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Tuesday, September 23, 2014**

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DOCKETS

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226-14-BZ

147-02 76th Road, Southeast corner of 76th Road and 147th Street., Block 6686, Lot(s) 1, Borough of **Queens, Community Board: 8**. Variance (§72-21 to permit the proposed three (3) story use group 4 Synagogue, school and Rabbi's office. R4 zoning district. R4 district.

227-14-BZ

606 Neptune Avenue, Neptune Avenue between West 6th Street and Shell Road, Block 720, Lot(s) 25, Borough of **Brooklyn, Community Board: 13**. Special Permit (§73-243) to permit the legalization and continued of an existing use group 6 eating and drinking establishment with an accessory drive-through in an R6/Cl-2 zoning district. R6/Cl-2 district.

228-14-BZ

149 Hasting Street, Hastings Street, between Hampton Avenue and Oriental Boulevard, Block 8751, Lot(s) 466, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to enlarge an existing two story dwelling in a residential zoning district contrary to th floor, open space and lot coverage requirements, located in an R3-1 zoning district. R3-1 district.

229-14-BZ

55-05 Myrtle Avenue, corner of Madison Street and St. Nicholas Avenue, Block 3450, Lot(s) 01, Borough of **Queens, Community Board: 5**. Special Permit (§73-36) to seek the legalization of an existing physical culture establishment"(Lucille Robets Women's Gym)"located within an C4-3A zoning district. C4-3A 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

OCTOBER 21, 2014, 10:00 A.M.

APPEALS CALENDAR

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, October 21, 2014, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

724-56-BZ

APPLICANT – Eric Palatnik, P.C., for Prela Enterprises Ink., owner.

SUBJECT – Application June 12, 2014 – Amendment of a previously approved variance which permitted automotive repair (UG 16B). Application is to amend the length of an extension of term that was granted the Board from five years to ten years which expired November 20, 2012. R3-2 zoning district.

PREMISES AFFECTED – 42-42 Francis Lewis Boulevard, west side of Francis Lewis Boulevard, between 42nd Road and Northern Boulevard, Block 5373, Lot 26, Borough of Queens.

COMMUNITY BOARD #11Q

362-03-BZ

APPLICANT – Sheldon Lobel, P.C., for Reiss Realty Corp., owner.

SUBJECT – Application June 10, 2014 – Extension of Term for the continued operation of an accessory commercial open parking lot and accessory commercial storage shed which expired on May 11, 2014. R8 (*Special Clinton District*).

PREMISES AFFECTED – 428 West 45th Street, south side of West 45th Street between 9th and 10th Avenue, Block 1054, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #4M

327-06-BZ

APPLICANT – Eric Palatnik, P.C., for 133 East 58th Street LLC, owner; Manhattan Sports Performance LLC, lessee.

SUBJECT – Application June 13, 2004 – Extension of Term of a previously granted Special Permit (73-36) for the continued operation a physical culture establishment (*Velocity Performance Sports*) which expires September 1, 2014. C5-2 zoning district.

PREMISES AFFECTED – 133 East 58th Street, between Lexington And Park Avenues, Block 1313, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #5M

11-14-A thru 14-14-A

APPLICANT – Sheldon Lobel, P.C., for Trimoutain LLC, owner.

SUBJECT – Application January 22, 2014 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development under the prior R3-2 zoning district.

PREMISES AFFECTED – 47-04, 47-06, 47-08 198th Street, south side of 47th Avenue between 197th Street and 198th Street, Block 5617, Lot 34, 35, 36, Borough of Queens.

COMMUNITY BOARD #11Q

162-14-A

APPLICANT – Rampulla Associates Architects, for Lawrence O O’Friel, owner.

SUBJECT – Application July 9, 2014 – Proposed construction of a single family detached home that does not front on a legally mapped street contrary to Article 3, Section 36 of the General City Law. R1-2 zoning district.

PREMISES AFFECTED – 100 Giegerich Avenue, west side Giegerich Avenue 431.10’ to Minerva Avenue, Block 7796, Lot 11(tentative), Borough of Staten Island.

COMMUNITY BOARD #3SI

163-14-A thru 165-14-A

APPLICANT – Ponte Equities, for Ponte Equities, Ink, owner.

SUBJECT – Application July 10, 2014 – Appeal seeking waiver of Section G304.1.2 of the NYC Building Code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A zoning district.

PREMISES AFFECTED – 502, 504, 506 Canal Street, Greenwich Street and Canal Street, Block 595, Lot 40, 39, 38, Borough of Manhattan.

COMMUNITY BOARD #1M

235-14-A

APPLICANT – Joseph Jabour, for Kevin & Roxie Voorhees, owners.

SUBJECT – Application September 30, 2014 – GCL 36: NYC-HPD Build It Back in a Private Community known as Seagate which is a private unmapped street for a proposed single family home to replace the dwelling destroyed by Hurricane Sandy, located within an R3-1 zoning district.

PREMISES AFFECTED – 4020 Atlantic Avenue, 200’ to Beach 40th Street from east property line, Block 7042, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #13BK

CALENDAR

ZONING CALENDAR

28-14-BZ

APPLICANT – Eric Palatnik, P.C. for McDonald Corporation, owner; Brooklyn Avenue U Enterprises Corporation, lessee.

SUBJECT – Application February 10, 2014 – Special Permit (§73-243) to permit the continued use and (Use Group 6) eating and drinking establishment with an accessory drive-through. C1-2/R4 zoning district.

PREMISES AFFECTED – 3540 Nostrand Avenue, westside of Nostrand Avenue, between Avenue V and Avenue W. Block 7386, Lot(s) 114 and 117. Borough of Brooklyn.

COMMUNITY BOARD #15BK

45-14-BZ

APPLICANT – Eric Palatnik, P.C., for Athina Orthodoxou, owner.

SUBJECT – Application March 18, 2014 – Special Permit (§73-622) to enlarge an existing semi-detached two story dwelling and to vary the floor area ratio requirements, and to convert the one family home into a two family home. R4-1 zoning district.

PREMISES AFFECTED – 337 99th Street, between 3rd and 4th Avenues, Block 6130, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #10BK

115-14-BZ

APPLICANT – Eric Palatnik, P.C., for Suzanne Bronfman, owner; T. Kang Taekwondo USA, Ink., lessee.

SUBJECT – Application May 30, 2014 – Special Permit (§73-36) to allow for a physical culture establishment in an existing building located in C6-2A zoning district.

PREMISES AFFECTED – 85 Worth Street aka 83 Worth Street, between Church Street and Broadway, Block 173, Lot 2, Borough of Manhattan.

COMMUNITY BOARD #1M

122-14-BZ

APPLICANT – Lewis E Garfinkel, for Ariel Boiangiu, owner.

SUBJECT – Application October 21, 2014 – Special Permit (§73-622) for the enlargement of an existing single family semi-detached home contrary to floor area and open space ZR 23-141; side yards ZR 23-461 and less than the required rear yard ZR 23-47. R2 zoning district.

PREMISES AFFECTED – 1318 East 28th Street, west side of 28th Street 140 feet of Avenue M, Block 7663, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #14BK

MINUTES

**REGULAR MEETING
TUESDAY MORNING, SEPTEMBER 23, 2014
10:00 A.M.**

Present: Chair Perlmutter, Vice-Chair Hinkson,
Commissioner Ottley-Brown and Commissioner Montanez

SPECIAL ORDER CALENDAR

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 – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Commissioner Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to allow structural alterations and a change in use from a public parking garage with accessory auto rental (Use Group 8) to a mixed residential and commercial building (Use Groups 2 and 6); and

WHEREAS, a public hearing was held on this application on June 17, 2014, after due notice by publication in the *City Record*, with continued hearings on July 22, 2014 and August 19, 2014, and then to decision on September 23, 2014; and

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

WHEREAS, Community Board 6, Brooklyn, declined to issue a formal recommendation; and

WHEREAS, certain members of the community provided testimony in opposition to the proposal, citing primary concerns about the loss of necessary parking spaces, and the effect that the originally-proposed balconies and terrace at the rear lot line would have on the properties at the rear; and

WHEREAS, the subject site is located on the south side of Union Street, between Sixth Avenue and Seventh Avenue, partially within an R6A (C1-3) zoning district and partially within an R6A zoning district; and

WHEREAS, the site has approximately 93 feet of frontage along Union Street and 8,865 sq. ft. of lot area; and

WHEREAS, the site is occupied by a six-story public parking garage (Use Group 8) with approximately 52,897 sq. ft. of floor area (5.97 FAR) and 100 percent lot coverage; and

WHEREAS, the applicant proposes to convert the building to a mixed-use building with commercial uses (Use Group 6 retail) on the first floor and cellar, and residential use (Use Group 2) on the second through sixth floors; and

WHEREAS, as part of the conversion, the applicant proposes structural alterations for the reconstruction and relocation of the rear wall of the building above the first floor so as to provide a rear yard that complies with Multiple Dwelling Law requirements for legally-required windows for the conforming residential use on the upper floors; and

WHEREAS, the site has been subject to the Board's jurisdiction since July 9, 1929, when, under BSA Cal. No. 271-29-BZ, the Board permitted the construction of a parking garage and gasoline station contrary to the use regulations of the 1916 Zoning Resolution; and

WHEREAS, subsequent to the 1929 grant, the use of the building was changed to a factory, and in 1950 and 1959, under BSA Cal. Nos. 504-46-A and 491-59-A, the Board granted appeals waiving compliance with Labor Law § 270, associated with exits for factory use; and

WHEREAS, on September 10, 1985, when the site was zoned within R6 and C1-3 (R6) zoning districts, the Board authorized a change of use back to a garage with an auto rental office, pursuant to ZR § 11-413, under BSA Cal. No. 997-84-BZ; the Board also granted a waiver of the Administrative Code's sprinkler requirements under BSA Cal. No. 998-84-A; and

WHEREAS, the term of the grant was extended twice and has an expiration of September 10, 2015; and

WHEREAS, the applicant now seeks approval for a change of use to retail (Use Group 6) on the first floor and cellar and for a change in use of the second through sixth floors to residential use (Use Group 2), pursuant to ZR §§ 11-413, and 52-34 and for reconstruction and relocation of the rear wall above the first floor pursuant to ZR § 11-412 for the conforming residential use in order to provide light and air in accordance with the Multiple Dwelling Law, and for the discontinuance of the existing approval; and

WHEREAS, the applicant notes the following plan for the building: (1) the footprint of the cellar and first floor will not be changed and approximately 50 percent of the cellar is proposed to be occupied by commercial use and the remainder will be for building services and accessory to the residential use; (2) approximately 80 percent of the first floor will be occupied by retail use and the remainder will be for the residential lobby, elevator, storage, and egress; and (3) the building's rear wall will be demolished and the depth of the second through sixth stories will be reduced by five feet; and

WHEREAS, the applicant proposes a total of 28 dwelling units with a total residential floor area of 44,461 sq. ft.; and

WHEREAS, the applicant notes that although the

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residential FAR and building height exceed that allowed by the underlying zoning district regulations, all of the residential use is within the envelope of the historic garage building except for the new roof construction, which it contends complies with ZR § 23-62 as a permitted obstruction; and

WHEREAS, the applicant asserts that with the addition of the five feet of open space above the first floor at the rear of the building, there will be a distance of 48 feet between the building's new rear wall and the rear wall of the adjacent buildings with frontage on President Street; and

WHEREAS, the applicant asserts that, with the inclusion of the rear setback, the proposal complies with MDL § 277; and

WHEREAS, the applicant asserts that the new construction on the roof is required by the Building Code and permitted by ZR § 23-62 and that the rooftop recreation area meets the requirements of ZR § 15-10; and

WHEREAS, pursuant to ZR § 11-412, the Board may permit enlargement of a building subject to a use variance issued prior to December 15, 1961, provided that such enlargement is limited to the zoning lot that was granted such variance; in addition, pursuant to ZR § 11-413, the Board may permit a change in use from a non-conforming use to a conforming use; and pursuant to ZR § 52-34, the Board may permit a change in use from a non-conforming use to certain other uses which do not comply with underlying use regulations, including Use Group 6, provided that the change of use does not impair the character or future use or development of the surrounding area; and

WHEREAS, the applicant states that the proposal significantly reduces the amount of floor area devoted to a non-conforming use; and

WHEREAS, the application asserts that the proposed commercial use is compatible with the essential character of the conforming and non-conforming commercial uses in the surrounding area and the mixed-use building is similarly a common building composition in the area; and

WHEREAS, as noted, the applicant initially proposed a terrace on the roof of the first floor and balconies along the rear wall; and

WHEREAS, in response to the neighbors' and the Board's concerns, the applicant eliminated all of the balconies and access to the terrace from the second floor units; and

WHEREAS, in response to the concerns about traffic and the loss of parking, the applicant submitted a traffic study which concluded that the loss of parking would not have detrimental impact to the community; the applicant also asserts that there are not any parking requirements for the conversion of the existing building to mixed Use Group 6 and Use Group 2 use; and

WHEREAS, at hearing, the Board asked the applicant whether it would be possible to retain any number of parking spaces; and

WHEREAS, in response, the applicant stated that it reviewed alternate designs including the retention of a ramp or elevator for vehicle access to the cellar and concluded that the amount of space required for such conditions would

undermine the feasibility of the project; and

WHEREAS, based on the foregoing, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 11-412 and 11-413.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated September 10, 1985, to permit the noted changes in use and building alterations; *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked 'Received August 29, 2014'-(17) sheets; and *on further condition*:

THAT the total floor area is limited to 51,709 sq. ft. and the commercial floor area is limited to 7,248 sq. ft.; all other bulk parameters area as reflected on the Board-approved plans;

THAT all construction will be completed and a certificate of occupancy obtained within four years of the date of this grant;

THAT DOB will review and approve interior layouts; Multiple Dwelling Law compliance; and the zoning compliance of the rooftop structures;

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 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, September 23, 2014.

193-12-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP., for Vornado Realty Trust., owner; Soulcycle 384 Lafayette Street, LLC., lessee.

SUBJECT – Application March 11, 2014 – Amendment to permit the enlargement of a previously approved special permit (§73-36) for a physical culture establishment (*SoulCycle*). M1-5B zoning district.

PREMISES AFFECTED – 384 Lafayette Street aka 692 Broadway and 2-20 East 4th Street, southwest corner of Lafayette Street and East 4th Street, Block 531m Kit 7501, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Commissioner Hinkson, Commissioner Otley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment of a previously-granted special permit for a

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physical culture establishment (“PCE”) to permit the enlargement of the PCE; and

WHEREAS, a public hearing was held on this application on September 9, 2014, after due notice by publication in *The City Record*, and then to decision on September 23, 2014; and

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

WHEREAS, the subject site is located on a site with frontage on Broadway, East 4th Street, and Lafayette Street, in an M1-5B zoning district within the NoHo Historic District; and

WHEREAS, the site is occupied by a mixed-use 12-story commercial/manufacturing/residential building, known as the Silk Building; and

WHEREAS, the PCE currently occupies 3,294 sq. ft. of floor area on the first floor and 1,873 sq. ft. of floor space in the cellar; and

WHEREAS, the PCE will be operated as SoulCycle; and

WHEREAS, the Board has exercised jurisdiction over the subject PCE since October 23, 2012 when, under the subject calendar number, the Board granted a special permit in the subject building for a term of ten years, to expire on October 23, 2022; and

WHEREAS, the site is also the subject of a prior PCE special permit approval for a Blink Fitness, pursuant to BSA Cal. No. 33-10-BZ, which is not the subject of this application; and

WHEREAS, the applicant now seeks an amendment to permit the enlargement of the PCE into other portions of the first floor and cellar of the building; specifically, the proposal would increase the floor area of the PCE from 3,294 sq. ft. to 4,553 sq. ft. on the first floor and from 1,873 sq. ft. of floor space to 3,331 sq. ft. of floor space in the cellar; and

WHEREAS, the extension will include the utilization of a new entry on Lafayette Street; and

WHEREAS, the applicant submitted a Certificate of No Effect from the Landmarks Preservation Commission (LPC), dated March 4, 2014, approving the proposed signage and other modifications under its jurisdiction; 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 substantially conforms to drawings as they apply to the objections above noted, filed with this application marked ‘Received March 11, 2014’– four (4) sheets; and *on further condition*:

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

THAT all modifications to signage and the façade will be in accordance with the Landmarks Preservation

Commission’s Certificate of No Effect, dated March 4, 2014;

THAT any modifications will be subject to Landmarks Preservation Commission approval;

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 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, September 23, 2014.

698-59-BZ

APPLICANT – Eric Palatnik, P.C., for Bolla EM Realty, LLC, owner.

SUBJECT – Application May 21, 2014 – Amendment of a previously approved variance to permit the conversion of the convenience store to a relocate and re-size curb cuts and to legalize the existing remediation equipment and location of the tanks and permit additional trees on the site. C2-2 zoning district.

PREMISES AFFECTED – 2773 Nostrand Avenue, northeast corner of Kings Highway and Nostrand Avenue, Block 7684, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Laid over to November 18, 2014, at 10 A.M., for continued hearing.

902-79-BZ

APPLICANT – Goldman Harris LLC, for West 29th Street Owner's Corp., owners.

SUBJECT – Application April 9, 2014 – Amendment of a previously approved Variance (§72-21) the conversion of a three-story and four-story and a twelve-story existing manufacturing buildings to residential use above the ground floor and now to proposed the unused development rights for incorporation into a new as-of-right hotel. M1-6 zoning district.

PREMISES AFFECTED – 116-118 West 29th Street, south side of West 29th Street between Sixth and Seventh Avenue, Block 804, Lot (s) 49, 50, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Laid over to November 18, 2014, at 10 A.M., for continued hearing.

1096-79-BZ & 1097-79-BZ

APPLICANT – Goldman Harris LLC, for West 29th Street Owner's Corp., owners.

SUBJECT – Application April 9, 2014 – Amendment of a previously approved Variance (§72-21) the conversion of a three-story and four-story and a twelve-story existing

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manufacturing buildings to residential use above the ground floor and now to proposed the unused development rights for incorporation into a new as-of-right hotel. M1-6 zoning district.

PREMISES AFFECTED – 120 & 114 West 29th Street, south side of West 29th Street between Sixth and Seventh Avenue, Block 804, Lot (s) 49 (aka 52), Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Laid over to November 18, 2014, at 10 A.M., for continued hearing.

148-03-BZ

APPLICANT – Goldman Harris LLC, for The Flower House Condominium, owners; Northwest Real Estate LLC, lessee.

SUBJECT – Application April 9, 2014 – Amendment of a previously approved Variance (§72-21) the conversion of a three-story and four-story and a twelve-story existing manufacturing buildings to residential use above the ground floor and now to proposed the unused development rights for incorporation into a new as-of-right hotel. M1-6 zoning district.

PREMISES AFFECTED – 111/113 West 28th Street, north side of West 28th Street between Sixth and Seventh Avenue, Block 804, Lot(s) 1101-1105, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Laid over to November 18, 2014, at 10 A.M., for continued hearing.

162-95-BZ & 163-95-BZ

APPLICANT – Warshaw Burstein, LLP, for Mario Bonavita, owner; Pelham Bay Fitness Group, LLC, owner.

SUBJECT – Application April 25, 2014 – Extension of Term of a previously approved Special Permit (§73-36) on the first and mezzanine floor of the existing building to allow for its continued operation. C2-4 zoning district.

PREMISES AFFECTED – 3060 & 3074 Westchester Avenue, southeast side of Westchester Avenue between Mahan Avenue and Hobart Avenue, Block 4196, Lot(s) 9, 11, 13, Borough of Bronx.

COMMUNITY BOARD #10BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to November 18, 2014, at 10 A.M., for decision, hearing closed.

42-08-BZ

APPLICANT – Eric Palatnik, P.C., for David Nikcchemny, owner.

SUBJECT – Application July 22, 2014 – Extension of Time to Complete Construction of a previously granted Special Permit (73-622) for the enlargement of an existing two family home to be converted into a single family home which expired on January 27, 2013; Waiver of the Rules. R3-1 zoning district.

PREMISES AFFECTED – 182 Girard Street, between Oriental Boulevard and Hampton Street, Block 8749, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to November 18, 2014, at 10 A.M., for decision, hearing closed.

159-08-BZ

APPLICANT – Jay A. Segal for Greenberg Traurig, LLP, for DJL Family Limited Partnership, owners.

SUBJECT – Application July 18, 2014 – Extension of time to complete construction and Waiver of Rules of Procedure, for a project approved on February 10, 2009, to construct a seven-story and penthouse residential building, with twelve (12) dwelling units and ground floor retail use, contrary to ZR42-10 and 42-10(D)(2)(b). M1-5B zoning district.

PREMISES AFFECTED – 68-70 Spring Street, between Crosby and Lafayette Streets, Block 482, Lot 19, Borough of Manhattan.

COMMUNITY BOARD #2M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 28, 2014, at 10 A.M., for decision, hearing closed.

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APPEALS CALENDAR

145-14-A

APPLICANT – Yuk Lam, for XU M Hui, owner.
SUBJECT – Application June 23, 2014 – Proposed four-story building not fronting on a mapped street, contrary to Article 3, Section 36 of the General City Law.
PREMISES AFFECTED –136-16 Carlton Place, between Linden Place and Leavitt Street, Block 4960, Lot 62, Borough of Queens.

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Commissioner Hinkson, Commissioner Ottley-Brown and Commissioner Montanez 4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated June 10, 2014, acting on DOB Application No.420942396, reads in pertinent part:

The proposed building not fronting the mapped street, contrary to General City Law Section 36; and

WHEREAS, this is an application to allow the construction of a four-story, three-family building not fronting a mapped street contrary to General City Law (“GCL”) § 36; and

WHEREAS, a public hearing was held on this application on July 29, 2014, after due notice by publication in *The City Record*, with a continued hearing on September 9, 2014 and then to decision on September 23, 2014; and

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

WHEREAS, the subject site is located on the south side of Carlton Place, between Linden Place and Leavitt Street, within an R6 (C2-2) zoning district; and

WHEREAS, the applicant states that the site has 25 feet of frontage along Carlton Place and 1,582 sq. ft. of lot area; and

WHEREAS, the applicant states that Carlton Place is an unmapped access road; and

WHEREAS, the applicant proposes to demolish the existing, vacant two-story frame dwelling and construct a four-story, three-family building; and

WHEREAS, the applicant also proposes to install a new curb cut along Carlton Place to provide access to one off-street parking space; and

WHEREAS, by letter dated July 7, 2014, Fire Department states that it has reviewed the project and offers no objections, provided the building is fully sprinklered;

WHEREAS, the applicant represents that the building will be fully-sprinklered; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant

approval of the application subject certain conditions.

Therefore it is Resolved, that the decision of the DOB, dated June 10, 2014, acting on DOB Application No. 420942396, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received August 12, 2014”- one (1) sheet; that the proposal will comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; 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 building will be fully-sprinklered;

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 September 23, 2014.

300-08-A

APPLICANT – Law office of Marvin B. Mitzner LLC, for Steven Baharestani, owner.

SUBJECT – Application April 24, 2014 – Extension of time to complete construction and obtain a Certificate of Occupancy for the construction of a hotel under common law vested rights. M1-2 /R5-B zoning district.

PREMISES AFFECTED – 39-35 27th Street, east side of 27th Street between 39th and 40th Avenues, Block 397, Lot 2, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to November 18, 2014, at 10 A.M., for continued hearing.

57-09-A thru 112-09-A

129-09-A thru 152-09-A

APPLICANT – Eric Palatnik, P.C., for Maguire Woods Estates, owners.

SUBJECT – Application May 14, 2014 – Application to permit an extension of time to complete construction and obtain a certificate of occupancy under the previously granted Common Law vested rights for a residential development approved under the prior zoning district regulations. R3-2(SSRD) zoning district.

PREMISES AFFECTED – Santa Monica Lane, El Camino Loop, Moreno Court, Block 6979, Various Lots, Borough of Staten Island.

COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –

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Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 21, 2014, at 10 A.M., for decision, hearing closed.

23-14-A

APPLICANT – Eric Palatnik, P.C., for Cheong Wing Chung & Guo Ying Zhang, owners.

SUBJECT – Application February 5, 2014 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development under the prior R3-2 zoning district. R2-A zoning district.

PREMISES AFFECTED – 198-35 51st Avenue, 51st Avenue between Weeks Lane and 199th Street, Block 7374, Lot 13, Borough of Queens.

COMMUNITY BOARD #11Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 21, 2014, at 10 A.M., for decision, hearing closed.

95-14-A

APPLICANT – Bernard Marson, for BBD & D Ink., owner.
SUBJECT – Application May 5, 2014 – MDL 171 & 4.35 to allow for a partial one-story vertical enlargement (*Penthouse*) of the existing 3 story and basement building located on the site. Pursuant to the 310 MDL. R8 zoning district.

PREMISES AFFECTED – 237 East 72nd Street, north Side of East 72nd Street 192.6' West of 2nd Avenue, Block 1427, Lot 116, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to November 18, 2014, at 10 A.M., for continued hearing.

ZONING CALENDAR

265-13-BZ

CEQR #14-BSA-036Q

APPLICANT – Eric Palatnik P.C., for St. Albans Presbyterian Church, owner.

SUBJECT – Application September 6, 2013 – Variance (§72-21) to permit a proposed community facility and residential building (*St. Albans Presbyterian Church*), contrary to floor area (§§23-141, 24-161), maximum dwelling unit (§§23-22, 24-20), maximum building height (§23-631), and minimum parking (§25-25e) regulations. R3A zoning district.

PREMISES AFFECTED – 118-27/47 Farmers Boulevard, east side of Farmers Boulevard, 217.39 feet north of

intersection of Farmers Boulevard and 119th Avenue, Block 12603, Lot(s) 58 & 63, Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Commissioner Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated July 14, 2014, acting on DOB Application No. 420813285, reads in pertinent part:

1. Proposed mixed use multiple dwelling building is contrary to ZR 22-12;
2. Proposed residential floor area ratio exceeds the maximum permitted pursuant to ZR 23-141 and 24-161;
3. Proposed number of dwelling units exceeds maximum permitted pursuant to ZR 23-22 and 24-20;
4. Proposed building exceeds maximum permitted building height pursuant to ZR 23-631;
5. Proposed number of parking spaces is below minimum required pursuant to ZR 25-25(e); and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within a R3A zoning district, the construction of a five-story mixed residential and community facility affordable housing building that does not comply with the zoning requirements for use, floor area ratio (“FAR”), density, height, and parking, contrary to ZR §§ 22-12, 23-141, 23-22, 23-631, 24-161, 24-20, and 25-25; and

WHEREAS, a public hearing was held on this application on June 24, 2014, after due notice by publication in the *City Record*, with a continued hearing on August 19, 2014, and then to decision on September 23, 2014; and

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

WHEREAS, Community Board 12, Queens, recommends approval of this application; and

WHEREAS, Councilperson Leroy Comrie, Councilperson I. Daneek Miller, former Queens Borough President Helen Marshall, Queens Borough President Melinda Katz, and certain members of the surrounding community submitted testimony in support of the application; and

WHEREAS, Assemblyman William Scarborough, Congressman Gregory Meeks, the St. Albans Civic Improvement Association, the Addison Park Civic Association, and certain members of the surrounding community submitted testimony in opposition to the application (the “Opposition”), citing the following concerns: (1) the incompatibility of the proposed height and number of dwelling units with the surrounding neighborhood; (2) the negative effect of the proposal on traffic, parking, and critical infrastructure, including police, schools, and sewers; (3) the

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absence of an Environmental Impact Statement (“EIS”); (4) the inconsistency of the proposal and the recent R3A downzoning; and (5) the lack of a nexus between the programmatic needs of the church and the proposed waivers; and

WHEREAS, the application is brought on behalf of the Presbyterian Church of St. Albans (the “Church”), which is a non-profit religious organization, in partnership with Trinity Development Associated (“Trinity”), which is a for-profit developer that specializes in affordable housing projects; where referred to collectively, the Church and Trinity constitute the applicant; and

WHEREAS, the subject site an irregularly-shaped lot in the mid-block portion of the block bounded by Farmers Boulevard, 118th Avenue, 189th Street, and 119th Avenue, within an R3A zoning district; and

WHEREAS, the site comprises Tax Lots 58 and 63, has 224.03 feet of frontage along Farmers Boulevard, 129.54 feet of frontage along 189th Street, and 44,642 sq. ft. of lot area; and

WHEREAS, the site is vacant; the applicant represents that Lots 58 and 63 were historically developed separately with residential buildings; and

WHEREAS, the applicant notes that the Church has owned Lot 58 for 16 years and purchased Lot 63 jointly with Trinity in 2011; subsequently, on July 26, 2014, Trinity assigned its interest in Lot 63 to the Church; accordingly, the applicant represents the Church has title to the entire site; and

WHEREAS, the applicant proposes to construct a five-story mixed residential (Use Group 2) and community facility (Use Group 4) building with 64,718 sq. ft. of floor area (1.45 FAR) (63,897 sq. ft. of residential floor area (1.43 FAR) and 821 sq. ft. of community facility floor area (0.02 FAR)), 10,417 sq. ft. of community facility floor space in the cellar, 67 dwelling units, 17 parking spaces, a wall height of 35’-0”, and a building height of 55’-0”; and

WHEREAS, the applicant states that the proposed community facility will facilitate the Church’s youth- and senior-oriented programming, including life skills courses, educational training, arts instruction, adult care, and recreation facilities; and

WHEREAS, the applicant also states that the proposal is an affordable housing project, with anticipated financing from the Department of Housing Preservation and Development (“HPD”), New York State Division of Housing and Community Renewal (“DHCR”), and Community Preservation Corporation; and

WHEREAS, in order to construct the building as proposed, the applicant seeks the following waivers: (1) use (a multiple dwelling is not permitted within the subject R3A zoning district, per ZR § 22-12); (2) maximum FAR (a maximum FAR of 1.0 is permitted, per ZR §§ 23-141 and 24-161); (3) density (a maximum of 31 dwelling units is permitted, per ZR § 23-22); (4) height (a maximum wall height of 21’-0” is permitted with a maximum building height of 35’-0” is permitted, per ZR § 23-631); and (5) parking (a minimum of 34 spaces is required, per ZR § 25-25); and

WHEREAS, the applicant states that, in accordance with ZR § 72-21(a), the site’s irregular shape is a unique physical condition, which creates an unnecessary hardship in developing the site in conformance and compliance with applicable regulations; and

WHEREAS, the applicant states that the site is a six-sided, irregular through lot with an arcing frontage along 189th Street, a diagonal frontage along Farmers Boulevard, a lot width varying from 224 feet to 129 feet, and a lot depth varying from 131 feet to 279 feet; and

WHEREAS, the applicant also states that the easternmost portion of the site forms a triangle along the arcing street line formed by 189th Street and that the triangle narrows from approximately 80 feet in width at its widest point to zero feet; and

WHEREAS, the applicant represents that there are no sites within 400 feet of the subject site with even a remotely similar shape; and

WHEREAS, the applicant states that despite the site’s substantial lot area (44,642 sq. ft.), the shape of the site combined with the use and bulk requirements of the subject R3A zoning district results in a development with only 22 dwelling units and 30 percent lot coverage, which represents ten fewer dwelling units and 25 percent less lot coverage than is permitted as-of-right; and

WHEREAS, to further demonstrate how the site’s shape constrains its development, the applicant submitted an analysis, which reflects that if the site had a standard shape, it would accommodate 16 homes (32 dwelling units); and

WHEREAS, accordingly, the applicant states that relief is necessary to make efficient use of the site for housing; and

WHEREAS, in addition, the applicant states that in order to be competitive for certain financial programs associated with the affordable housing, it must build a minimum number of dwelling units; in support of this statement, the applicant provided letters detailing its eligibility for HPD and DHCR funding; and

WHEREAS, finally, the applicant states that the Church’s programmatic needs are furthered by the proposal; and

WHEREAS, specifically, as noted above, the Church has a long-standing presence in the community and requires additional space for educational, religious, and recreational programming; likewise, the Church represents that its congregation is drawn largely from the surrounding neighborhood and that housing affordability is a substantial and persistent concern for its congregants and other members of the surrounding community; and

WHEREAS, the applicant also states, as noted above, that the majority of the proposed cellar level (10,417 sq. ft.) will be used as a community facility; the applicant contends that, absent the requested parking waiver, parking spaces, rather than community facility program space will be placed in the cellar, resulting in a significant reduction in the Church’s community-oriented programming at the site; and

WHEREAS, as noted above, the Board acknowledges that the Church, as a religious institution, is entitled to

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significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Westchester Reform Temple v. Brown, 22 NY2d 488 (1968), a religious institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, as to the Opposition's concerns regarding the nexus between the Church's programmatic needs and the requested relief, the Board notes that the applicant does not rely exclusively on programmatic needs to justify the requested waivers; rather, programmatic needs satisfaction is a mere component of the (a) finding under ZR § 72-21 and the primary component is the irregular shape of the site coupled with the economics of constructing affordable housing; and

WHEREAS, based upon the above, the Board finds that the shape of the site and the programmatic needs of the Church in developing community-oriented space and affordable housing units create an unnecessary hardship and a practical difficulty in developing the site in conformance and compliance with the applicable zoning regulations; and

WHEREAS, the applicant states that as a non-profit institution, it is exempt from establishing that there no reasonable possibility that the development of the site in strict compliance with the zoning requirements will bring a reasonable return, per ZR § 72-21(b); nonetheless, to demonstrate the need for the number of dwelling units proposed, the applicant assessed the financial feasibility of three scenarios: (1) an as-of-right development consisting of 11 two-family homes; (2) an as-of-right development on a standard lot with the same lot area; and (3) the proposal; and

WHEREAS, the applicant concluded that only the proposal provides relief for the unique conditions of the site and allows the Church to construct affordable housing units as well as space for its religious programming; and

WHEREAS, based upon its review of the applicant's submissions, the Board has determined that because of the site's unique physical conditions, there is no reasonable possibility that an affordable housing development in strict compliance with applicable zoning requirements is feasible; 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 includes one- and two-family homes and large community facilities; and

WHEREAS, as to adjacent uses, the applicant states that the site is surrounded on all sides by detached, two- or three-story, one- or two-family homes; and

WHEREAS, as to the use variance, the Board notes that

although residences are permitted at the site, multiple dwellings are not permitted; thus, the use waiver is mitigated by the fact that residential use is contemplated at the site; further, as noted above, a multiple dwelling is necessary to achieve the number of dwelling units required for a government-funded affordable housing project; and

WHEREAS, the applicant notes that although the proposed building rises to a height of five stories, only the central portion of the building is five stories and the portions of the building immediately adjacent to the nearby homes are three or four stories in height; and

WHEREAS, the applicant also asserts that the proposed five-story building is contextual with the profile of community facility buildings in the vicinity, including the St. Albans Church and School located at 172-17 Linden Boulevard (building height of 30 feet and 22,440 sq. ft. of floor area), the VA Medical Center and Home located at 180-20 Linden Boulevard (building height of 60 feet and 731,427 sq. ft. of floor area), PS 3 located at 187-40 Foch Boulevard (building height of 42 feet and 36,750 sq. ft. of floor area), the St. Catherine's Church and School located at 185-15 Baisley Boulevard (building height of 39 feet and 12,200 sq. ft. of floor area), PS 15 located at 121-15 Lucas Street (building height of 50 feet and 49,410 sq. ft. of floor area), Humanities and Arts High School located at 207-01 116th Avenue (building height of 56 feet and 252,655 sq. ft. of floor area), and PS 16 located at 201-15 115th Avenue (building height of 42 feet and 97,200 sq. ft. of floor area); and

WHEREAS, further, the applicant states that in order to minimize the effects of the proposed height on the adjacent residences, the design includes a perimeter wall height of 35 feet and a front yard depth consistent with adjacent properties; in addition, at the Board's request, the proposal was modified to enhance the landscaping and plantings along the perimeter of the site; and

WHEREAS, the applicant also notes that an R5D zoning district is mapped just north of the site at 118th Avenue, and that the proposed building would be complying in that district with respect to use, FAR, and density; and

WHEREAS, the applicant contends that, based on the anticipated car ownership of the residents of the building—which is expected to be lower than the average household in the area—and the availability of off-street parking in the vicinity of the site, the proposed parking waiver is appropriate; and

WHEREAS, at hearing, and in response to the concerns of the Opposition, the Board directed the applicant to submit a more comprehensive parking demand analysis; and

WHEREAS, in response, the applicant provided the requested parking demand analysis of nine nearby residences of similar size, which reflects that the proposal will not have a significant negative impact on parking in the surrounding area; and

WHEREAS, as to the Opposition's concerns regarding the lack of an EIS, the Board observes that an EIS was not required due to the scope of the proposal, as set forth below; and

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WHEREAS, as to the Opposition's concerns regarding the inconsistency of the proposal with the recent downzoning of the site to R3A, the Board notes that ZR § 72-21 exists to provide relief for uniquely burdened sites where the general use and/or bulk regulations make development infeasible; thus, while the Board considers the timing of a rezoning in determining whether a proposal satisfies the (c) finding ZR § 72-21, a recent rezoning *per se* does not make a site ineligible for relief that would otherwise be appropriate; 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 due to the peculiarities of the site and the applicant's objective to provide affordable housing and community facility space for the Church's congregants; and

WHEREAS, the Board also finds that this proposal is the minimum necessary to afford the owner relief, in accordance with 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 project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.5; 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. 14-BSA-036Q, dated February 4, 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 under ZR § 72-21 to permit, on a site within a R3A zoning district, the construction of a five-story mixed

residential and community facility affordable housing building that does not comply with the zoning requirements for use, FAR, density, height, and parking, contrary to ZR §§ 22-12, 23-141, 23-22, 23-631, 24-161, 24-20, and 25-25; *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 5, 2014"—twenty (20) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: a maximum of five stories, a maximum floor area of 64,718 sq. ft. of floor area (1.45 FAR), a maximum residential floor area of 63,897 sq. ft. (1.43 FAR), a maximum of 67 dwelling units, a minimum of 17 parking spaces, a maximum wall height of 35'-0", and a maximum building height of 55'-0", 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);

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

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, September 23, 2014.

21-14-BZ CEQR #14-BSA-108Q

APPLICANT – Eric Palatnik, P.C., for FSJ Realty Group LLL., owner; Crunch Richmond Hill, LLC., lessee.

SUBJECT – Application February 3, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Crunch Fitness*). C2-4/R6A zoning district. PREMISES AFFECTED – 115-02 Jamaica Avenue, southeast corner of Jamaica Avenue and 115th Street, Block 9305, Lot(s) 2 and 11, Borough of Queens.

COMMUNITY BOARD #9Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Commissioner Hinkson, Commissioner Otley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated January 22, 2014, acting on DOB Application No. 420803554, reads, in pertinent part:

Proposed physical culture establishment in a R6A (C2-4) zoning district is contrary to Section 32-10; and

WHEREAS, this is an application under ZR §§ 73-36

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and 73-03, to permit, on a site within a C2-4 (R6A) zoning district, the operation of a physical culture establishment (“PCE”) on the second and third stories of a new three-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on September 9, 2014, after due notice by publication in the *City Record*, and then to decision on September 23, 2014; and

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

WHEREAS, Community Board 9, Queens, recommends support of this application; and

WHEREAS, the subject site is irregularly-shaped lot located at southeast corner of the intersection of Jamaica Avenue and 115th Street, with a portion of the lot fronting on 116th Street; the site comprises Lots 1, 2, 3, 4, and 11, and is within a C2-4 (R6A) zoning district; and

WHEREAS, the site has approximately 93 feet of frontage along Jamaica Avenue, approximately 105 feet of frontage along 115th Street, approximately 86 feet of frontage along 116th Street, and approximately 18,946 sq. ft. of lot area; and

WHEREAS, the site is occupied by a three-story commercial building with approximately 8,557 sq. ft. of floor area; and

WHEREAS, the applicant states that it proposes to construct on Lot 2 a new three-story building with 29,135 sq. ft. (1.54 FAR); and

WHEREAS, the proposed PCE will occupy 8,944 sq. ft. of floor area on the second story and 8,944 sq. ft. of floor area on the third story, for a total PCE floor area of 17,888 sq. ft.; and

WHEREAS, the PCE will be operated as Crunch; and

WHEREAS, the hours of operation for the PCE will be Monday through Saturday, from 5:00 a.m. to 11:00 p.m. and Sunday, from 7:00 a.m. to 9:00 p.m.; and

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

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

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

WHEREAS, at hearing, the Board requested additional information regarding the uses immediately adjacent to the site; and

WHEREAS, in response, the applicant submitted amended statement, which provides further information regarding surrounding uses, including immediately adjacent uses, which are all commercial in nature; and

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

the public welfare; and

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

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

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

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 14BSA108Q, dated February 3, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C2-4 (R6A) zoning district, the operation of a PCE on the second and third stories of a new three-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received May 14, 2014” Five (5) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on September 23, 2024;

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

THAT all sound attenuation measures proposed will be installed, maintained and reflected on the Board approved plans;

THAT accessibility compliance will be as reviewed and approved by DOB;

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, September 23, 2014.

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123-14-BZ

CEQR #14-BSA-167M

APPLICANT – Fried Frank Harris Shriver & Jacobson LLP, for 855 MRU LLC., owner.

SUBJECT – Application June 3, 2014 – Special Permit (§73-36) to allow the operation of physical culture establishment in portion of the cellar and first floor of the existing building. C6-4X and M1-6 zoning district.

PREMISES AFFECTED – 855 Avenue of the Americas, between 30th Street and 31st Street, Block 806, Lot 34, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Commissioner Hinkson, Commissioner Ottley-Brown and Commissioner Montanez. 4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 21, 2014, acting on DOB Application No. 121331102, reads, in pertinent part:

Proposed physical culture establishment is not permitted as of right in an M1-6 or C6-4X district, per ZR 32-10 and 42-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site partially within a C6-4X zoning district and partially within an M1-6 zoning district, the operation of a physical culture establishment (“PCE”) in portions of the cellar and first story of a 41-story mixed residential and commercial building, contrary to ZR §§ 32-10 and 42-10; and

WHEREAS, a public hearing was held on this application on September 9, 2014, after due notice by publication in the *City Record*, and then to decision on September 23, 2014; and

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

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

WHEREAS, the subject site spans the western side of Avenue of the Americas between West 30th Street and West 31st Street, partially within a C6-4X zoning district and partially within an M1-6 zoning district; and

WHEREAS, the site has approximately 204 feet of frontage along West 31st Street, approximately 198 feet of frontage along Avenue of the Americas, approximately 189 feet of frontage along West 30th Street, and approximately 39,760 sq. ft. of lot area; and

WHEREAS, under construction at the site is a 41-story mixed residential and commercial building; and

WHEREAS, the proposed PCE will occupy 15,931 sq. ft. of floor space in the cellar and 3,711 sq. ft. of floor area on

the first story, for a total PCE size of 19,702 sq. ft.; and

WHEREAS, the hours of operation for the PCE will be Monday through Friday, 5:30 a.m. to 11:00 p.m. and Saturday and Sunday, from 7:00 a.m. to 9:00 p.m.; and

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

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

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

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

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

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

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

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 14-BSA-167M, dated June 3, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site partially within a C6-4X zoning district and partially within an M1-6 zoning district, the operation of a PCE in portions of the cellar and first story of a 41-story mixed residential and commercial building, contrary to ZR §§ 32-10 and 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received June 3, 2014 – four (4) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on September 23, 2024;

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

THAT all sound attenuation measures proposed will be installed, maintained and reflected on the Board approved plans;

THAT accessibility compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or

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maintained as shown on the Board-approved plans;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, September 23, 2014.

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

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

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

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

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

COMMUNITY BOARD #13Q

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

153-11-BZ

APPLICANT – Eric Palatnik, P.C., for Theodoros Parais, owner.

SUBJECT – Application September 21, 2011 – Reinstatement (§§11-411 & 11-412) to permit the continued operation of an automotive repair use (UG 16B); amendment to enlarge the existing one story building; Waiver of the Board's Rules. C1-3 zoning district.

PREMISES AFFECTED – 27-11 30th Avenue, between 27th Street and 39th Street. Block 575, Lot 23. Borough of Brooklyn.

COMMUNITY BOARD #4BK

ACTION OF THE BOARD – Laid over to November 18, 2014, at 10 A.M., for continued hearing.

30-12-BZ

APPLICANT – Eric Palatnik, P.C., for Don Ricks Associates, owner; New York Mart Group, Inc., lessee.

SUBJECT – Application February 8, 2012 – Remand Back to Board of Standards and Appeals; seeks a judgment vacating the resolution issued on January 15, 2013 and filed on January 17, 2013. R6-/C2-2 zoning district.

PREMISES AFFECTED – 142-41 Roosevelt Avenue, northwest corner of Roosevelt Avenue and Avenue B, Block 5020, Lot 34, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to December 9, 2014, at 10 A.M., for continued hearing.

286-12-BZ

APPLICANT – Eric Palatnik, P.C., for People of Destiny Ministries International, Inc., owners.

SUBJECT – Application October 15, 2012 – Variance (§72-21) to permit a vertical enlargement and conversion of an existing two-story automotive repair facility to a four-story UG 4A House of Worship (*People of Destiny Church*), contrary to coverage ratio (§24-11). R6 zoning district.

PREMISES AFFECTED – 1925 Union Street, north side of Union Street between Portal Street and Ralph Avenue, Block 1399, Lot 82, Borough of Brooklyn.

COMMUNITY BOARD #8BK

ACTION OF THE BOARD – Laid over to December 16, 2014, at 10 A.M., for continued hearing.

188-13-BZ & 189-13-A

APPLICANT – Rothkrug Rothkrug & Spector, for Linwood Avenue Building Corp., owner.

SUBJECT – Application June 25, 2013 – Special Permit (§73-125) to permit an ambulatory diagnostic or treatment health care facility.

Proposed building does not front on legally mapped street, contrary to Section 36 of the General City Law. R3-1 zoning district.

PREMISES AFFECTED – 20 Dea Court, south side of Dea Court, 101' West of intersection of Dea Court and Madison Avenue, Block 3377, Lot 100, Borough of Staten Island.

COMMUNITY BOARD #2SI

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

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254-13-BZ

APPLICANT – Law Office of Marvin B. Mitzner, for Moshe Packman, owner.

SUBJECT – Application August 30, 2013 – Variance (§72-21) to permit a residential development, contrary to floor area (§23-141(a)), dwelling units (§23-22), lot coverage (§23-141(a)), front yard (§23-45(a)), side yard (§23-462(a)), and building height (§23-631(b)) regulations. R3-2 zoning district.

PREMISES AFFECTED – 2881 Nostrand Avenue, east side of Nostrand Avenue between Avenue P and Marine Parkway, Block 7691, Lot 91, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Laid over to November 18, 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

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 21, 2014, at 10 A.M., for decision, hearing closed.

323-13-BZ

APPLICANT – Eric Palatnik, P.C., for Galt Group Holdings, owner.

SUBJECT – Application December 20, 2013 – Special Permit (§73-621) to permit the proposed alteration, which will enlarge the footprint and include a vertical enlargement at the rear portion of the existing four story, plus cellar and basement contrary to lot coverage §23-145. R8B (LH-1A) zoning district.

PREMISES AFFECTED – 127 East 71st Street, East 71st Street between Park and Lexington Avenues, Block 1406, Lot 12, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to November 18, 2014, at 10 A.M., for decision, hearing closed.

48-14-BZ

APPLICANT – Eric Palatnik, P.C., for Vlad Benjamin, owner.

SUBJECT – Application March 26, 2014 – Special Permit (§73-622) for the enlargement of an existing two story single family home, contrary to floor area, lot coverage and open space (§23-141). R3-1 zoning district.

PREMISES AFFECTED – 174 Falmouth Street, between Hampton Avenue and Oriental Boulevard, Block 8784, Lot 196, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 28, 2014, at 10 A.M., for decision, hearing closed.

53-14-BZ

APPLICANT – Evolution Muay Thai LLC, for 12 West 27 Land, L.P., owner.

SUBJECT – Application April 2, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Evolution Muay Thai*). M1-6 zoning district.

PREMISES AFFECTED – 12 West 27th Street, 2nd floor, between Broadway and 6th Avenue, Block 828, Lot 56, Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 21, 2014, at 10 A.M., for decision, hearing closed.

97-14-BZ

APPLICANT – Warshaw Burstein, LLP, for 22-26 East 14 Condominium, owner; 22 East 14th St. Fitness Group, LLC, lessee.

SUBJECT – Application May 8, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) on portions of the ground and cellar levels of the existing building. C6-1 zoning district.

PREMISES AFFECTED – 22-26 East 14th Street, between 5th Avenue and University Place, Block 571, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #2M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to November 18, 2014, at 10 A.M., for decision, hearing closed.

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105-14-BZ

APPLICANT – Lewis E. Garfinkel, for Caren May, owner.
SUBJECT – Application May 21, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-141); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1224 East 27th Street, west side of East 27th Street, 175' south from Avenue L, Block 7644, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 21, 2014, at 10 A.M., for decision, hearing closed.

130-14-BZ

APPLICANT – Francis R. Angelino, Esq., 605 fifth Property Owner, LLC, owner; Chiva-Som Spa, lessee.

SUBJECT – Application June 11, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Chiva-Som Spa*) will be on the entire fifth floor of a six-story commercial building, located within a C5-3 zoning district.

PREMISES AFFECTED – 605 Fifth Avenue, east Side Fifth Avenue between East 48th & 49th Streets, Block 1284, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 7, 2014, at 10 A.M., for decision, hearing closed.

132-14-BZ

APPLICANT – Warshaw Burstein, LLP, for 441 Rockaway, LLC, owner; 441 Rockaway Ave. Fitness Group, LLC., lessee.

SUBJECT – Application June 13, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) on the cellar and first floor of the existing building, located within a C4-3 zoning district.

PREMISES AFFECTED – 441 Rockaway Avenue, frontage on Rockaway Avenue and Thatford Avenue, south of Pitkin Avenue, Block 3522, Lot(s) 9, 26, Borough of Brooklyn.

COMMUNITY BOARD #16BK

ACTION OF THE BOARD – Laid over to November 18, 2014, at 10 A.M., for continued hearing.

144-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Park 121 Realty LLC., owner; Leake & Watts Services Inc. Children's Learning Center, lessee.

SUBJECT – Application June 20, 2014 – Special Permit (§73-19) to allow for a Use Group 3 special education preschool on the second floor of an existing building. M1-4 district.

PREMISES AFFECTED – 1751 Park Avenue, east side of Park Avenue between East 122nd Street and East 121 Street, Block 1770, Lot(s) 72, 4, 3, 2, 1, 101, Borough of Manhattan.

COMMUNITY BOARD #11M

ACTION OF THE BOARD – Laid over to October 7, 2014, at 10 A.M., for continued hearing.

206-14-BZ

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application August 29, 2014 – Special Permit (ZR 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. R3-2 zoning district.

PREMISES AFFECTED – 910 Lanark, Queens. Block 15500, Lot 602.

COMMUNITY BOARD #14Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 7, 2014, at 10 A.M., for decision, hearing closed.

207-14-BZ

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application August 29, 2014 – Special Permit (ZR 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. R3-2 zoning district.

PREMISES AFFECTED – 41 West 12th Road, Queens. Block 15316, Lot 64.

COMMUNITY BOARD #14Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 7, 2014, at 10 A.M., for decision, hearing closed.

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208-14-BZ

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application August 29, 2014 – Special Permit (ZR 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. R3-2 zoning district.

PREMISES AFFECTED – 119 East 7th Road, Queens. Block 15454, Lot 21.

COMMUNITY BOARD #14Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 7, 2014, at 10 A.M., for decision, hearing closed.

209-14-BZ

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application August 29, 2014 – Special Permit (ZR 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. R4-1 zoning district.

PREMISES AFFECTED – 592 Beach 43rd Street, Queens. Block 15961, Lot 102.

COMMUNITY BOARD #14Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 7, 2014, at 10 A.M., for decision, hearing closed.

210-14-BZ

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application August 29, 2014 – Special Permit (ZR 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. R4A zoning district.

PREMISES AFFECTED – 69-52 Thursby Avenue, Queens. Block 16050, Lot 63.

COMMUNITY BOARD #14Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 7, 2014, at 10 A.M., for decision, hearing closed.

211-14-BZ

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application August 29, 2014 – Special Permit (ZR 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. R4-1 zoning district.

PREMISES AFFECTED – 3-41 Beach 87th Street, Queens. Block 16119, Lot 101.

COMMUNITY BOARD #14Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 7, 2014, at 10 A.M., for decision, hearing closed.

212-14-BZ

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application August 29, 2014 – Special Permit (ZR 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. R5D zoning district.

PREMISES AFFECTED – 209A Beach 100th Street, Queens. Block 16156, Lot 94.

COMMUNITY BOARD #14Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 7, 2014, at 10 A.M., for decision, hearing closed.

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CORRECTION

This resolution adopted on September 16, 2014, under Calendar No. 88-92-BZ and printed in Volume 99, Bulletin No. 38, is hereby corrected to read as follows:

88-92-BZ

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

SUBJECT – Application March 12, 2014 – Extension of Term (§11-411) of an approved 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

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice-Commissioner Hinkson, Commissioner Ottley-Brown and Commissioner Montanez3

Negative:.....0

Abstain: Chair Perlmutter.....1

THE RESOLUTION –

WHEREAS, this is an application for a re-opening and an extension of term for a variance permitting an eating and drinking establishment (Use Group 6) in an R4-1 zoning district, which expired on June 28, 2014; and

WHEREAS, a public hearing was held on this application on July 15, 2014, after due notice by publication in *The City Record*, and then to decision on September 16, 2014; and

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

WHEREAS, Community Board 10, Bronx, recommends approval of this application; and

WHEREAS, the subject site is located northeast corner of the intersection of Ericson Place and East Tremont Avenue, within an R4-1 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the site since January 12, 1954, when, under BSA Cal. No. 247-35-BZ, the Board granted an application to permit, in a residence district, the operation of an eating and drinking establishment, contrary to the use regulations of the 1916 Zoning Resolution; under the original grant, the Board limited to the use to a term of 15 years; and

WHEREAS, the 1954 grant was amended and extended at various times over the years; and

WHEREAS, on July 26, 1994, under the subject calendar number, the Board granted an application pursuant to ZR §§ 11-411 and 11-412 to permit a one-story enlargement to the eating and drinking establishment, for a term of ten years, to expire on June 28, 2004; and

WHEREAS, most recently, on October 19, 2004, the Board extended the term of the grant for an additional ten

years, to expire on June 28, 2014; and

WHEREAS, therefore, the applicant now seeks an additional extension of term; and

WHEREAS, pursuant to ZR § 11-411, the Board may, in appropriate cases, allow an extension of the term of a pre-1961 variance; and

WHEREAS, at hearing, the Board expressed directed the applicant to: (1) verify whether the partially-enclosed portion of the building is included in floor area; and (2) restripe the parking lot; and

WHEREAS, in response, the applicant: (1) indicated that the partially-enclosed area was not included in floor area; and (2) submitted a photograph depicting the restriped parking lot; and

WHEREAS, the Board has determined that the evidence in the record supports the finding required to be made under ZR § 11-411.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated July 26, 1994, so that as amended the resolution reads: “to permit the extension of the term of the variance for an additional ten years from June 28, 2014, expiring on June 28, 2024; on condition on condition that all work will substantially conform to drawings, filed with this application marked ‘Received August 4, 2014’– (1) sheet and ‘March 12, 2014’-(4) sheets; and on further condition:

THAT the term of the variance will expire on June 28, 2024;

THAT the premises will be maintained free of debris and graffiti;

THAT any graffiti located on the premises will be removed within 48 hours;

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

THAT all conditions from prior resolution(s) 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 objections(s) only; and

Adopted by the Board of Standards and Appeals, September 16, 2014.

The resolution has been amended to correct the plans date which read: ‘Received March 12, 2014’-(3) sheets and ‘August 4, 2014’– (1) sheet ...now reads: ‘Received August 4, 2014’– (1) sheet and ‘March 12, 2014’-(4) sheets. Corrected in Bulletin No. 39, Vol. 99, dated October 1, 2014.

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CORRECTION

This resolution adopted on October 29, 2013, under Calendar No. 163-04-BZ and printed in Volume 98, Bulletin No. 44, is hereby corrected to read as follows:

163-04-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Mylaw Realty Corporation, owner; Crunch Fitness, lessee. SUBJECT – Application July 26, 2013 – Extension of time to obtain a certificate of occupancy for a previously granted physical culture establishment (*Crunch Fitness*) which expired on July 17, 2013. C2-4/R7A zoning district.

PREMISES AFFECTED – 671/99 Fulton Street, northwest corner of intersection of Fulton Street and S. Felix Street, Block 2096, Lot 66, 99, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of time to obtain certificates of occupancy, which expired on July 17, 2013; and

WHEREAS, a public hearing was held on this application on October 8, 2013, after due notice by publication in *The City Record*, and then to decision on October 29, 2013; and

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

WHEREAS, the subject site is located on the northwest corner of Fulton Street and St. Felix Street and is located within a C2-4 (R7A) zoning district; and

WHEREAS, the site is occupied by a two-story commercial building at 677-691 Fulton Street (Lot 69) and an adjacent one-story commercial building at 693-699 Fulton Street (Lot 66); and

WHEREAS, the PCE occupies a portion of the first floor of both buildings and the cellar of the two-story building; and

WHEREAS, on July 12, 2005, under the subject calendar number, the Board granted a special permit pursuant to ZR § 73-36, to permit the operation of the PCE within a portion of the existing two-story building for a term of ten years to expire on July 12, 2015; and

WHEREAS, on April 24, 2007, the Board granted an amendment to permit the enlargement of the first floor by adding 2,775 sq. ft. of floor area on the first floor within the adjacent one-story building, and to extend the hours of operation to 24 hours, daily; and

WHEREAS, pursuant to the April 24, 2007 grant, substantial construction was to be completed by April 24,

2011, in accordance with ZR § 73-70; and

WHEREAS, the applicant states that subsequent to the April 24, 2007 grant, the permit applications related to the PCE underwent a series of audits and the applicant experienced disputes with its contractors, which delayed the completion of construction and the issuance of the certificates of occupancy; and

WHEREAS, accordingly, on July 17, 2012, the applicant sought and the Board granted an one-year extension of time to obtain certificates of occupancy, to expire on July 17, 2013; and

WHEREAS, the applicant now requests an additional extension of time to obtain certificates of occupancy; and

WHEREAS, the applicant states that, although work is substantially completed, certificates of occupancy have not been obtained (despite the resolution of the audits) because the buildings have open Department of Buildings and Environmental Control Board violations; and

WHEREAS, the applicant represents that the requested extension of time will enable to the applicant to resolve the open violations related to the PCE and obtain certificates of occupancy; and

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

Therefore it is Resolved, that the Board of Standards and Appeals *reopens*, and *amends* the resolution, dated July 12, 2005, so that as amended the resolution shall read: “to grant an extension of time to obtain certificates of occupancy for one year from the date of this resolution, to expire on October 29, 2014; *on condition* that the use and operation of the PCE shall substantially conform to BSA-approved plans associated with the prior grant; and *on further condition*:

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

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

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

THAT certificates of occupancy must be obtained by October 29, 2014;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application Nos. 301441296 and 302207403)

Adopted by the Board of Standards and Appeals, October 29, 2013.

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The resolution has been amended to change the word “mezzanine” to “cellar”, located in the 6th WHEREAS. Corrected in Bulletin No. 39, Vol. 99, dated October 1, 2014.