
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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December 3, 2014

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Affecting Calendar Numbers:

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DOCKETS

New Case Filed Up to November 25, 2014

314-14-BZ

1604 Williamsbridge Road, Located on the northwest corner of the intersection formed by Williamsbridge Road and Pierce Avenue, Block 4111, Lot(s) 43, Borough of **Bronx, Community Board: 11**. Special Permit (§73-125) to allow construction of an UG4 health care facility that exceed the maximum permitted floor area of 1,500 sf. Located within an R4A zoning district.. R4A district.

315-14-A

485 Seventh Avenue, Northeast corner of West 36th Street and Seventh Avenue, Block 812, Lot(s) 1, 2, Borough of **Manhattan, Community Board: 5**. MDL (Multiple Dwelling Law (section 310(2)(a) for waivers to permit the conversion of and small addition to the building, located within an M1-6 Special Garment Center District. M1-6 district.

316-14-BZ

115 Heyward Street, Northern side of Heyward Street between Lee Avenue and Bedford Avenue, Block 2225, Lot(s) 42, Borough of **Brooklyn, Community Board: 1**. Variance (§72-21): to permit the enlargement of an existing Yeshiva building for lot coverage(§24-11) and rear yard (§24-36, located in an R6 zoning district. R6 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

DECEMBER 16, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, December 16, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

142-92-BZ & 289-13-BZ

APPLICANT – Preserve Park Slope, Inc. c/o Albert K. Butzel, for New York Methodist Hospital, owner.
SUBJECT – Application November 3, 2014 – Rehearing: To request a reargument or rehearing of the Board’s decision of June 17, 2014 in which the Board granted a variance that allowed NY Methodist Hospital to build a new ambulatory care facility on the property identified above. R6, R6B, R7B zoning districts.
PREMISES AFFECTED – 506 and 473-541 6th Street, Eighth Avenue, 5th Street and Sixth Street, Block 1084, Lot(s) 39, 164, 1001, 1084, Borough of Brooklyn.
COMMUNITY BOARD #6BK

APPEALS CALENDAR

65-14-A thru 88-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP., for Block 7092 LLC, owner.
SUBJECT – Application April 29, 2014 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-1(SRD) zoning district.
PREMISES AFFECTED – Lemon Drop and Apricot Court, Block 7105, Lots 148 thru 171, Borough of Staten Island.
COMMUNITY BOARD #3SI

113-14-A

APPLICANT – Howard Goldman, Esq., for Speakeasy 86 LLC c/o Newcastle Realty Service, owner.
SUBJECT – Application May 29, 2014 – Appeal seeking revocation of a permit issued that allows a nonconforming use eating/drinking establishment to resume after being discontinued for several years. R6 zoning district.
PREMISES AFFECTED – 86 Bedford Street, northeastern side of Bedford Street between Barrow and Grove Streets, Block 588, Lot 3, Borough of Manhattan.
COMMUNITY BOARD #3M

128-14-A

APPLICANT – Bryan Cave LLP, for Alicat Family LLC & AEEE Family LLC, owner.
SUBJECT – Application June 6, 2014 – Appeal challenging Department of Buildings’ determination that the proposed off-street loading berth is not accessory to a medical office. C2-5/R7A zoning district.
C2-5/R7A zoning district.
PREMISES AFFECTED – 47 East 3rd Street, East 3rd Street between First and Second Avenues, Block 445, Lot 62, Borough of Manhattan.
COMMUNITY BOARD #3M

192-14-A thru 198-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Thomas Mantione, owner.
SUBJECT – Application August 15, 2014 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-2(SRD) zoning district.
PREMISES AFFECTED –
10 Winslow Place, Block 6373, Lot 40
12 Winslow Place, Block 6373, Lot 42
18 Winslow Place, Block 6373, Lot 43
20 Winslow Place, Block 6373, Lot 45
26 Winslow Place, Block 6373, Lot 145
30 Winslow Place, Block 6373, Lot 146
32 Winslow Place, Block 6373, Lot 147
COMMUNITY BOARD #3SI

DECEMBER 16, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, December 16, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

63-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 188 W. 230th Street Corporation, owner; Atlas Athletics, Inc., lessee.
SUBJECT – Application April 23, 2014 – Special Permit (§73-36) to allow the legalization of an existing physical culture establishment (*Astral Fitness*). M1-1 zoning district.
PREMISES AFFECTED – 5500 Broadway, southeast corner of intersection of Broadway and W 230th Street, Block 3264, Lot 109, Borough of Bronx.
COMMUNITY BOARD #8BX

CALENDAR

118-14-BZ

APPLICANT – Rampulla Associates Architects, for Mangone Developers Corporation, owner.

SUBJECT – Application June 3, 2014 – Variance (§72-21) proposed to construct a three story sixteen Dwelling Unit Condominium with accessory parking for thirty six cars. Located within R3X, R1-2 split zoning district and in an NA-1 designated area.

PREMISES AFFECTED – 1891 Richmond Road, northwest side of Richmond 2667.09' southwest of the corner of Four Corners Road and Richmond Road, Block 895, Lot (s) 61, 63, 65, 67 (61 tentative), Borough of Staten Island.

COMMUNITY BOARD #2SI

124-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Yuriy Teyf, owner.
SUBJECT – Application June 2, 2014 – Special Permit (§73-622) for the enlargement of a single-family detached residence to be converted into a two-family home contrary to floor area, lot coverage and open space (ZR 23-141); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R4 zoning district.

PREMISES AFFECTED – 1112 Gilmore Court, southern side of Gilmore Court between East 11th Street and East 12th Street, Block 7455, Lot 74, Borough of Brooklyn.

COMMUNITY BOARD #15BK

168-14-BZ

APPLICANT – Warshaw Burnstein, LLP, for Michael Baum, LLC, owner; Barry's Boot camp NYC. LLC, lessee.
SUBJECT – Application July 14, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Barry's Bootcamp*) within the existing building. M1-5B zoning district.

PREMISES AFFECTED – 419 Lafayette Street, east side of Lafayette Street between East 4th Street and Astor Place, Block 544, Lot 13, Borough of Manhattan.

COMMUNITY BOARD #2M

177-14-BZ

APPLICANT – Eric Palatnik, PC, for MADDD Properties LLC 34 Arden Lane, owner; CF Flatbush LLC, lessee.

SUBJECT – Application July 24, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Crunch Fitness*) within a portion of an altered building. C4-4A/R6A zoning district.

PREMISES AFFECTED – 1038 Flatbush Avenue, 180' south of intersection of Flatbush Avenue and Regent Place, Block 5123, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #14BK

184-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Hamilton Plaza Associates, owner; Brooklyn Park Slope Fitness, lessee.

SUBJECT – Application August 6, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Retro Fitness*) on the third floor of the existing building at the premises. M1-2 zoning district.

PREMISES AFFECTED – 1-37 12th Street, eastern side of the intersection between Hamilton Place and 12th Street, Block 1007, Lot 172, Borough of Brooklyn.

COMMUNITY BOARD #6BK

185-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Roza 14 WLLC, owner; 14 Wall Day Spa LLC, lessee.

SUBJECT – Application August 6, 2014 – Special Permit (§73-36) to permit the operation of a Physical Culture Establishment (PCE) on the cellar and sub-cellar floor of the existing building at the premises, which is located in a C5-5 zoning district.

PREMISES AFFECTED – 14 Wall Street, north side of Wall Street with frontage on Nassau Street and Pine Street, Block 46, Lot 9, Borough of Manhattan.

COMMUNITY BOARD #1M

285-14-BZ thru 288-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 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. R3X zoning district.

PREMISES AFFECTED –
84 McLaughlin Street, Block 0341, Lot 20049
20 Orlando Street, Block 0340, Lot 30016
138 Roma Avenue, Block 0408, Lot 80025
131 Cedar Grove Avenue, Block 0408, Lot 70002
Borough of Staten Island.

COMMUNITY BOARD #2SI

291-14-BZ thru 300-14-A

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties of HPD/BIB which are located on an unmapped street) on properties which are registered in the NYC Build it Back Program. R3X zoning district.

PREMISES AFFECTED –
19 Milbank Road, Block 0409, Lot 10027
23 Neutral, between Roma Avenue and Cedar Grove

CALENDAR

Avenue, Block 0409, Lot 20026
58 Seafoam Avenue, between Roma Avenue and Cedar
Grove Avenue, Block 0408, Lot 10068
6 Topping Street, between Roma Avenue and Cedar Grove
Avenue, Block 0408, Lot 50042
28 Topping Street, between Roma Avenue and Cedar Grove
Avenue, Block 0408, Lot 50043
Borough of Staten Island.
COMMUNITY BOARD #2SI

303-14-BZ thru 312-14-BZ

APPLICANT – Department of Housing Preservation and
Development, for Build it Back Program.

SUBJECT – Application November 10, 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. R31 zoning district.

PREMISES AFFECTED –

1032 Olympia Boulevard, between Mapleton Avenue and
Hempstead Avenue, Block 0380, Lot 80016
1034 Olympia Boulevard, between Mapleton Avenue and
Hempstead Avenue, Block 0380, Lot 80015
296 Adams Avenue, between Mapleton Avenue and
Hempstead Avenue, Block 0367, Lot 30011
156 Baden Place, Block 0381, Lot 00018
540 Hunter Avenue, Block 0379, Lot 60024
179 Kiswick Street, Block 50042, Lot 60024
55 Hempstead Avenue, Block 0380, Lot 90003
297 Colony Avenue, Block 0381, Lot 40032
178 Kiswick Street, Block 0373, Lot 60019
65 Hempstead Avenue, Block 0381, Lot 00008
Borough of Staten Island.

COMMUNITY BOARD #2SI

Ryan Singer, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, NOVEMBER 25, 2014
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

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

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term for an accessory parking lot to a commercial use, which expired on May 11, 2014; and

WHEREAS, a public hearing was held on this application on October 21, 2014, after due notice by publication in the *City Record*, and then to decision on November 25, 2014; and

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

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

WHEREAS, the subject site is located on the south side of West 45th Street, between Ninth Avenue and Tenth Avenue, within an R8 zoning district, within the Special Clinton District; and

WHEREAS, the site has 125 feet of frontage along West 45th Street, and 2,500 sq. ft. of lot area; it is occupied by a one-story storage shed, a one-story commercial building, two four-story commercial buildings, a seven-story commercial building, and an open parking area; and

WHEREAS, the site has been subject to the Board's jurisdiction since April 15, 1941, when, under BSA Cal. No. 1071-40-BZ, the Board authorized the parking of more than five motor vehicles contrary to use regulations; and

WHEREAS, this grant was subsequently amended and extended at various times; and

WHEREAS, the grant lapsed in 1996 and, on May 11, 2004, under the subject calendar number, the Board granted an application to re-establish the variance for a ten-year term to expire on May 11, 2014; and

WHEREAS, accordingly, the applicant now seeks to further extend the term of the grant for ten years; and

WHEREAS, at hearing, the Board directed the applicant to: (1) clarify the type of items stored in the storage shed; (2) discuss the minor discrepancies between the approved site plan and the existing conditions, including the width of the curb cut (as approved, 10'-0" in width; as built, 24'-0") and the height of the fence along the eastern boundary of the site (as approved, 6'-0" in height; as built, 4'-0"); and (3) stripe the parking lot; and

WHEREAS, as to the items in the storage shed, the applicant states that dry goods, such as boxes of film reels and cans are stored in the shed; and

WHEREAS, as to the discrepancies between the approved site plan and the existing conditions, the applicant states that the widened curb cut improves the movement of vehicles throughout the site and the shorter fence provides an adequate buffer between the site and the adjacent residential building; and

WHEREAS, as to the striping of the parking lot, the applicant represents that the striping will occur subsequent to the Board's extension of the term; and

WHEREAS, the Board has determined that the evidence in the record supports a grant of the requested amendment to the prior resolution with the conditions listed below.

Therefore it is Resolved, that the Board of Standards and Appeals reopens and amends the resolution, dated May 11, 2004, so that as amended the resolution reads: "to grant an extension of the special permit for a term of ten years from the prior expiration, to expire on May 11, 2024; 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 November 12, 2014'-(1) sheet; and on further condition: *on condition*:

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

THAT the parking shall be striped in accordance with the BSA-approved plans;

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

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

THAT the 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. 103568827)

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

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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 expired 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

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term for a physical culture establishment (“PCE”), which expired on September 1, 2014; and

WHEREAS, a public hearing was held on this application on October 21, after due notice by publication in *The City Record*, and then to decision on November 25, 2014; and

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

WHEREAS, Community Board 5, Manhattan, has no objection to this application; and

WHEREAS, the subject site is located on the northwest corner of Lexington Avenue and East 58th Street; within a C5-2 zoning district; and

WHEREAS, the site is occupied by a 14-story commercial building; and

WHEREAS, the PCE occupies approximately 8,790 sq. ft. of floor area on the sixth floor; and

WHEREAS, the PCE is operated as a Velocity Performance Sports; and

WHEREAS, on August 21, 2007, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to permit, the legalization of the PCE, for a term of seven years, to expire on September 1, 2014; and

WHEREAS, accordingly, the applicant now seeks a further extension of term; and

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

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated August 21, 2007, so that as amended the resolution reads: “to grant an extension of the special permit for a term of ten years from the prior expiration; on condition that any and all work shall substantially conform to drawings as they apply to the

objection above noted, filed with this application marked ‘Received November 12, 2014’-(2) sheets; and on further condition: *on condition*:

THAT this grant shall be limited to a term of ten years, to expire on September 1, 2024;

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

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

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

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

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

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

245-32-BZ

APPLICANT – Sion Hourizadeh, for Michael Raso, owner.

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

COMMUNITY BOARD #9Q

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 December 16, 2014, at 10 A.M., for decision, hearing closed.

921-57-BZ

APPLICANT – Eric Palatnik, P.C., for Rafael Mizrachi, owner.

SUBJECT – Application March 12, 2014 – Extension of Term (§11-411) of a variance which permitted the operation of an Automobile Repair Facility (UG 16B) which expired on May 29, 2013; Waiver of the Rules. C2-2/R5 zoning district.

PREMISES AFFECTED –6602 New Utrecht Avenue, New Utrecht Avenue between 66th Street and 15th Avenue, Block 5762, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #11BK

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 December

MINUTES

16, 2014, at 10 A.M., for decision, hearing closed.

76-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Alexander and Inessa Ostrovsky, owners.

SUBJECT – Application April 25, 2014 – Amendment to modify the previously granted special permit (§73-622) for the enlargement of an existing single-family detached residence. R3-1 zoning district.

PREMISES AFFECTED – 148 Norfolk Street, west side of Norfolk Street between Oriental Boulevard and Shore Boulevard, Block 8756, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to January 6, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

162-14-A

APPLICANT – Rampulla Associates Architects, for Lawrence 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

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated June 12, 2014, acting on DOB Application No. 520196458, reads in pertinent part:

The proposed one family dwelling which does not front on a legally mapped street is contrary to Article 3, Section 36 of the General City Law; and

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

WHEREAS, a public hearing was held on this application on October 21, 2014, after due notice by publication in *The City Record*, to decision on November 25, 2014; and

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

WHEREAS, the subject site is located on the west side

of Giegerich Avenue, approximately 430 feet south of Minerva Avenue, within an R1-2 zoning district, within the Special South Richmond Development District; and

WHEREAS, the site has approximately 125 feet of frontage along Giegerich Avenue and 32,877 sq. ft. of lot area;

WHEREAS, the applicant proposes to construct a detached, two-story, single-family home with 7,625 sq. ft. of floor area; the proposed home will front on Giegerich Avenue, an unmapped street with a width of 50 feet; and

WHEREAS, accordingly, the applicant requests a waiver of GCL § 36, which does not permit the construction of a building not fronting on a mapped street; and

WHEREAS, by letter dated August 25, 2014, the Fire Department states that it has reviewed the project and has no objections, provided the building is fully-sprinklered and a serviceable fire hydrant is located within 250 feet of the main front entrance of the home;

WHEREAS, the applicant notes that the building will be fully-sprinklered and that there is an existing fire hydrant on Giegerich Avenue, which will be 110 feet from the front door of the home; 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 12, 2014, acting on DOB Application No. 520196458, 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 October 31, 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 the home will be fully-sprinklered;

THAT the main entrance to the home will be located 250 feet or less from the nearest fire hydrant;

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 November 25, 2014.

665-39-A & 107-14-A

APPLICANT – Jesse Masyr, Esq/Fox Rothschild, for City Club Realty, LLC., owner.

SUBJECT – Application May 22, 2014 – Amendment to a previously approved waiver of a non-complying exit stair;

MINUTES

and an Appeal filed pursuant to MDL Section 310(2)(a) proposed an addition to the existing building which will require a waiver of MDL Section 26(7) pursuant to Section 310. C6.45 SPD zoning district.

PREMISES AFFECTED – 55-57 West 44th Street, between 5th Avenue and Avenue of the Americas, Block 1260, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Laid over to January 6, 2015, at 10 A.M., for continued hearing.

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 February 24, 2015, 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 February 24, 2015, at 10 A.M., for continued hearing.

245-12-A

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

SUBJECT – Application August 9, 2012 – Appeal pursuant to Section 310(2) of the Multiple Dwelling Law, requesting that the Board vary several requirements of the MDL. R7B Zoning District

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

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to January 13, 2015, at 10 A.M., for continued hearing.

11-14-A thru 14-14-A

APPLICANT – Sheldon Lobel, P.C., for Trimountain 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

ACTION OF THE BOARD – Laid over to February 24, 2015, at 10 A.M., for continued hearing.

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

ACTION OF THE BOARD – Laid over to January 27, 2015, at 10 A.M., for continued hearing.

ZONING CALENDAR

42-14-BZ

CEQR #14-BSA-124M

APPLICANT – Eric Palatnik, P.C., for 783/5 Lex Associates LLC., owner; Lush Cosmetics NY LLC., lessee.

SUBJECT – Application March 12, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Lush Cosmetics*) located on the cellar, first and second floor of a five story building. C1-8 zoning district.

PREMISES AFFECTED – 783 Lexington Avenue, between 61st and 62nd Streets, Block 1395, Lot 22, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated February 20, 2014, acting on DOB Application No. 121662664, reads, in pertinent part:

ZR 32-15 – Proposed Physical Culture

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Establishment at zoning C1-8X is not permitted as-of-right; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C1-8X zoning district, the legalization of a physical culture establishment (“PCE”) on the cellar, first and second floor of a five story mixed residential and commercial use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on September 16, 2014, after due notice by publication in the *City Record*, with a continued hearing on October 28, 2014, and then to decision on November 25, 2014; and

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

WHEREAS, Community Board 8, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the northeast corner of the intersection of Lexington Avenue and East 61st Street; it is located within a C1-8X zoning district; and

WHEREAS, the site has 80 feet of frontage along East 61st Street and 40.42 feet of frontage along Lexington Avenue, consisting of 3,234 sq. ft. of lot area; and

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

WHEREAS, the PCE occupies 3,060 sq. ft. of floor area at the cellar, first floor, and second floor of the building and operates as Lush Cosmetics; and

WHEREAS, the PCE’s hours of operation are Monday through Saturday, from 10:00 a.m. to 9:00 p.m., and on Sunday, from 11:00 a.m. to 8:00 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 does not interfere with any pending public improvement project; and

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

WHEREAS, at hearing, the Board noted that the application, initially brought as an application to operate a PCE, was for the legalization of an existing PCE, and expressed concern that the signage displayed by the PCE was not in compliance with applicable regulations; and

WHEREAS, in response, the applicant recast the application as a legalization and represented that any signage would be in compliance with applicable regulations;

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

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

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

WHEREAS, the project is classified as 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. 14BSA124M, dated March 11, 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 C1-8X zoning district, the operation of a PCE on the cellar, first story, and second story of a 5-story mixed residential and commercial building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to drawings filed with this application marked “November 13, 2014”- Five (5) sheets; *on further condition*:

THAT the term of the PCE grant will expire on January 1, 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 signage displayed at the site by the applicant shall conform to applicable regulations;

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

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 all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by November 25, 2018;

THAT this approval is limited to the relief granted by the Board in response to specifically cited 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, November 25, 2014.

MINUTES

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

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 January 13, 2015, at 10 A.M., for decision, hearing closed.

65-13-BZ

APPLICANT – Eric Palatnik, Esq., for Israel Rosenberg, owner.

SUBJECT – Application February 12, 2013 – Variance (§72-21) to permit a residential development, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 123 Franklin Avenue, between Park and Myrtle Avenues, Block 1899, Lot 108, Borough of Brooklyn.

COMMUNITY BOARD #3BK

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 January 6, 2015, at 10 A.M., for decision, hearing closed.

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 January 27, 2015, at 10 A.M., for continued hearing.

266-13-BZ

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

SUBJECT – Application September 6, 2013 – Variance (§72-21) to legalize the enlargement of a six-story, multi-unit residential building, contrary to maximum floor area (§23-145). R7B zoning district.

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

COMMUNITY BOARD #3M

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 January 13, 2015, at 10 A.M., for decision, hearing closed.

328-13-BZ

APPLICANT – Eric Palatnik, P.C., for Patti, owner.

SUBJECT – Application December 26, 2013 – Special Permit (§73-36) to legalize the operation of physical culture establishment (*Brooklyn Athletic Club*) on the cellar, first, second, and third floors in a five-story building. M1-1 zoning district.

PREMISES AFFECTED – 8 Berry Street, northeast corner of Berry Street and North 13th Street, Block 2279, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #1BK

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 January 6, 2015, at 10 A.M., for decision, hearing closed.

38-14-BZ

APPLICANT – Eric Palatnik, P.C., for Yury Dreysler, owner.

SUBJECT – Application February 28, 2014 – Special Permit (§73-622) for the enlargement of single family home, contrary to floor area, lot coverage and open space (§23-141), side yard (§23-461) and less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 116 Oxford Street, between Shore boulevard and Oriental Boulevard, Block 8757, Lot 89, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to January 6, 2015, at 10 A.M., for continued hearing.

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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

ACTION OF THE BOARD – Laid over to January 6, 2015, at 10 A.M., for continued hearing.

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 legalize for a physical culture establishment (*T.Kang Tae Kwon Do*) on the cellar and first floor in an existing building. 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

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 December 9, 2014, at 10 A.M., for decision, hearing closed.

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

ACTION OF THE BOARD – Laid over to January 6, 2015, at 10 A.M., for continued hearing.

141-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP., for 24655 Broadway Associates, owner; Soul Cycle 2465 Broadway, LLC, lessee.

SUBJECT – Application June 23, 2014 – Special Permit (§73-36) to allow a physical culture establishment

(*SoulCycle*) on the first floor of an existing commercial building, contrary to (§32-31). C4-6A zoning district.

PREMISES AFFECTED – 2465 Broadway, east side of Broadway, 50ft. south of intersection of West 92nd Street, Block 1239, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to January 27, 2015, at 10 A.M., for continued hearing.

REGULAR MEETING

TUESDAY AFTERNOON, NOVEMBER 25, 2014

1:00 P.M.

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

ZONING CALENDAR

166-14-BZ

CEQR #15-BSA-026M

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 12 West 27 Land, LP, owner; SoulCycle 27th Street, LLC, lessee.

SUBJECT – Application July 10, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*SoulCycle*) within portion of an existing mixed use building. M1-6 zoning district.

PREMISES AFFECTED – 12 West 27th Street, southside of West 27th Street, 60.5 feet west of Broadway, Block 828, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated July 3, 2014, acting on DOB Application No. 122037474, reads, in pertinent part:

ZR 42-10 – Proposed Physical Culture Establishment at zoning M1-6 is not permitted as-of-right; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-6 zoning district and also within the Madison Square North Historic District, a physical culture establishment (“PCE”) on the cellar and first floor of an eighteen-story mixed use building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on November 25, 2014, after due notice by publication in the *City Record*, and then to decision on

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November 25, 2014; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Vice Chair Hinkson; and

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

WHEREAS, the subject site is located on the south side of West 27th Street, between Avenue of the Americas and Broadway, in an M1-6 zoning district within the Madison Square North Historic District; and

WHEREAS, the site has 50 feet of frontage along West 27th Street and 4,938 sq. ft. of lot area; and

WHEREAS, the site is occupied by an 18-story mixed residential and commercial building; and

WHEREAS, the PCE occupies 3,068 square feet of floor space at the cellar and 3,340 square feet of floor area on the first floor, with a total floor space of 6,408 square feet, and operates as SoulCycle Cosmetics; and

WHEREAS, the PCE's hours of operation are Monday through Saturday, from 5:30 a.m. to 11:00 p.m., and on 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 does not interfere with any pending public improvement project; and

WHEREAS, the Landmarks Preservation Commission has approved the proposed alterations of the building by Certificate of No Effect No. 16-1936, issued on August 27, 2014; 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.15BSA026M, dated July 10, 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 M1-6 zoning district, within the Madison Square North Historic District, the operation of a PCE on the cellar and first story of an 18-story mixed residential and commercial building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to drawings filed with this application marked "November 20, 2014"- Four (4) sheets; *on further condition*:

THAT the term of the PCE grant will expire on November 25, 2024;

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

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

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

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 all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by November 25, 2018;

THAT this approval is limited to the relief granted by the Board in response to specifically cited 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, November 25, 2014.

125-14-BZ

APPLICANT – Goldman Harris LLC, for 350 East Houston LLC c/o BLDG Management Inc., owner.

SUBJECT – Application June 5, 2014 – Variance (§72-21) to facilitate the construction of a ten-story mixed-use forty - six (46) residential dwelling units and retail on the ground floor and cellar. R8A zoning district.

PREMISES AFFECTED –11 Avenue C, between East 2nd Street & East Houston Street, Block 384, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to January 6, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

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CORRECTION

This resolution adopted on October 7, 2014, under Calendar No. 300-12-BZ and printed in Volume 99, Bulletin Nos. 40-41, is hereby corrected to read as follows:

300-12-BZ

CEQR #13-BSA-049M

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 (§24-382), 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 – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated July 1, 2013, acting on Department of Buildings Application No. 121161857, reads in pertinent part:

1. ZR 24-11 - The lot coverage proposed exceeds that permitted.
2. ZR 24-382 - Provide the required minimum rear yard equivalent. The project site is a through lot, with a depth in excess of 180'-0".
3. ZR 24-33 - Only a (1) one story building portion, with a maximum height of 23'-0", is allowed as a permitted obstruction in a rear yard equivalent. The proposed building envelope indicates two stories and a mechanical space in the rear yard equivalent.
4. ZR 24-522 - The building envelope does [not] meet the initial setback requirement.
5. ZR 23-692 - The frontage on 92nd Street is less than 45'-0" in width. The proposed street-wall is higher than the width of the narrow street and higher than the lowest abutting building.
6. ZR 24-35B The proposed side yard, at the new vertical extension, is less than the required 8'-0"; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R7-2 zoning district within the Upper West Side/Central Park West Historic District, the

enlargement of an existing school building, which does not comply with zoning regulations for lot coverage, permitted obstruction, rear yard equivalent, encroachment into the required initial setback distance, width and height of street wall, and side yard, contrary to ZR §§ 24-11, 24-382, 24-33, 24-522, 23-692, and 24-35; and

WHEREAS, a public hearing was held on this application on June 17, 2014, after due notice by publication in the *City Record*, with a continued hearing on August 19, 2014, and then to decision on October 7, 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 7, Manhattan, recommends disapproval of the application; and

WHEREAS, certain members of the community testified at the hearing and provided testimony in opposition to the application (collectively, the "Opposition"), citing primary concerns about traffic generated by the school and construction disturbance; other concerns from a shareholder at 36 West 93rd Street include that there are inconsistencies between the subject application and a 2008 variance application for the School, specifically as related to the School's needs; and

WHEREAS, certain members of the community, the West Side Organization for Responsible Development ("WORD"), represented by counsel, cited concerns about traffic associated with the school and construction disturbance and requested the following conditions for any approval: (1) the School continue to work with the community to address traffic concerns and provide a written traffic plan; (2) the School provide a traffic, noise, and pollution baseline report prior to the Board's decision; (3) the School commit to not increasing enrollment by more than 30 students over the next ten years; (4) the School ensure that all construction is performed during the summer, and only on weekdays between the 9:00 a.m. and 5:00 p.m.; (5) the School provide the Board with a site logistics plan and construction calendar prior to a final resolution; (6) the rooftop not be used as a play area; and (7) that the community be consulted prior to installation of the rooftop HVAC systems, which must include sufficient sound mitigation; and

WHEREAS, this application is brought on behalf of Columbia Grammar & Preparatory School (the "School"), a nonprofit educational institution founded in 1764, which serves students from grades pre-kindergarten through 12; and

WHEREAS, the subject site is an interior through lot with frontage on West 93rd Street and West 92nd Street between Central Park West and Columbus Avenue, within an R7-2 zoning district within the Upper West Side/Central Park West Historic District; and

WHEREAS, the site is currently occupied by a five-story building with a sub-cellar and cellar constructed in 1996; the building includes 13 classrooms and ancillary facilities for students in grades 5 and 6, 12 high school classrooms, and several shared spaces, including two dining areas and four art

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studios/technology classrooms; and

WHEREAS, the applicant notes that the School also occupies several other buildings in the vicinity: the lower division (pre-kindergarten through grade 4) occupies five interconnected brownstones on West 94th Street and 5 West 93rd Street, directly behind the brownstones; and the upper division (grades 7 through 12) occupies 4 West 93rd Street; and

WHEREAS, the School proposes to (1) build out an existing setback area at the West 92nd Street frontage at existing floors three and four; (2) build out an existing setback area at the West 93rd Street frontage at the existing fifth floor; and (3) add two new floors so that, upon completion, the building will consist of a sub-cellar, cellar and seven floors above grade; and

WHEREAS, the enlarged building will include ten additional middle school classrooms for a total of 23 classrooms, an additional art/technology studio and a library for the middle school, in addition to new space for faculty and administration offices; and

WHEREAS, while certain portions of the enlarged building will still be used by high school students (the cellar/first floor level will be occupied by high school classrooms and dining, half of the second floor will be high school classrooms and the third floor will contain shared art studios and technology classrooms), the number of high school classrooms will be reduced from 12 to eight and upper floors four through seven will be occupied solely by the middle school; and

WHEREAS, the applicant proposes to increase the building height from 68 feet to 95 feet, excluding rooftop bulkheads and mechanical space; increase the floor area from 28,187 sq. ft. (3.37 FAR) to 40,778 sq. ft. (4.88 FAR) (54,301 sq. ft. (6.50 FAR) is the maximum permitted); and

WHEREAS, because the enlargement does not comply with the applicable bulk regulations in the subject zoning district, the applicant seeks the requested variance; and

WHEREAS, the applicant states that the variance is necessary to meet the School's programmatic need to create a self-contained middle school and alleviate overcrowding in the high school building; and

WHEREAS, specifically, the applicant notes that the relocation of the seventh graders to the new building will free up space at the high school building; and

WHEREAS, the School also proposes to increase enrollment by 30 students which is still substantially below the demand for new admissions; and

WHEREAS, the applicant states that the proposed enlargement would result in 151 sq. ft. of space per student compared to the average new middle school in the region which provides 178.3 sq. ft. per student and 216.7 sq. ft. per high school student; and

WHEREAS, the applicant states that the proposed floor area to be added to the existing building is required to fulfill the School's longstanding goal of having a self-contained middle division consisting of grades five through seven; and

WHEREAS, the applicant asserts that the existing

building is too small to accommodate the organization of the school with lower, middle and upper divisions, as it was not designed to accommodate the necessary classrooms and ancillary space needed for a middle division; and

WHEREAS, the applicant asserts that the School is one of the last public or private schools in New York City with grades pre-kindergarten through 12 that does not have a separate middle school; and

WHEREAS, the applicant asserts that in the years since the School's facilities were developed, educators have come to recognize the benefits of grouping grades kindergarten through 12 into lower, middle and upper schools; and

WHEREAS, however, the applicant states that the School's space limitations have required it to maintain grades five and six in the existing building at the subject site as the final two years of its grammar school division and to house grade seven in its high school building; and

WHEREAS, the applicant notes that the proposed floor area is significantly less than the maximum allowed for the underlying zoning district; and

WHEREAS, the applicant asserts that the proposed encroachment into the existing rear yard equivalent (above the 23-ft. height for a permitted obstruction), combined with the build-out of the existing setback on West 93rd Street and the two additional floors above the West 92nd Street portion of the building, allows the school to create a rational design for the additional classrooms and ancillary facilities while minimizing the proposed height of the enlarged building to seven stories; and

WHEREAS, the applicant asserts that practical difficulties arise in complying strictly with the underlying bulk regulations; and

WHEREAS, additionally, the applicant asserts that the unique features affecting the site include (1) the lot's narrowness and odd shape with its varying frontages on West 92nd Street and West 93rd Street and (2) the existing building's unique footprint, configuration and structural support system; and

WHEREAS, as to the lot size and shape, the applicant notes that it has 45 feet of frontage along West 93rd Street and widens by approximately five feet at its eastern property line, then narrows at the midblock, and the property line runs slightly diagonal towards West 92nd Street where it has frontage of 35 feet; and

WHEREAS, further, the applicant states that the footprint of the existing under-built building reflects the inability to use space that would have been available in a more typical square-shaped lot; and

WHEREAS, the applicant states that the existing building's constraints require that the enlargement be constructed within the required setback area along West 93rd Street and within the rear yard equivalent, as well as above the 23-ft. tall portion of the building along West 92nd Street, thereby exceeding the maximum permitted lot coverage; and

WHEREAS, the applicant notes that the required sky exposure plane would be encroached into by 7'-7" along the West 93rd Street façade at the fifth and sixth floors due to the

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inclusion of a middle school library at the fifth floor and two new classrooms at the sixth floor; and

WHEREAS, the applicant asserts that if the street wall on West 93rd Street were to set back to comply with the 7'-7" sky exposure plane encroachment, it would effectively eliminate the proposed rooms because their depth would be too narrow (with the presence of the existing elevator and stairwell); and

WHEREAS, the applicant asserts that the proposed location of the majority of the additional proposed floor area along West 93rd Street is driven in part by the existing building's structural support system; the applicant's architect and engineer state that the load capacity for the addition along West 93rd Street is designed to be distributed across both building sections to be supported by the building's existing column and foundation support system; and

WHEREAS, the applicant represents that its development team reviewed the possibility of shifting the proposed floor area from the West 93rd Street portion of the building to the West 92nd Street frontage, and determined that the existing transfer beams in the West 92nd Street portion of the building are already very close to their allowable stress level; and

WHEREAS, further, the applicant states that the relocation of the floor area is programmatically problematic since the building narrows along West 92nd Street, which does not accommodate sufficiently-sized classrooms; and

WHEREAS, finally, the applicant states that a major piece of mechanical equipment must be located in the proposed fourth floor addition, and its required air intake and discharge would be directed toward the "open" area on that floor; and

WHEREAS, accordingly, the applicant states that the propose enlargement most effectively meets the School's programmatic needs; and

WHEREAS, the Board acknowledges that the School, as an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986), 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, based upon the above, the Board finds that the programmatic needs of the School along with the existing constraints of the site create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

WHEREAS, the applicant represents that 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 states that the site is located within the West Side Urban Renewal Area and the existing building was limited, in 1996, by the then-applicable West Side Urban Renewal Plan controls affecting the site, which were more restrictive than the applicable zoning bulk regulations (the West Side Urban Renewal Plan was established in 1962 and expired in 2002); and

WHEREAS, because the site is within the Upper West Side/Central Park West Historic District, the applicant has obtained a Certificate of Appropriateness from the Landmarks Preservation Commission ("LPC"), dated September 18, 2013 and amended January 14, 2014; and

WHEREAS, the applicant cites to LPC's designation report which states that the area's residential buildings range from three-, four-, and five-story row houses, to twelve- to seventeen-story multiple dwellings and also include eight- to twelve-story apartment hotels and studio buildings that are on both the avenues as well as streets; and

WHEREAS, additionally, the applicant cites to LPC's recognition that the Upper West Side is characterized by a variety of institutional buildings intended to meet the social, educational, and religious needs of neighborhood residents; and

WHEREAS, the applicant also cites to the Certificate of Appropriateness which states that "...the proposed additions will not cause damage to [the] historic fabric or any significant historic features of the district; that the construction of rooftop additions on this through-lot building will result in an overall building height that relates to the taller surrounding buildings; that the geometry of the addition, which raises the street wall two floors on West 93rd Street with set-back addition and two floors on West 92nd Street, will be compatible with the massing of other institutional buildings in this historic district..."; and

WHEREAS, the applicant asserts that the height and bulk of the proposed enlarged school building will be in context with the nearby buildings on the north and south sides of both West 92nd Street and West 93rd Street; and

WHEREAS, specifically, the applicant cites to 50 West 93rd Street to the west, which is eight stories, and 70 West 93rd Street, which is 31 stories; to the east of the high school building is 2 West 93rd Street with 16 stories and 325 Central Park West with 16 stories; and on the north side of West 92nd Street there are One West 92nd Street with 15 stories, 7 West 92nd Street with seven stories, 35 West 92nd Street, with 13 stories, and 73 West 92nd Street with 31 stories; on the north side of West 93rd Street to the west there is 37 West 93rd Street with eight stories and 689 Columbus Avenue with 16 stories; and to the east on the north side of West 93rd Street, 333 Central Park West with 12 stories; and

WHEREAS, in response to concerns raised by the Community Board regarding the potential impact on the light

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and air to the immediately adjacent buildings along West 92nd Street, the proposed fourth floor (which contains mechanical equipment) has been reduced in depth to be located closer to West 92nd Street, and the proposed third floor roof has been sloped along the sides to allow additional light and air to the adjacent neighbors; and

WHEREAS, in response to the Opposition's concerns, the applicant asserts first that the traffic concerns associated with the School exist now and will not be exacerbated by the proposed enlargement of the building; and

WHEREAS, the applicant represents that its traffic consultant is conducting additional field observations and will develop additional recommendations to address the traffic concerns including whether it would be helpful to install a red light camera and left turn traffic signal at West 93rd Street and Central Park West or closing West 93rd Street to traffic during peak times; and

WHEREAS, the School states that it is committed to developing a comprehensive traffic plan for review and comment from the community and agrees to continue to work with the community to try to resolve existing traffic issues; the School commits to participating in a working group with representatives from WORD to ensure safe traffic and pedestrian conditions; and

WHEREAS, the applicant states that it considered several other suggestions which it concluded were not feasible such as student drop-off on Columbus Avenue, including staggered drop-off and pick-up times, student shuttles from offsite, and drop-off on West 92nd Street; and

WHEREAS, in response to the Opposition's proposed conditions, the School states that (1) it will establish a traffic plan in consultation with WORD, with whom it will meet on an ongoing basis to focus on traffic concerns and that it will coordinate with the Department of Transportation; (2) it has complied fully with CEQR requirements and that noise, traffic, and air quality analyses were not triggered by the proposal; (3) it proposes to add 30 students, but will not agree to cap enrollment; (4) it will strive to complete construction during the summer, only on weekdays and during business hours but notes the possibility of unforeseen delays which may require additional time; (5) it cannot produce a site logistics plan and construction calendar at this point in the process; (6) it does plan to use the sixth-floor rooftop for a play area but will fence and buffer it as well as limit the hours to school hours not to be later than 5:00 p.m.; and (7) the rooftop mechanicals will occupy the fourth-floor roof and will include an acoustical enclosure, all of which is subject to LPC approval; and

WHEREAS, finally, as to the Opposition's concerns about inconsistencies between the subject application and the 2008 variance application, the applicant states that numerous circumstances have changed since the 2008 application, which should be viewed independently from the subject application and that all current and prior claims were credible, based on the respective circumstances; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the

surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant states that the hardship was not self-created, and that no development that would meet the programmatic needs of the School could occur given the existing conditions of the North Building and the South Building; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner; and

WHEREAS, the applicant represents that the requested waivers are the minimum necessary to accommodate the School's current and projected programmatic needs; and

WHEREAS, as noted, the applicant revised the plans to provide additional setback and slope at the fourth and third floor, respectively; and

WHEREAS, the Board finds that the requested relief is the minimum necessary to allow the School to fulfill its programmatic needs; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, 13BSA049M dated October 12, 2012; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R7-2 zoning district within the Upper West Side/Central Park West Historic District, the enlargement of an existing school building, which does not comply with zoning regulations for lot coverage, permitted obstruction, rear

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yard equivalent, encroachment into the required initial setback distance, width and height of street wall, and side yard, contrary to ZR §§ 24-11, 24-382, 24-33, 24-522, 23-692, and 24-35, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received October 3, 2014”– fourteen (14) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a floor area of 40,778 sq. ft. (4.88 FAR) and total height of 95 feet, exclusive of bulkheads, as illustrated on the BSA-approved plans;

THAT the School will establish a traffic plan to improve traffic flow at the site, in a timely manner; measures, in consultation with the community working group, may include a red light camera and left turn traffic signal, among other measures;

THAT fencing and buffering will be installed around the sixth-floor rooftop play area, which will have hours not to exceed school hours and no use after 5:00 p.m.;

THAT the use of the fourth-floor rooftop will be limited to mechanical systems accessible for maintenance/service-related work, will comply with all Noise Code requirements, and will include an acoustical enclosure for the generator;

THAT any change in the use, occupancy, or operator of the School requires review and approval by the Board;

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

THAT all construction will be in conformance with the LPC Certificate of Appropriateness, dated September 18, 2013 and amended January 14, 2014;

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 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, October 7, 2014.

The resolution has been amended to correct part of the SUBJECT which read “rear yard equivalent (§24-332)”...now reads: “rear yard equivalent (§24-382)”. Corrected in Bulletin No. 48, Vol. 99, dated December 3, 2014.