the following primary concerns: (1) NYM may not rely on the deference defined by the courts in Cornell University v. Bagnardi, 68 N.Y.2d 583 (1986), namely the prohibition against inquiry into programmatic needs because NYM is not an educational institution; (2) evidence in support of NYM’s programmatic needs is deficient; (3) the evidence in support of programmatic needs is inadequate in that it differs from that in prior hospital variance cases and standards set by the Board; (4) the proposal is incompatible with the character of the neighborhood and a lesser variance involving construction over the garage (the “Garage Alternative”) would be a viable alternative; (5) there will be traffic impacts including on safety and the environment; (6) that the proposal does not reflect the minimum variance; and (7) that NYM should be required to adhere to the Community Board’s conditions; and

WHEREAS, certain community members provided testimony in opposition to the application, citing concerns about whether the programmatic needs for the application had been established, traffic and other environmental impacts, and whether the proposal is compatible with the neighborhood character; and

WHEREAS, opponents to the project are, collectively, the “Opposition;” and

WHEREAS, this application is brought on behalf of NYM, a non-profit hospital, research, and educational facility; and

WHEREAS, a companion application to modify a prior approval for parking filed under BSA Cal. No. 142-92-BZ was decided at the same hearing and allows for the enlargement of the zoning lot (the “Zoning Lot”); and

WHEREAS, the zoning lot comprises the majority of Block 1084; it includes Tax Lots 39, 164, 1001, and 1002, and has frontages along Fifth Street, Sixth Street, Seventh Avenue, and Eighth Avenue; the applicant notes that when the noted special permit was granted (BSA Cal. No. 142-92-BZ), the site comprised Lots 164, 1001, and 1002, however, at the time the lots were designated as Lots 1, 17, and 64; as for Lot 39, it was formed by the merger of former Lots 25, 26, 28, 40-44, 46, 48, and 50-59; and

WHEREAS, the NYM main campus is located on two adjacent blocks bounded by Seventh Avenue, Fifth Street, Eighth Avenue, and Seventh Street; the development site (the “Development Site”) is located on the eastern portion of

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the northern block, with frontages on Sixth Street, Fifth Street, and Eighth Avenue and will be part of a zoning lot that consists of the parcels designated as Block 1084, Lots 39, 164, 1001, and 1002 (the "Zoning Lot"); and

WHEREAS, the Development Site is located partially within an R6 zoning district, partially within an R6B zoning district, and partially within an R7B zoning district; and

WHEREAS, the Zoning Lot has approximately 510 feet of frontage along Fifth Street, approximately 696 feet of frontage along Sixth Street, 200 feet of frontage along Seventh Avenue, 200 feet of frontage along Eighth Avenue, and 120,569 sq. ft. of lot area; and

WHEREAS, there are a series of contiguous parcels fronting on Fifth Street which are not part of the Zoning Lot ("out-parcels") and which give the Development Site a U-shape; and

WHEREAS, the Development Site is currently occupied by NYM-owned low-rise buildings, originally constructed as walk-up residences, and a parking lot, all of which would be demolished in connection with the construction of the Center; and

WHEREAS, the Hospital notes that calculations for lot area and width, use group, floor area/FAR, lot coverage, required rear yards, parking, and loading are for the Zoning Lot; other calculations are for the Development Site, which comprises a majority of the zoning lot and is located in R6, R6B, and R7B zoning districts;

WHEREAS, the Hospital initially proposed to construct a new building for the Center which would include 311,000 sq. ft. of community facility floor area (3.82 FAR), seven stories and two mechanical floors, and a maximum height of 152 feet; and

WHEREAS, an interim proposal reflected 304,000 sq. ft. of floor area, but was ultimately revised again to include a reduction in height and increases in certain setback depths to reflect the current proposal; and

WHEREAS, specifically, the Hospital states that in response to comments from the Board and the conditions set forth in the Community Board's recommendation, reductions were made to the height and setback of the building in the R6B and R7B zoning districts including: (1) the R7B portion of the building was reduced in height so that it now complies with the applicable height and setback regulations; (2) the front setback on Fifth Street at the fourth floor in the R6B district was increased by an additional 15 feet, to a total depth of 20 feet from the street line; and (3) the front setback on Fifth Street at the fifth through seventh floors in the R6B district was increased by an additional 21 feet, to a total depth of 41 feet from the street line; and

WHEREAS, the proposed Center will occupy a single building with seven stories and two mechanical floors, and a maximum height of 150 feet with 299,000 sq. ft. of floor area; it will include: an ambulatory surgery center; a new endoscopy suite; clinical institutes for physician practice care delivery (the "Institutes"); an urgent care center; and a below-grade parking facility with connections to the Hospital's existing parking facilities to the west; the Institutes would include

cardiology, neurosciences, orthopedics, urology, otolaryngology (ENT), a women's center, and cancer care with diagnostic radiology services; and

WHEREAS, additionally, the Hospital plans to construct a below-grade pedestrian and utility tunnel between the proposed Center and the existing Hospital facilities across Sixth Street to the south, which tunnel would be subject to the approval of a revocable consent by the NYC Department of Transportation; and

WHEREAS, the Hospital asserts that the building's floor plate dimensions and configurations would accommodate needed ambulatory care facilities, while providing adjacencies and direct connections to promote efficient, collaborative health care with minimal risk of contamination and infection; and

WHEREAS, the existing buildings include the following: (1) on the southern portion of the Development Site are five two-story buildings located to the immediate west of the parking lot, which have been converted from residential use to NYM-affiliated medical facilities and offices, and three four-story walk-ups located farther west, which contain apartments for NYM staff and medical students and on-call rooms for NYM departments; (2) on the northeast corner of the Development Site are five three-story walk-ups, which are all vacant; (3) on the northwest corner, fronting on Fifth Street, are three four-story residential walk-ups, which have been vacated in connection with the development of the Center; and (4) a parking lot, located on the southeast corner of the Development Site, which serves NYM doctors and contains 79 spaces; and

WHEREAS, the remainder of the Zoning Lot to the west of the Development Site is occupied by two Hospital buildings to remain: the Medical Office Pavilion, a five-story building fronting on 7th Avenue, containing hospital-related facilities, ground-floor retail, and a 518-space below-grade accessory parking garage with surface parking; and the Wesley House, a 12-story building containing hospital-related facilities and staff dwellings; and

WHEREAS, the existing buildings to remain on the Zoning Lot are the subject of a variance and special permit granted by the Board on January 11, 1994, which waived applicable height and setback, parking, loading, and curb cut regulations to allow the construction of the Medical Pavilion and the garage (BSA Cal. No. 142-92-BZ); the special permit allowed the existing parking garage and deck to contain 518 parking spaces, consisting of 76 required parking spaces accessory to retail uses, 49 required parking spaces accessory to the Wesley House, and 393 permitted parking spaces accessory to hospital-related uses; and

WHEREAS, the Hospital states that the existing buildings to the west of the Development Site must remain in order to allow it to continue to operate effectively; this includes the existing garage, which cannot be vertically enlarged in a way that satisfies the Hospital's programmatic needs; and

WHEREAS, the R6, R6B, and R7B zoning districts allow Use Groups 1 and 2 residential uses and Use Groups 3

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and 4 community facility uses, including ambulatory care facilities and hospitals; the C1-3 commercial overlay district, which applies along the Zoning Lot's Seventh Avenue frontage but not to the Development Site, allows additional limited commercial uses; and

WHEREAS, the maximum permitted FAR for community facilities is 4.8 in the R6 district, 2.0 in the R6B district, and 3.0 in the R7B district, pursuant to ZR § 24-11; these limits allow, respectively, 481,670 sq. ft. of floor area on the R6 portion of the Zoning Lot, 22,426 sq. ft. of floor area on the R6B portion of the Zoning Lot, and 27,024 sq. ft. of floor area on the R7B portion of the Zoning Lot; pursuant to ZR § 77-02 (Zoning Lots Not Existing Prior to Effective Date or Amendment of Resolution), for a split zoning lot that did not exist on the effective date of the Zoning Resolution or an applicable amendment, each portion of the zoning lot is subject to the regulations applicable in the zoning district in which the portion is located; and

WHEREAS, the Center would not utilize all of the available floor area on the Zoning Lot, but it would require the distribution of permitted floor area across zoning district boundaries, from the R6 portion to the R6B and R7B portions; the R6B portion of the Zoning Lot would contain 42,150 sq. ft. of floor area, exceeding the maximum permitted amount by 19,724 sq. ft.; the R7B portion would contain 39,600 sq. ft. of floor area, exceeding the maximum permitted amount by 12,576 sq. ft.; and the R6 portion of the Zoning Lot would contain 378,134 sq. ft. of floor area, including 161,534 sq. ft. in existing buildings on the Zoning Lot to remain; and

WHEREAS, further, the Center would require waivers from the following bulk regulations within the R6 zoning district due to: (1) a lot coverage of 94.7 percent on the corner lot portion and 66.8 on the interior lot portion fronting Sixth Street, and 92.2 percent lot coverage on the other through lot portion (a lot coverage limitation of 65 percent on interior and through lots and 70 percent on corner lots is permitted (ZR § 24-11)); (2) rear yard and rear setback relief because the one-story portion of the Center located in the interior lot portion of the Zoning Lot is located more than 100 feet from Eighth Avenue and therefore is not permitted in the rear yard (ZR §§ 24-33 and 24-36) (a required rear yard of 30 feet for interior lot portions of a zoning lot and a rear yard equivalent of 60 feet for through lot portions of a zoning lot, with a required rear yard setback of 20 feet above a height of 125 feet is required (ZR §§ 24-36, 24-382, and 24-552)); (3) a portion of the Center fronting on Sixth Street, a narrow street, would extend above 60 feet within the required setback distance with a maximum height of 132 feet and would pierce the sky exposure plane (a required front setback of 15 feet on wide streets or 20 feet on narrow streets above a height of 60 feet is required and a sky exposure plane of 5.6 to 1 on wide streets or 2.7 to 1 on narrow streets is required (ZR § 24-522)); and

WHEREAS, within the R6B district, there is: (1) a lot coverage of 89 percent (a maximum lot coverage of 60 percent for through lots is permitted (ZR § 24-11)); (2) the portions of the Center located on the through and interior lot

exceed 125 feet in height and are less than 20 feet from the rear yard line (a rear yard equivalent of 60 feet for through lot portions of a zoning lot, with a required rear yard setback of 10 feet above a height of 40 feet is required (ZR § 24-552)); (3) the portion of the Center fronting on Fifth Street would have a front wall with a height of approximately 59 feet at the street line and, beyond the required 15-foot setback, a maximum building height of approximately 141 feet is required and the street wall would align with the street walls of the adjacent rowhouses, allowing for the rowhouses' bay windows to visibly project, but would have a large opening to provide pedestrians with access to the Center's vehicular driveway area and visitor entrance (a street wall location with a minimum base height of 30 feet and maximum base height of 40 feet and a maximum building height of 50 feet are permitted (ZR §§ 24-522, 23-633)); and

WHEREAS, within the R7B district, there is (1) a lot coverage of 94.9 percent (a maximum lot coverage of 80 percent for corner lots is permitted (ZR § 24-11)); (2) a street wall location with a minimum base height of 40 feet and a maximum base height of 60 feet is permitted; and (3) a complying front wall height of approximately 60 feet on Fifth Street and Eighth Avenue and a complying 75-ft. maximum building height (a maximum building height of 75 feet is permitted (ZR §§ 24-522, 23-633)); and

WHEREAS, finally, the Center would have a total of four signs to provide wayfinding for pedestrians and vehicles: a 120-sq.-ft. sign demarcating the pedestrian and vehicular entrances on Sixth Street, two 19-sq.-ft. signs demarcating the corner pedestrian entrance at 8th Avenue and Sixth Street (one on each frontage), and a 16-sq.-ft. building directory located near the main vehicular driveway and pedestrian lobby entrance (for non-residential uses, exclusive of hospitals and related facilities [which are listed in the Zoning Resolution separately from ambulatory care facilities] signage is restricted to one identification sign with a surface area of up to 12 sq. ft. and a bulletin board with an area of up to 16 sq. ft. (ZR § 22-231) yet flags, banners, and pennants for community facilities are permitted without limitation (ZR § 22-332)); and

WHEREAS, the Hospital states that the variance is required so that it may construct a building that accommodates NYM's programmatic need to locate the Center on the NYM campus and the subject site was the only available site suitable; and

WHEREAS, further, due to the need to maintain the existing hospital buildings on the campus and the presence of a significant slope across the Development Site, the subject waivers are required to construct a building that will accommodate the Hospital's programmatic needs; and

WHEREAS, the Hospital asserts that because of its status as a non-profit teaching hospital, its programmatic needs may be considered in determining if a variance is warranted; and

WHEREAS, the Hospital states that it has a need for adequate and appropriately configured space for ambulatory care facilities, with efficient adjacencies and circulation

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pathways located on its main campus; and

WHEREAS, the Hospital asserts that the Center would satisfy this need, while no other alternative including the studied complying development (the “Complying Development”) would; and

WHEREAS, the Hospital states that the Development Site is the only site on the NYM campus that is available for new construction and that allows the Center to be located proximate to the Hospital’s existing clinical facilities due to the location of the existing buildings that will remain on the Zoning Lot and the out-parcels on Fifth Street, which significantly limit the design and configuration of the Center by giving the Development Site an irregular U-shape with narrow dimensions; and

WHEREAS, the Hospital states that these conditions, when combined with the application of the Zoning Resolution’s bulk regulations, constrain the dimensions of the Center’s footprint and floor plates; and

WHEREAS, the Hospital states that the Zoning Lot has significant sloping conditions which are reflected on the survey, which show that the Development Site slopes downward from Eighth Avenue toward Seventh Avenue, with a change in grade of approximately 11 feet as measured from a point at the corner of Sixth Street and Eighth Avenue to the midblock portion of Sixth Street; and

WHEREAS, the Hospital states that this change in grade represents slightly more than three-quarters of the height of a typical building floor and, thus, a development that spans the length of the Development Site must have a split ground-floor level, impacting floor-to-floor heights and internal circulation; and

WHEREAS, the Hospital states that the slope also results in varying values of the applicable curb level and base plane, which, in combination with applicable height and setback regulations, constrain ceiling heights in the Complying Development; and

WHEREAS, the Hospital states that because of these physical constraints and their effect on a building’s bulk and floor plate configurations, a development that complies with applicable zoning regulations creates practical difficulties in satisfying the Hospital’s programmatic needs; and

WHEREAS, as to the need of the proposed orientation of the building and for the yard and setback waivers, the Hospital states they are necessary to achieve the necessary floor plates;

WHEREAS, specifically, the Hospital states that the eastern and western wings of the Center’s U-shaped floor plates would have dimensions of approximately 95 feet by 195 feet at the lower floors, which are necessary to accommodate the surgical suite’s 12 operating rooms, at approximately 550 sq. ft. each, on the third floor, with adjacent dedicated surgical preparation rooms; and

WHEREAS, the Hospital states that the floor plate also accommodates (1) the surgical recovery rooms on the floor immediately below the surgical suite and, with slightly smaller dimensions, the associated Central Sterile Services on the floor immediately above; (2) the second floor would

also contain patient preparation and recovery facilities for special procedures, consisting of ten dedicated preparation rooms and 18 dedicated recovery rooms; and (3) the surgical suite, Central Sterile Services, and patient preparation and recovery facilities would be served by dedicated elevators to provide efficient, sterile, and controlled connections; and

WHEREAS, the Hospital represents that these adjacencies would promote efficient communication and coordination among caregivers, minimize travel distances for doctors, nurses, and patients, and minimize the duplication of support functions; and

WHEREAS, further, the Hospital states that the Center would contain a number of Institutes which are staffed by faculty and affiliated physicians such as the Institute for Cancer Care, which would contain approximately 60 infusion rooms and support space, would be accommodated on the sixth and seventh floors; and

WHEREAS, the Hospital states that the ability to locate an Institute on a single floor and proximate to other medical care facilities in the building and on the block to the south would promote comprehensive, coordinated caregiving for the Hospital’s patients; and

WHEREAS, the Hospital states that the consolidation of the Center’s program in a single building would allow for the efficient, vertical stacking of facilities, with a central elevator core that minimizes travel distances for visitors and staff; and

WHEREAS, the Hospital states that the vertical alignment of facilities would facilitate circulation among floors, including efficient connections among the Hospital’s Institutes and other medical care facilities; and

WHEREAS, the Hospital states that the operating rooms would have a direct, controlled and clean pathway to the building’s Central Sterile Services on the floor immediately above, minimizing both the risk of infection incidents and the time it takes for sterile supplies to be delivered; and

WHEREAS, as to signage, the Hospital asserts that its proposed signs satisfy its need for effective wayfinding on a campus that contains a mix of hospital and healthcare facilities with multiple entrances located on streets that slope between Seventh and Eighth Avenues, which limits the visibility of signs; and

WHEREAS, the Hospital assert that the signs for the main entrance on Sixth Street, in particular, must be of a sufficient size to be visible to approaching vehicles at appropriate distances; and

WHEREAS, the Hospital analyzed a Complying Development that would contain approximately 310,000 sq. ft. of floor area – approximately 11,000 sq. ft. more than the proposal; and

WHEREAS, the analysis reflects that in order to accommodate the proposed floor area within the permitted envelope, it would include two building segments with narrower floor plates; one segment would have a similar footprint than the proposed Center’s, but without a west

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wing, and the other segment would be constructed directly over the existing parking deck on the Zoning Lot; and

WHEREAS, the Complying Development would be eight stories tall, with two mechanical floors and a height of 150 feet; and

WHEREAS, the application of lot coverage, height and setback, rear yard and rear yard equivalent, rear yard setback, and floor area distribution regulations to the Complying Development, in combination with constraints created by the Development Site's unique physical conditions, would result in narrow floor plate configurations that limit opportunities for functional adjacencies and require the duplication of support spaces; and

WHEREAS, specifically, the dimensions of the eastern wing on Eighth Avenue would be severely constrained by lot coverage limitations applicable to corner lots in the R7B zoning district; the eastern wing would be further constrained by street wall and building height regulations which require setbacks above 60 feet and preclude development altogether above 75 feet and the building's central segment on Sixth Street would be limited in its configuration by lot coverage and rear yard regulations applicable to the interior lot portion of the Zoning Lot, with its upper floors having particularly shallow dimensions because of the application of height and setback and rear yard setback regulations; and

WHEREAS, the Hospital represents that the Complying Development's western segment would be physically separated from the rest of the building above grade in order to comply with the required rear yard equivalent and this isolated segment would have very narrow dimensions in order to comply with the required rear yard equivalent, as well as with the height and setback regulations applicable to the Zoning Lot's Fifth Street frontage; and

WHEREAS, the Hospital states that the slope of the Development Site results in significant variations in the applicable curb level and base plane, as calculated pursuant to ZR § 12-10; specifically, along Sixth Street in the R6 zoning district, the applicable curb level is 131.8 feet in the corner lot, 126.44 feet in the interior lot, and 122.62 feet in the through lot; accordingly, the elevation of the applicable maximum front wall height thus steps down from Eighth Avenue toward Seventh Avenue, which results in constrained floor-to-floor heights of 9 feet and 12 feet 11 inches for portions of the fourth floor in the Complying Development; and

WHEREAS, the Hospital asserts that low ceiling heights significantly impede the ability to program these portions of the building; and

WHEREAS, the Hospital states that the Complying Development's constrained floor plates result in an inefficient configuration for the Hospital's new ambulatory care facilities, with the building's 12 operating rooms located in separate suites on the third and fourth floors; patient preparation split between the third and fourth floors; and surgical recovery on the second floor; with preparation

and recovery functions for special procedures be located in shared space on the fourth floor; and

WHEREAS, additionally, Central Sterile Services and the materials management facilities would be located at the extreme northeast corner of the building on the third floor, far removed from the operating rooms; and materials management would be housed in the east end of this segment on the second floor, physically separate from the eastern building segment, resulting in inefficiencies in the movement of material to and from the facilities located in the eastern segment; and

WHEREAS, the Hospital identified the following operational issues associated with the Complying Development, which are incompatible with its programmatic needs: (1) doctors, nurses, and other staff would be dispersed over multiple floors, and their travel times between treatment areas would be increased, resulting in an inefficient circulation network; (2) patients would experience longer and less comfortable transfers between treatment areas; (3) additional Hospital staff would be needed to accommodate the operating rooms and support spaces on each floor; (4) certain support functions and programmatic elements required by the Department of Health would have to be duplicated on each floor, reducing the amount of space in the building available for other healthcare functions; (5) the lack of a direct connection between Central Sterile Services and the operating rooms would increase the risk of infection incidents; (6) the lengthy travel path between the materials management facilities and the operating rooms would significantly reduce efficiency and increase the risk of cross-contamination; and (7) significant program impacts to the Institute for Cancer Care and preparation and recovery suites as the Complying Development would accommodate only 20 infusion rooms with minimal support, as compared to the 60 infusion rooms in the proposed Center, and only 16 shared preparation and recovery rooms, as compared to the 10 dedicated preparation rooms and 18 dedicated recovery rooms in the proposed Center; and

WHEREAS, the Hospital states that the physical isolation of the Complying Development's western segment would create additional issues as it would be connected to the remainder of the development only by the at-grade vehicular driveway and loading area; and

WHEREAS, the Hospital states that the separation of medical care facilities in the two building segments would severely impact the efficiency of the Complying Development's circulation network and impede communication and coordination among the Hospital's caregivers; and

WHEREAS, the Hospital asserts that the western segment above the ground floor would necessarily be limited to faculty practices, as the permitted building envelope does not accommodate the floor plate dimensions that are needed for operating rooms and related facilities and could only accommodate five faculty practice suites—five, rather than

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the seven proposed would require duplication of shared spaces, such as reception and waiting; and

WHEREAS, the Hospital asserts that the separation of medical care functions in two building segments would require an additional entrance to the Complying Development on Fifth Street, encouraging curbside drop-offs, and would require additional elevator cores, with negative impacts on the building's programmatic and energy efficiencies; and

WHEREAS, the Hospital also states that the shallow floor plates of the Complying Development would result in a high ratio of façade surface area to floor area in the building and with a net-to-gross square foot ratio that is approximately 13 percent worse than that of the proposed Center; and

WHEREAS, finally, the Hospital notes that the construction of the Complying Development over the existing parking garage would necessitate major structural alterations to the garage, including the demolition and reconstruction of structural floors, columns, and footings and, in accordance with applicable codes, the introduction of seismic-resisting elements such as shear walls; and

WHEREAS, the Hospital represents that such additional work would not only represent a significant expense to the Hospital, but would also lengthen the construction period for the Complying Development and would require that the garage be closed for a 17-month period, resulting in the loss of all of the existing 518 parking spaces during that time; and

WHEREAS, the Hospital asserts that a Complying Development of two building segments with entrances on Sixth Street, Eighth Avenue, and Fifth Street, would have only one 12-sq.-ft. sign, on Sixth Street, and one 16-sq.-ft. bulletin board, in accordance with the signage regulations applicable to ambulatory care facilities and would be wholly inadequate to orient visitors to the Center and to other Hospital buildings on campus, as two of the building's frontages would be entirely unmarked and the third, on Sixth Street, would have a sign of an insufficient size to be visible to approaching vehicle drivers; and

WHEREAS, the Hospital relies on Cornell University v. Bagnardi, 68 N.Y.2d 583 (1986), in which the Court of Appeals held that schools have a presumed beneficial effect on the community which may be rebutted only with evidence of "a significant impact on traffic congestion, property values, municipal services and the like" and that "[t]he imposition of . . . [any] requirement unrelated to the public's health, safety or welfare, is . . . beyond the scope of the municipality's police power. . . ."; and

WHEREAS, the Hospital asserts that the fundamental premise of the Cornell decision is that land use authorities must afford special treatment to schools and related uses because they "singularly serve the public's welfare and morals" and because of "their presumed beneficial effect on the community." Id. at 593, 595; and

WHEREAS, the Hospital notes that the Board has viewed the programmatic needs of hospitals in the way

described in Cornell for numerous hospital applications for variances and that none of those decisions have been disturbed by the courts; and

WHEREAS, the Hospital states that the Cornell decision's principles are directly applicable in this case because NYM is a teaching hospital and an acute care member institution of the New York Presbyterian Healthcare System, and, thus, may rely upon programmatic needs in support of the subject variance application; and

WHEREAS, further, the Hospital states that the application is consistent with the Cornell decision because the requested variances would not contravene public health, safety or welfare but is compatible with the character of the surrounding neighborhood and would not result in any significant adverse environmental impacts; and

WHEREAS, the Board notes that the Opposition asserts that the Hospital may not rely on the deference afforded to educational and religious institutions by New York state courts and that, even if it could, it has not established its programmatic needs; and

WHEREAS, the Opposition cited the following specific concerns about the program: (1) the programmatic needs have not been established by verifiable data and to justify the proposed patient projections through 2018; (2) the Hospital has not submitted studies and analysis similar to those in other hospital variance applications; and (3) disagreement that the program cannot be accommodated through the Garage Alternative detailed by the Opposition; and

WHEREAS, the Board acknowledges that NYM, is an established hospital and educational institution consistent with the numerous other hospitals that have sought and obtained variances from the Board; and

WHEREAS, the Board notes that in Cornell, the Court of Appeals identified the presumed public benefit of the educational institution and it finds that NYM, whether as a teaching hospital or otherwise, shares the presumed benefit to the community and is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of its variance application, which allows it to further its mission; and

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

WHEREAS, the Board also notes that NYM has described with great specificity, including numerical data pertaining to historic and projected patient volumes for inpatient services, ambulatory surgical cases, and clinical Institute services, its needs and how they can be accommodated on its campus in a manner consistent with what the Board has accepted from other hospital applicants; and

WHEREAS, the Board finds that NYM has established the necessary nexus between the services to be offered in the

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Center and the spatial requirements which trigger the zoning non-compliance; and

WHEREAS, the Board notes that the Hospital has not yet submitted its application for a Certificate of Need (CON) from the New York State Department of Health and that it awaits a decision on the subject variance before it will finalize the CON application; and

WHEREAS, the Board also notes that each variance application has a unique set of circumstances and a unique program and that it does not require identical analysis or information of each institution in order to establish its programmatic needs; and

WHEREAS, the Board notes that the Opposition is not satisfied that the Garage Alternative is infeasible and raises concerns about NYM's initial response that the garage could not support such an enlargement; and

WHEREAS, the Board finds that NYM has explained how, even if construction above the garage is possible from a structural standpoint, it is severely disruptive to its program and the necessary efficiencies accommodated in the proposed building; and

WHEREAS, the Board notes that where a nonprofit organization has established the need to place its program in a particular location, it is not appropriate for a zoning board to second-guess that decision (see Guggenheim Neighbors v. Bd. of Estimate, June 10, 1988, N.Y. Sup. Ct., Index No. 29290/87), see also Jewish Recons. Syn. of No. Shore v. Roslyn Harbor, 38 N.Y.2d 283 (1975)); and

WHEREAS, accordingly, based upon the above, the Board finds that the limitations and inefficiencies of the site, when considered in conjunction with the programmatic needs of NYM, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

WHEREAS, the Hospital asserts that the Center would be in keeping with the institutional uses found in the surrounding neighborhood and would be compatible with the residential uses in the area; and

WHEREAS, the Hospital asserts that as an NYM facility, it would represent an extension of an existing, prominent community facility in the area, and it would be located among a number of schools and religious institutions; and

WHEREAS, the Hospital asserts that the proposed bulk is compatible with the existing character of the neighborhood, because although the proposal requires a FAR waivers within the R6B and R7B portions of the site,

the total floor area is contemplated for the site and would comply if the R6 floor area could be distributed across the site; and

WHEREAS, the applicant notes that the Development Site's immediate context is defined by existing buildings on the NYM campus, including the 12-story Wesley House on the Zoning Lot and the complex of five- to eight-story Pavilions on the block to the south; and

WHEREAS, the Hospital notes that there are also a number of existing large, five- to seven- story buildings on Eighth Avenue and Prospect Park West, to the east of the Development Site; and

WHEREAS, the Hospital notes that the buildings across Fifth Street vary in use and character, from the tall, nearly full-lot coverage John Jay Educational Campus, which comprises a majority of the block to the west, to the four-story rowhouses farther east; and

WHEREAS, the Hospital states that the Center was designed to be sensitive to the varied building forms in the surrounding area, including along Eighth Avenue and Fifth Street, and to incorporate community input regarding the configuration of the building envelope; and

WHEREAS, the Hospital states that the building's volume is concentrated on the western portion of the Development Site, away from neighboring residences on Eighth Avenue and Fifth Street, and near existing Hospital buildings, such as the 12-story Wesley House; and

WHEREAS, further, the Hospital states that the building's western wing is principally located to the west of the rowhouses across Fifth Street and is set back 26 feet above the fourth floor to minimize its presence on the street and the portion of the building that faces the rear yards of the out-parcels on Fifth Street is set back from the property line by 10 feet at the first floor and 30 feet above so as to provide the neighboring properties with additional light and air; and

WHEREAS, in response to the Opposition's assertion that 103 units of affordable housing will be lost due to the demolition of existing building's, the Hospital responded that all of the buildings on the Development Site were acquired by the Hospital approximately 40 to 45 years ago and many of the units have been converted to office space or have remained vacant; and

WHEREAS, the Hospital states that of the remaining 67 dwelling units only 12 are rented to members of the community who are not affiliated with the Hospital; the Hospital states that it has agreed to provide replacement housing for its 12 current tenants; and

WHEREAS, as noted, in response to comments from the Board and the Community Board, the Hospital revised its initial proposal including the reduction of the maximum height of the building in the R6 district by approximately 2 feet, from 152 feet to 150 feet, so as to match the height of the Complying Development; and

WHEREAS, the Hospital also reconfigured the building massing to reduce the height and volume of the building on the eastern end of the block, along Eighth

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Avenue and adjacent to the neighboring buildings on Fifth Street, and to provide greater building setbacks in those areas so that more of the building's volume is now concentrated on the middle of the Zoning Lot, near other Hospital buildings and directly adjacent to Wesley House; and

WHEREAS, the Hospital also modified the earlier proposal which reflected an exit from the driveway on Fifth Street, so that the Center's vehicular driveway is directly accessible only from Sixth Street in response to concerns of residents that the Fifth Street exit would result in increased vehicular traffic on that street, adjacent to existing residences and the John Jay Educational Campus; and

WHEREAS, further, a number of the Center's open areas, including rooftops created by the building's setbacks, have been designed as green spaces to provide visual amenities to Hospital visitors and the surrounding neighborhood; and

WHEREAS, finally, consistent with the conditions set forth in the Community Board's recommendation, the number of parking spaces in the proposed Center was reduced from 539 to 350; as noted, this change requires a modification to the drawings approved in connection with the Board's special permit for the existing NYM garage to accommodate the required parking for the Center and is addressed by the separate amendment application for; and

WHEREAS, as to traffic, the Hospital states that the proposal is designed to minimize the effect of the building's operation on surrounding properties and vehicular traffic in the following ways: (1) the vehicular driveway in the building would contain spaces for standing vehicles so as to prevent queuing on Sixth Street; and (2) vehicles that access the driveway from Sixth Street would be able to continue along the driveway's loop and exit on Sixth Street or directly access the below-grade parking garage, which would connect to the existing parking garage on the block; and

WHEREAS, the Hospital states that its design is intended to keep vehicular circulation within the Zoning Lot so as to minimize traffic activity on adjacent streets and it also directs vehicular entries and exits to Sixth Street, adjacent to Hospital buildings and away from neighboring residences; and

WHEREAS, in response to the Opposition's concerns about existing traffic related to the Hospital, the Hospital states that the ambulance and loading facilities are existing conditions that do not have a relationship to the proposed Center, in part because they are located on a separate portion of the campus and in part because the Center will not draw any ambulance trips and will contain its own loading facility; and

WHEREAS, nonetheless, the Hospital states that it is responsive to the traffic concerns and will address them through its Traffic and Parking Management Plan developed with its traffic consultant and the New York City Department of Transportation; and

WHEREAS, the Hospital asserts that the existing operations, which are unrelated to the Center, and will not

be affected by it, should not be a factor in the analysis of the Center's appropriateness; and

WHEREAS, the Hospital states that the consolidation of outpatient facilities and clinical Institutes in the Center, relocated from other parts of the NYM campus, would allow for the inpatient facilities in the Hospital's existing buildings to be upgraded and modernized and not to increase the number of inpatient beds; and

WHEREAS, accordingly, the EAS does not forecast an increase in the travel demand generated by the Hospital's existing facilities; and

WHEREAS, finally, the Center's loading berths would be enclosed and located on an interior portion of the Zoning Lot, ensuring that both truck maneuvering and loading activities occur off street; and

WHEREAS, the Opposition raised concerns about the aesthetic impact of the Center on the surrounding area and specifically raised concerns that the proposal does not fit within the City Planning Commission's (CPC) exception given to the Hospital campus in that much of it remained within the R6 zoning district while other portions of the area were zoned R6B and R7B and are to be respected as such; and

WHEREAS, the Opposition asserts that CPC's decision to allow the Hospital to remain within the R6 zoning district is negated if the proposal extends into the R6B and R7B districts; and

WHEREAS, the Board notes that the floor area is available across the site and only raises objection due to it being shifted from the R6 zoning district and into the R6B and R7B zoning districts; and

WHEREAS, the Board notes that the R6B and R7B portions of the lot are also occupied by the NYM campus and that the Hospital has explained why it is unable to shift more of the bulk in the R6 zoning district portion of the site, but it has revised its plans to include setbacks that are compliant with or nearly compliant with R6B and R7B regulations; and

WHEREAS, the Board finds that the Center's massing and design are sensitive to the surrounding neighborhood character; and

WHEREAS, the Board accepts the Hospital's traffic studies and the logic that the proposed ambulatory care facility will not compound any ambulance traffic concerns as it will not require such vehicles; and

WHEREAS, the Board notes that the Hospital has pledged to work with the community and traffic experts to improve the existing conditions not related to the Center and to ensure those issues are not affected by the Center's activities; and

WHEREAS, the Board notes that the Hospital has made several revisions to the proposal in response to concerns and has agreed to all of the Community Board's noted conditions; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or

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development of adjacent properties, nor will it be detrimental to the public welfare; and

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

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

WHEREAS, as described, the Hospital reduced the degree of certain areas of non-compliance in the R6B and R7B zoning districts and represents that the requested waivers are the minimum relief necessary to accommodate the projected programmatic needs; and

WHEREAS, however, the Opposition asserts that it is possible to satisfy NYM's programmatic need in a building which requires fewer zoning waivers and that the Hospital did not pursue lesser variance alternatives in good faith; and

WHEREAS, as noted, the Hospital made certain revisions which reduced the degree of waiver it sought including: (1) increasing the setback from Fifth Street at the sixth floor in the R7B zoning district by 21 feet so as to achieve full compliance with applicable height and setback regulations in the R7B zoning district; (2) increasing the setback from Fifth Street at the fourth floor in the R6B zoning district by 15 feet to total a depth of 20 feet from the property line; and (3) increasing the setback from Fifth Street at the fifth through seventh floors in the R6B zoning district by ten feet for a total depth of 41 feet from the property line; and

WHEREAS, the Board has reviewed the applicant's programmatic needs and assertions as to the insufficiency of a complying scenario and has determined that the requested relief is the minimum necessary to allow NYM to fulfill its programmatic needs; and

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

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

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement ("EAS") CEQR No. 14BSA057K, dated April 21, 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, 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 Type I Negative declaration, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and the Board of Standards and Appeals makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit within R6, R6B, and R7B zoning districts, the construction of a new ambulatory care facility on the campus of New York Methodist Hospital that does not comply with zoning regulations for floor area, lot coverage, rear setback, rear yard, and rear yard equivalent, and signage, contrary to ZR §§ 22-321, 24-11, 24-17, 24-33, 24-36, 24-382, 24-522, 24-552, and 77-02, *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 June 13, 2014" – twenty-eight (28) sheets; and *on further condition*:

THAT the bulk parameters of the proposed Center building will be in accordance with the approved plans and be limited to 298,350 sq. ft. of floor area for the Center (459,884 sq. ft. of floor area (3.81 FAR) across the site); a maximum wall height of 73 feet (in the R6B zoning district) and 60 feet (in the R7B zoning district); total height of 150 feet (in the R6 zoning district), 141 feet (in the R6B zoning district) and 75 feet (in the R7B zoning district); 350 new parking spaces (and 60 spaces within the existing parking garage's 480 parking spaces), and signage, setbacks and lot coverage as reflected on the BSA-approved plans;

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

THAT the use of the Eighth Avenue and Sixth Street entrance be limited to employees, emergency egress, and Urgent Care facility use during late afternoon and evening hours;

THAT the Hospital will monitor traffic as described and implement a Traffic and Parking Management Plan;

THAT substantial construction shall be completed pursuant to 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 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, June 17, 2014.

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326-13-BZ

CEQR #14-BSA-088Q

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

SUBJECT – Application December 23, 2013 – Special Permit (§73-44) to reduce the required number of accessory parking space from 192 to 138 spaces for an office building (UG 6). 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

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 Department of Buildings (“DOB”), dated November 21, 2013, acting on DOB Application No. 420628057, reads:

Proposed reduction in required parking is contrary to ZR Section 44-21 and requires a special permit; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, on a site located within an M1-1 zoning district, within the Special College Point District, a reduction in the required number of accessory parking spaces in connection with the enlargement of an existing office building (Use Group 6) from 192 spaces to 137 spaces, contrary to ZR § 44-21; and

WHEREAS, a public hearing was held on this application on May 20, 2014 after due notice by publication in The City Record, and then to decision on June 17, 2014; and

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

WHEREAS, Community Board 7, Queens, recommends approval of this application, on condition that: (1) signage will be provided near each parking entrance indicating specific tenant and visitor use; (2) that the signage will be sufficient in size and placement to help cars enter the appropriate areas without confusion; and (3) that the unattended entrance to the facility will be recessed from the property line, in order to provide onsite space for queuing vehicles; and

WHEREAS, the subject site is located on the west side of the Whitestone Expressway between 14th Avenue and 20th Avenue, within an M1-1 zoning district, within the Special College Point District; and

WHEREAS, the site has approximately 300 feet of frontage along the Whitestone Expressway and 57,949 sq. ft. of lot area; and

WHEREAS, the site is occupied by a four-story office building (Use Group 6) with 28,009 sq. ft. (0.53 FAR) and 99 accessory parking spaces; and

WHEREAS, pursuant to ZR § 32-15, the subject Use Group 6 office is in parking requirement category B1, which requires that one accessory parking space be provided for every 300 sq. ft. of floor area; thus, the existing Use Group 6 office floor area at the site generates 99 required accessory parking spaces; and

WHEREAS, the applicant now proposes to enlarge the building, which will result in an increase in floor area from 28,009 sq. ft. (0.53 FAR) to 57,581 sq. ft. (1.0 FAR) and an increase in the number of required accessory parking spaces from 99 parking spaces to 192 parking spaces; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject M1-1 zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable Zoning Resolution provision, for Use Group 6 office use in the parking category B1; in the subject zoning district, the Board may reduce the required parking from one space per 300 sq. ft. of floor area to one space per 600 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 44-21 the total number of parking spaces that will be required in connection with the proposal is 192 spaces; thus, if the special permit is granted, only 96 parking spaces will be required; nevertheless, the applicant proposes 138 parking spaces; and

WHEREAS, pursuant to ZR § 73-44, the Board must determine that the Use Group 6 use in the B1 parking category is contemplated in good faith; and

WHEREAS, as a demonstration of such good faith, the applicant represents that the majority of the building will be occupied as offices for its owner – Local 30 Operating Engineers Union; and

WHEREAS, the Board finds that the applicant has submitted sufficient evidence of good faith in maintaining the noted uses at the site; and

WHEREAS, in addition, the special permit under ZR § 73-44 requires and the applicant represents that any certificate of occupancy for the building will state that no subsequent certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius; and

WHEREAS, at hearing, the Board (1) observed that the nearest subway line was too far from the site to be reasonably included as a means of accessing the site despite statements to the contrary in the parking study, and (2) in response to the community board’s comments, requested clarification regarding the directional signage within the parking facility; and

WHEREAS, in response, the applicant explained that the analysis assumed that subway users would utilize the local bus service in conjunction with the No. 7 train in order reach the site; the applicant also submitted a statement

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describing the proposed directional signage; and

WHEREAS, based upon the above, the Board agrees that the accessory parking space needs of the site can be accommodated even with the parking reduction; and

WHEREAS, accordingly, 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 §§ 73-44 and 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 14-BSA-088Q, dated December 23, 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 under ZR §§ 73-44 and 73-03 to permit, on a site located within an M1-1 zoning district, within the Special College Point District, a reduction in the required number of accessory parking spaces in connection with the enlargement of an existing office building (Use Group 6) from 192 spaces to 137 spaces, contrary to ZR § 44-21; on condition that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received December 23, 2013"-(6) sheets, and on further condition:

THAT there will be no change in the use of the site without prior review and approval by the Board;

THAT no certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within

the permitted off-street radius;

THAT signage will be provided near each parking entrance indicating specific tenant and visitor use;

THAT the signage will be sufficient in size and placement to help cars enter the appropriate areas without confusion;

THAT the unattended entrance to the facility will be recessed from the property line, in order to provide onsite space for queuing vehicles;

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

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

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 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, June 17, 2014.

211-12-BZ

APPLICANT – Rothkrug Rohkrug & Spector LLP, for Jessica and Matthew Sheehan, owners.

SUBJECT – Application July 27, 2012 – Variance (§72-21) to permit the proposed re-establishment of a residential building, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 164 Coffey Street, east side of Coffey Street, 100' northeast of intersection of Coffey Street and Conover Street, Block 585, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Laid over to August 12, 2014, at 10 A.M., for deferred decision.

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 (*Columbia Grammar and Preparatory*), contrary to lot coverage (§24-11), permitted obstruction (§24-33), rear yard equivalent (§24-332), initial setback distance (§24-522), height (§23-692), and side yard (§24-35(b)) regulations. 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

ACTION OF THE BOARD – Laid over to August

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19, 2014, at 10 A.M., for continued hearing.

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 an 11-story community facility/residential building, contrary to use regulations (§42-00). M3-1 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

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

208-13-BZ

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

SUBJECT – Application July 8, 2013 – Special Permit (§73-36) to legalize the use of a physical culture establishment (*Fitness Gallery*) located on the second floor of a 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

ACTION OF THE BOARD – Laid over to July 29, 2014, at 10 A.M., for continued hearing.

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

THE VOTE TO CLOSE HEARING –

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

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

277-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for SoBro Development Corporation, owner.

SUBJECT – Application September 27, 2013 – Variance (§72-21) to permit a proposed development of a 12-story, 125 unit residential building with two floors of community facility/church space, contrary to floor area (§23-145), lot coverage (§23-145), base and building height (§23-633), and parking (§25-23). R7-2 zoning district.

PREMISES AFFECTED – 1769 Fort George Hill, bounded by Fort George Hill to the east an NYCTA No.1 train tracks to the west, Block 2170, Lots 180 & 190, Borough of Manhattan.

COMMUNITY BOARD #12M

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

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. 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

ACTION OF THE BOARD – Laid over to July 29, 2014, at 10 A.M., for continued hearing.

3-14-BZ

APPLICANT – Friedman & Gotbaum LLP by Shelly Friedman, for Saint David School, owner.

SUBJECT – Application January 8, 2014 – Variance (§72-21) to permit the enlargement of a school (*Saint David's School*), contrary to lot coverage (§24-11, 24-12), floor area (§24-11), rear yard (§24-36), rear wall setback (§24-552b), base height (§24-522, 24-633), streetwall (§23-692c, 99-051b), maximum height (§99-054b), and enlargement to a non-complying building (§54-31) regulations. R8B/R10/C1-5MP zoning district.

PREMISES AFFECTED – 12-22 East 89th Street aka 1238 Madison Avenue, south side of East 89th St, west of the corner formed by the intersection of Madison Avenue and East 89th Street, Block 1500, Lot 62, Borough of Manhattan.

COMMUNITY BOARD # 8M

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to August 12, 2014, at 10 A.M., for decision, hearing closed.

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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 50-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

THE VOTE TO CLOSE HEARING –

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

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

Jeff Mulligan, Executive Director