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# BULLETIN

OF THE  
NEW YORK CITY BOARD OF STANDARDS  
AND APPEALS

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Volume 99, No. 51

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## DIRECTORY

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## CONTENTS

DOCKET .....	978
CALENDAR of January 13, 2015	
Morning .....	979
Afternoon .....	979

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# CONTENTS

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## **MINUTES of Regular Meetings, Tuesday, December 16, 2014**

Morning Calendar .....980

### **Affecting Calendar Numbers:**

245-32-BZ	123-05 101 <sup>st</sup> Avenue, Queens
833-52-BZ	5916-30 Foster Avenue, Brooklyn
921-57-BZ	6602 New Utrecht Avenue, Brooklyn
902-79-BZ	116-118 West 29 <sup>th</sup> Street, Manhattan
1096-79-BZ & 1097-79-BZ	120 & 114 West 29 <sup>th</sup> Street, Manhattan
148-03-BZ	111/113 West 28 <sup>th</sup> Street, Manhattan
964-87-BZ	786 Burke Avenue, aka 780-798 Burke Avenue, Bronx
164-04-BZ	2241 Westchester Avenue, Bronx
142-92-BZ & 289-13-BZ	506 and 473-541 6 <sup>th</sup> Street, Brooklyn
300-08-A	39-35 27 <sup>th</sup> Street, Queens
65-14-A thru 88-14-A	Lemon Drop and Apricot Court, Staten Island
113-14-A	86 Bedford Street, Manhattan
128-14-A	47 East 3 <sup>rd</sup> Street, Manhattan
192-14-A thru 198-14-A	10, 12, 18, 20, 26, 30, 32 Winslow Place, Staten Island
2-13-BZ	1151 Third Avenue, aka 201 East 67 <sup>th</sup> Street, Manhattan
120-14-BZ	1151 Third Avenue, aka 201 East 67 <sup>th</sup> Street, Manhattan
121-14-BZ	1151 Third Avenue, aka 201 East 67 <sup>th</sup> Street, Manhattan
151-14-BZ	19 West 21 <sup>st</sup> Street, Manhattan
208-14-BZ	119 East 7 <sup>th</sup> Road, Queens
286-12-BZ	1925 Union Street, Brooklyn
343-12-BZ	570 East 21 <sup>st</sup> Street, Brooklyn
350-12-BZ	5 32 <sup>nd</sup> Street, Brooklyn
254-13-BZ	2881 Nostrand Avenue, Brooklyn
94-14-BZ	1150 East 22 <sup>nd</sup> Street, Brooklyn

Afternoon Calendar .....1003

### **Affecting Calendar Numbers:**

287-14-BZ	138 Roma Avenue, Staten Island
291-14-BZ & 292-14-A	19 Milbank Road, Staten Island
293-14-BZ & 294-14-A	23 Neutral Avenue, Staten Island
295-14-BZ & 296-14-A	58 Seafoam Avenue, Staten Island
303-14-BZ	1032 Olympia Boulevard, Staten Island
304-14-BZ	1034 Olympia Boulevard, Staten Island
305-14-BZ	296 Adams Avenue, Staten Island
306-14-BZ	156 Baden Place, Staten Island
309-14-BZ	55 Hempstead Avenue, Staten Island
311-14-BZ	178 Kiswick Street, Staten Island
63-14-BZ	5500 Broadway, Bronx
118-14-BZ	1891 Richmond Road, Staten Island
124-14-BZ	1112 Gilmore Court, Brooklyn
168-14-BZ	419 Lafayette Street, Manhattan
177-14-BZ	1038 Flatbush Avenue, Brooklyn
184-14-BZ	1-37 12 <sup>th</sup> Street, Brooklyn
185-14-BZ	14 Wall Street, Manhattan
285-14-BZ	84 McLaughlin Street, Staten Island
286-14-BZ	20 Orlando Street, Staten Island
288-14-BZ	131 Cedar Grove Avenue, Staten Island
297-14-BZ & 300-14-A	6 Topping Street, Staten Island
307-14-BZ	540 Hunter Avenue, Staten Island
308-14-BZ	179 Kiswick Street, Staten Island
310-14-BZ	297 Colony Avenue, Staten Island
312-14-BZ	65 Hempstead Avenue, Staten Island

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# DOCKETS

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New Case Filed Up to December 16, 2014

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**322-14-BZ**

82 Coleridge Street, Between Shore Boulevards and Hampton Avenue, Block 8728, Lot(s) 58, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to enlarge a single family home in a residential zoning district, also to vary the floor area ratio, open space and lot coverage and located within an R3-1 zoning district. R3-1 district.

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**323-14-BZ**

282 Corbin Place, On Crbin Place adjacent to the Coney Island Beach and Boardwalk, Block 8723, Lot(s) 276, Borough of **Brooklyn, Community Board: 3**. Special Permit (§73-622) to enlarge a single family home in a residential district and located within a R3-1 zoning district. R3-1 district.

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**324-14-BZ**

198-30 Jamaica Avenue, Southwest corner of Jamaica Avenue, Block 10829, Lot(s) 56, Borough of **Queens, Community Board: 12**. Reinstatement (§11-411) for an automotive repair facility (UG 16B) granted under Cal. No. 909-52-BZ, expiring January 29, 2000, Also an Amendment to permit the sale of used cars, located within an C2-2 in an R5 zoning district. C2-2 in R5 district.

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**325-14-A**

631 Bay Street, Between Canal Street and Thompson Street, Block 494, Lot(s) 10, Borough of **Staten Island, Community Board: 1**. GCL 35 Waiver: proposed construction of a mixed use building located partly within the bed of a mapped street contrary to kArticle 3, Section 35 of the General City Law. C4-2/R6 district.

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

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# CALENDAR

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**JANUARY 13, 2015, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, January 13, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

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**SPECIAL ORDER CALENDAR**

**717-28-BZ**

APPLICANT –Fried Frank Harris Shriver and Jacobson LLP, for Allan's Garage LLC, owner.

SUBJECT – Application August 26, 2014 – Amendment (§11-413) of a previously approved variance which permitted the operation of a public parking facility. The amendment seeks to permit a reduction in size of an existing 515 parking space facility to allowed a 143 space parking facility to be included in an as-of-right residential development. C2-8A zoning district.

PREMISES AFFECTED – 52-58 East 87th Street, south side of East 87th Street, 35.17' east of the corner formed by the intersection of East 87<sup>th</sup> Street and Lexington Avenue, Block 1515, Lot(s) 46, 45, Borough of Manhattan.

**COMMUNITY BOARD #8M**

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**172-79-BZ**

APPLICANT – Alfonso Duarte, for Luciano Utopia LLC., owner.

SUBJECT – Application July 16, 2014 – Extension of Term of a previously approved variance permitting the operation of a Real Estate office and accessory parking which will expire on July 24, 2014. R2 zoning district.

PREMISES AFFECTED – 167-04 Northern Boulevard, southeast corner of 16th Street, Block 5398, Lot 11, Borough of Queens

**COMMUNITY BOARD #4Q**

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**APPEALS CALENDAR**

**110-14-A thru 112-14-A**

APPLICANT – Rothkrug Rothkrug & Spector LLP, for WRR Realty Corp., owner.

SUBJECT – Application May 29, 2014 – Proposed construction of buildings that does not front a legally mapped street, pursuant the Article 3, Section 36 of the General City Law. R3A zoning district.

PREMISES AFFECTED – 115, 109, 105 Roswell Avenue, north side of Roswell Avenue, 149.72 feet east of Wild Avenue, Block 2642, Lot 88, 91, 92, Borough Staten Island

**COMMUNITY BOARD #2SI**

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**JANUARY 13, 2015, 1:00 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, January 13, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

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**ZONING CALENDAR**

**169-14-BZ**

APPLICANT – Simons & Wright LLC, for Midyan Gate Reality No. 3 LLC., owner.

SUBJECT – Application July 21, 2014 – Special Permit (§73-19) to allow a school (Use Group 3) (*Inner Force Y*) within the existing building. M1-1 Ocean Parkway Special zoning district.

PREMISES AFFECTED – 325 Avenue Y, southwest corner of Avenue Y between Shell Road and West 3rd Street, Block 7192, Lot 46, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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**203-14-BZ**

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 16 West 8th LLC, owner; 305 Fitness, lessee.

SUBJECT – Application August 25, 2014 - Special Permit (§73-36):to permit a physical culture establishment within portions of an existing commercial building. C4-5 zoning district.

PREMISES AFFECTED – 18 West 8th Street, South side of West 8th Street, 97.2 feet east of intersection of West 8th Street and MacDougal Street. Block 551, Lot 23. Borough of Manhattan.

**COMMUNITY BOARD #2M**

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*Ryan Singer, Executive Director*

# MINUTES

## REGULAR MEETING TUESDAY MORNING, DECEMBER 16, 2014 10:00 A.M.

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

### SPECIAL ORDER CALENDAR

#### 245-32-BZ

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

#### COMMUNITY BOARD #9Q

**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 waiver of the Rules of Practice and Procedure, a re-opening, and an extension of term for a variance authorizing an automobile repair station (Use Group 16) and an office (Use Group 6), which expired on July 9, 2012; and

WHEREAS, a public hearing was held on this application on June 10, 2014, after due notice by publication in *The City Record*, with continued hearings on July 29, 2014 and November 25, 2014, and then to decision on December 16, 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 9, Queens, recommends approval of this application; and

WHEREAS, the subject site is located on the northeast corner of the intersection of 123rd Street and 101st Avenue, within an R6B (C2-3) zoning district; and

WHEREAS, the site has approximately 93 feet of frontage along 123rd Street, approximately 85 feet of frontage along 101st Avenue, and approximately 7,926 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story building with 4,775 sq. ft. of floor area (0.6 FAR); the building is occupied by a gasoline service station (Use Group 16) on the first story and an office (Use Group 6) on the second story; in addition, the site has parking for four automobiles; and

WHEREAS, the Board has exercised jurisdiction over the site since September 16, 1932, when, under the subject calendar number, it granted a variance to allow the site to be

occupied as a motor vehicle repair shop contrary to the use regulations of the 1916 Zoning Resolution; the Board granted the variance without a term; and

WHEREAS, on July 9, 2002, the Board authorized and amendment to the grant pursuant to ZR §§ 11-411 and 11-412 to legalize the change of use of the first story from gasoline service station to automobile repair station and the construction of a second story to be occupied as an office (Use Group 6); the Board also amended the grant to include a term of ten years, to expire on July 9, 2012; and

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

WHEREAS, at hearing, the Board directed the applicant to: (1) remove the enclosure from the exterior stairway; (2) repair and replace broken sidewalks and concrete within the site; (3) repair the fence slats adjacent to the residence; and (4) remove non-passenger automobiles from the parking spaces and install a sign limiting the parking to passenger automobiles; and

WHEREAS, in response, the applicant provided photos depicting the removal of the enclosure, the repair of the sidewalks, concrete, and fence slats, the removal of non-passenger automobiles from the site, and the installation of the requested sign; and

WHEREAS, based upon the above, the Board finds that the evidence in the record supports the findings required to be made under ZR § 11-411, and the requested extension of term is appropriate with certain conditions as set forth below.

*Therefore it is Resolved*, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated September 16, 1932, so that as amended the resolution reads: “to extend the term of the grant for ten years from the prior expiration, to expire on July 9, 2022; *on condition* that all work will substantially conform to drawings, filed with this application marked ‘Received March 7, 2014’ – (3) sheets; and on further condition:

THAT this grant shall be limited to a term of ten years, to expire on July 9, 2022;

THAT signage, fencing, and landscaping will be maintained in accordance with the BSA-approved plans;

THAT the hours of operation shall be limited to Monday through Saturday, from 9:00 a.m. to 6:00 p.m. and closed Sunday;

THAT the site shall be maintained free of debris and graffiti;

THAT there shall be no outdoor repairs;

THAT parking shall be limited to four passenger automobiles;

THAT there shall be no truck parking and no parking on the sidewalk;

THAT lighting shall be directed downward and away from adjoining residences;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT a certificate of occupancy shall be obtained by December 9, 2015;

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# MINUTES

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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 DOB shall 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. 401040850)

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

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## 833-52-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for Zonar LLC, owner.

SUBJECT – Application March 14, 2014 – ZR (§11-411) Extension of Term for the continued operation of a gasoline service station (*Sunoco*) which expired on January 15, 2012; Amendment to convert the existing service bays to a convenience store; Waiver of the Rules. C1-2/R5 zoning district.

PREMISES AFFECTED – 5916-30 Foster Avenue, Foster Avenue and Southwest corner of Ralph Avenue, Block 7955, Lot 6, Borough of Brooklyn.

## COMMUNITY BOARD #18BK

**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 waiver of the Rules of Practice and Procedure, a re-opening of a variance and an amendment to permit, on a site within an R5 (C1-2) zoning district, the conversion of the building for a gasoline service station (Use Group 16) to an accessory convenience store, and an extension of the term; and

WHEREAS, a public hearing was held on this application on November 18, 2014, after due notice by publication in *The City Record*, and then to decision on December 16, 2014; and

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

WHEREAS, Community Board 18, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the southwest corner of Ralph Avenue and Foster Avenue, within an R5 (C1-2) zoning district; and

WHEREAS, the site has 123 feet of frontage along Foster Avenue, 110 feet of frontage along Ralph Avenue, and 7,439 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story building

with 1,189 sq. ft. of floor area (0.16 FAR); the building is occupied by a gasoline service station (Use Group 16); and

WHEREAS, the Board has exercised jurisdiction over the site since May 12, 1953, when, under the subject calendar number, it granted an application to permit the site to be occupied as a gasoline service station contrary to the use regulations of the 1916 Zoning Resolution; and

WHEREAS, the grant has been amended and the term extended at various times; and

WHEREAS, most recently, in 2002, the Board extended the term for an additional ten years to expire on January 15, 2012; and

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

WHEREAS, in addition, the applicant seeks an amendment to permit the following: (1) the conversion of the one-story building at the site to an accessory convenience store; and (2) the installation of a garbage enclosure, new planting areas, and an ADA-accessible parking space; and

WHEREAS, the proposed hours of operation are 24 hours a day, seven days a week; and

WHEREAS, in addition, the applicant seeks approval for minor site plan modifications to reflect as-built conditions, including changes in the location of the gasoline tanks and remediation equipment; and

WHEREAS, the applicant confirmed that the existing curb cuts located along the Foster Avenue are wider than those approved and will be restored to a width of 30 feet, as approved; and

WHEREAS, the applicant notes that the proposal complies with DOB Technical Policy and Procedure Notice No. 10/1999, which sets forth the requirements for convenience stores accessory to gasoline and automotive service stations; and

WHEREAS, at hearing, the Board directed the applicant to repair the fence and paint the adjacent wall; and

WHEREAS, in response, the applicant submitted photographs which reflect certain repairs to the fence but also reveal fence slats in disrepair; as such, the Board stated that repair of the slats would be a condition of the grant; and

WHEREAS, based upon the above, the Board finds that the evidence in the record supports the findings required to be made under ZR § 11-411, and the requested extension of term and amendment are appropriate with certain conditions as set forth below.

*Therefore it is Resolved*, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated May 12, 1953, so that as amended the resolution reads: “to permit the noted modifications and to extend the term of the grant for ten years from the prior expiration, to expire on January 15, 2022; *on condition* that all work will substantially conform to drawings, filed with this application marked ‘Received October 7, 2014–(5) sheets; and on further condition:

THAT this grant shall be limited to a term of ten years, to expire on January 15, 2022;

THAT the building will have a maximum of 1,189 sq. ft.

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# MINUTES

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of floor area (0.16 FAR);

THAT the fence slats will be repaired and maintained;

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

THAT signage shall be in accordance with C1 regulations;

THAT landscaping and buffering will be maintained in accordance with the BSA-approved plans;

THAT lighting will be directed downward and away from adjoining residences;

THAT the above conditions will be noted in the Certificate of Occupancy;

THAT a certificate of occupancy will be obtained by December 9, 2015;

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 DOB shall 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. 320824248)

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

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## 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 66<sup>th</sup> Street and 15<sup>th</sup> Avenue, Block 5762, Lot 36, Borough of Brooklyn.

### COMMUNITY BOARD #11BK

**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 waiver of the Rules of Practice and Procedure, a re-opening, an extension of the term of a variance authorizing an automobile repair station (Use Group 16), which expired on May 29, 2013; and

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

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

WHEREAS, Community Board 11, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the southwest corner of the intersection of 66th Street and New Utrecht Avenue, within an R5 (C2-2) zoning district; and

WHEREAS, the site has approximately 63 feet of frontage along 66th Street, approximately 89 of frontage along New Utrecht Avenue, and 6,592 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story building with 1,727 sq. ft. of floor area (0.26 FAR); the building is occupied by an automobile repair station (Use Group 16); and

WHEREAS, the Board has exercised jurisdiction over the site since May 13, 1958, when, under the subject calendar number, it granted an application to permit the continued operation of a gasoline service station at the site contrary to the use regulations of the 1916 Zoning Resolution, for a term of 15 years; the grant was amended and extended at various times thereafter; and

WHEREAS, most recently, on August 12, 2003, the Board amended the grant to permit the conversion of the site to an automobile repair station; in addition, the Board extended the term of the grant for ten years, to expire on May 29, 2013; and

WHEREAS, the applicant now seeks a further extension of term; the applicant notes that no changes are proposed to the site plan; and

WHEREAS, pursuant to ZR § 11-411, the Board may extend the term of a variance granted pursuant to the 1916 Zoning Resolution; and

WHEREAS, at hearing, the Board directed the applicant to: (1) provide additional photographs depicting the condition of the site; (2) confirm that gasoline storage tanks were removed from the site; (3) revise the site plan to show the trash enclosure, fencing, lighting, and vehicle circulation; (4) describe how the operation of the station is consistent with neighborhood context; (5) clarify the hours of operation; and (6) repaint the subject building and explore painting the wall of the nearby building that is visible from the site; and

WHEREAS, in response, the applicant submitted: (1) the requested photographs; (2) a notarized statement from the owner regarding the removal the tanks; and (3) the requested revised site plan; and

WHEREAS, as to the neighborhood context for the repair station, the applicant submitted an analysis, which that reflects a variety of commercial and automobile-related are located nearby; in addition, the applicant notes that a C8-1 zoning district—where Use Group 16 is permitted as-of-right—is located directly across 66th Street; and

WHEREAS, as to the hours of operation, the applicant confirmed that the repair station operates Monday through Thursday, from 8:00 a.m. to 5:00 p.m., and Friday and Saturday, from 8:00 a.m. to 2:00 p.m.; the station is closed on Sunday; and

WHEREAS, as to the painting, the applicant: (1)

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# MINUTES

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provided photographs depicting the painting of the repair station building; and (2) states that it has attempted to contact the owner of the adjacent building, to no avail, but will continue the outreach; and

WHEREAS, based upon the above, the Board finds that the evidence in the record supports the findings required to be made under ZR §§ 11-411 and the requested extension of term is appropriate with certain conditions as set forth below.

*Therefore it is Resolved*, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated May 12, 1953, so that as amended the resolution reads: “to permit an extension of term for ten years from the prior expiration, to expire on May 29, 2023; *on condition* that all work will substantially conform to drawings, filed with this application marked ‘Received December 12, 2014’– (4) sheets; and on further condition:

THAT the term of the grant shall expire on May 29, 2023;

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

THAT signage shall be in accordance with C1 regulations;

THAT landscaping and buffering will be maintained in accordance with the BSA-approved plans;

THAT lighting will be directed downward and away from adjoining residences;

THAT the above conditions will be noted in the Certificate of Occupancy;

THAT a certificate of occupancy will be obtained by December 16, 2015;

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 DOB shall 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. 301499108)

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

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## 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 29<sup>th</sup> Street, south

side of West 29<sup>th</sup> Street between Sixth and Seventh Avenue, Block 804, Lot (s) 49, 50, 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 to reopen and amend four existing variances to facilitate the transfer of unused development rights from Lots 49 and 7502 to Lots 30, 31, and 32; and

WHEREAS, a public hearing was held on this application on September 23, 2014, after due notice by publication in *The City Record*, with a continued hearing on November 18, 2014, and then to decision on December 16, 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 disapproval of the application, citing the following concerns regarding the proposed amendment to BSA Cal. No. 148-03-BZ to permit the transfer of development rights from Lot 7502 to Lots 30, 31, and 32: (1) that hotel development was entirely possible and foreseeable with unused development rights in 2003; (2) that there was an active hotel market in the neighborhood surrounding the site in 2003; (3) that an assemblage was possible in 2003 but intentionally not pursued by the owner of Lot 7502; (4) that permitting the transfer would set a negative precedent that would allow variance sites to receive a windfall; (5) that such precedent would encourage conversion of commercial/manufacturing space to residential with no affordability requirements; (6) that Lot 7502’s condominium offering plan contemplated the transfer of unused development rights; and (7) that Lots 30, 31, and 32 can be developed without Lot 7502’s development rights but rather with Lot 49’s development rights (through Lot 44), which it endorses; and

WHEREAS, the Hotel Trades Council submitted testimony in opposition to the application, citing the following concerns: (1) that hotel development was entirely possible and foreseeable with unused development rights in 2003; (2) that there was an active hotel market in the neighborhood surrounding the site in 2003; and (3) that allowing the proposed transfer of development rights from Lot 7502 to Lots 30, 31, and 32 undermines the (e) finding that the Board made in BSA Cal. No. 148-03-BZ; and

WHEREAS, the application is brought on behalf of the owners of Lots 30, 31, 32, 49, and 7502 (collectively, “the applicants”); and

WHEREAS, the owner of Lots 30, 31, and 32 (105-109 West 28th Street) (the “Development Parcel”) seeks the

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# MINUTES

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Board's authorization to form a zoning lot with two existing sites under the Board's jurisdiction: Lot 7502 (111-113 West 28th Street) (the "Flower House Condominium") and Lot 49 (114-120 West 29th Street) (the "29th Street Buildings"); collectively, the lots comprise the subject site; and

WHEREAS, the site has 107.17 feet of frontage along West 28th Street, 85 feet of frontage along West 29th Street, and 18,976.46 sq. ft. of lot area; it is partially within a C6-4X zoning district and partially within an M1-6 zoning district; and

WHEREAS, the site is occupied by seven buildings; the 29th Street Buildings include the four-story building located at 114 West 29th Street (which has 7,337 sq. ft. of floor area), the 12-story building located at 116-118 West 29th Street (which has 42,908 sq. ft. of floor area), and the three-story building located at 120 West 29th Street (which has 5,727 sq. ft. of floor area); the Flower House Condominium is a seven-story building (which has 21,305 sq. ft. of floor area); the Development Parcel (Lots 30, 31, and 32) is occupied by three, four-story buildings, which are occupied by various uses, including residences, a florist supply establishment, a wholesale florist, and a retail store; and

WHEREAS, the applicants represent that Lot 49 has approximately 27,364 sq. ft. of unused development rights available for transfer to Lots 30, 31, and 32 and that Lot 7502 has approximately 20,993 sq. ft. of unused development rights available for transfer to Lots 30, 31, and 32; and

WHEREAS, the applicants state that Lot 7502 has been subject to the Board's jurisdiction since October 28, 2003, when, under BSA Cal. No. 148-03-BZ, the Board granted a variance pursuant to ZR § 72-21 authorizing residential use within portions of a building on a site within an M1-6 zoning district, contrary to use regulations; on April 4, 2006, the Board approved an amendment to this grant, which authorized the construction of a mezzanine at the penthouse level; and

WHEREAS, the applicants state that Lot 49 was historically known as Lots 49, 50, and 52; historic Lot 49 has been subject to the Board's jurisdiction since January 29, 1980, when, under BSA Cal. No. 902-79-BZ, the Board granted a variance pursuant to ZR § 72-21 authorizing the conversion of an existing 12-story manufacturing building to a multiple dwelling on a site within an M1-6 zoning district, contrary to use regulations; historic Lot 50 has been subject to the Board's jurisdiction since January 29, 1980, when, under BSA Cal. No. 1097-79-BZ, the Board granted a variance pursuant to ZR § 72-21 authorizing the conversion of an existing three-story manufacturing building to a multiple dwelling on a site within an M1-6 zoning district, contrary to use regulations; historic Lot 52 has been subject to the Board's jurisdiction since January 29, 1980, when, under BSA Cal. No. 1096-79-BZ, the Board granted a variance pursuant to ZR § 72-21 authorizing the conversion of an existing three-story manufacturing building to a multiple dwelling on a site within an M1-6 zoning district, contrary to use regulations; and

WHEREAS, thus, the Board notes that each of the subject variances involved a change of use of an existing

building with little or no impact on bulk; and

WHEREAS, the applicants now seek amendments to the subject variances to reflect the merger of Lots 30, 31, 32, 49, and 7502 in order to facilitate the transfer of unused development rights from Lots 49 and 7502 to Lots 30, 31, and 32; and

WHEREAS, the applicants also propose to modify the site plans of the four variances to reflect the merger of Lots 30, 31, 32, 49, and 7502; and

WHEREAS, the applicants represent that the proposed zoning lot merger and development rights transfer will not have any effect on the existing buildings located on Lots 49 and 7502; and

WHEREAS, in addition, the applicants contend that the proposed transfer of development rights is consistent with the Court's decision in Bella Vista v. Bennett, 89 N.Y. 2d 565 (1997), setting forth the parameters of Board review of requests for the transfer of development rights from sites for which a variance has been granted; and

WHEREAS, the applicants assert that a transfer of the unused development rights from Lots 49 and 7502 is allowed because it is not in conflict with any of the Board's prior actions with respect to those lots; and

WHEREAS, the applicants state that the applications under BSA Cal. Nos. 902-79-BZ, 1097-79-BZ, and 1096-79-BZ reflect that the unused development rights were not considered in the Board's analysis; therefore, the applicants assert that it may be presumed that at the time the rights did not have a value; consequently, allowing Lot 49 to merge with and transfer its developments rights to Lots 30, 31, and 32 would not undermine any of the Board's findings in those grants; and

WHEREAS, as for BSA Cal. No. 148-03-BZ, the applicant asserts that the excess development rights of Lot 7502 did not have any value in 2003, because there were no receiving sites available; in support of this assertion, the applicants analyzed whether any parcel adjacent to Lot 7502 was a viable development site as of 2003; the analysis took into account the ownership of the site (whether it was commonly owned with adjacent parcels such that a development assemblage was possible), the lot width and lot area of the site, the permitted uses at the site, and the degree to which the site could be further developed independent of the available development rights; and

WHEREAS, in addition, the applicant states that the proposed transfer will occur more than ten years after the Board's original grant and that there have been substantial and unforeseeable changes in the economic climate of the city and the real estate market since 2003, including a significant increase in the demand for hotels in the neighborhood surrounding the site; and

WHEREAS, at hearing, the Board directed the applicant to provide additional information about the hotel development market in the neighborhood surrounding the site as of 2003; and

WHEREAS, in response, the applicant provided an analysis, which reflects that there were no land use transfers

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# MINUTES

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for hotel use between 2001 and 2004 in the area bound by Sixth Avenue, Seventh Avenue, West 24th Street, and West 31st Street; further, during this period there was a significant downturn in the economy, resulting in little to no hotel development in the area; hence, there was no market for development rights to facilitate hotel development at the time the variance was under consideration by the Board; and

WHEREAS, thus, the applicants state that an approval of the requested development rights transfer from Lots 49 and 7502 do not undermine the integrity of the Board's earlier findings concerning ZR §§ 72-21(b) or 72-21(e) because the facts of the instant application are readily distinguishable from those underlying the Court's holding in Bella Vista; and

WHEREAS, the applicants conclude that the use of the development rights as a result of the proposed zoning lot merger is therefore not inconsistent with the Board's prior approvals; and

WHEREAS, the Board notes that Bella Vista concerned a permit request for a new as-of-right residential building proposed to be built through the transfer of development rights—from a site in which the Board granted a use variance to permit operation of a movie theater in a residential zoning district, to a separate adjacent site under common ownership—for development of a complying residential building; and

WHEREAS, the Court held that review and approval of such transfers by the Board was required, *inter alia*, because the basis for the original grant, particularly with respect to the findings of financial hardship under ZR § 72-21(b) and minimum variance needed to provide relief under ZR § 72-21(e), may be implicated by the proposed transfer; and

WHEREAS, the Board notes that, unlike in Bella Vista, the transferring sites (Lots 49 and 7502) and the receiving site (Lots 30, 31, and 32) have been under separate, unrelated ownership since the Board's grants; therefore, the owners of Lots 49 and 7502 lacked control over the timing and nature of the development of Lots 30, 31, and 32; and

WHEREAS, the Board also notes that a brief period of time elapsed between the date of the Bella Vista variance grant and the date of the subsequent permit application which also distinguishes that case from the proposed development rights transfer under review in the subject application; and

WHEREAS, the Board notes that in Bella Vista, the permit application proposing to use floor area transferred from the variance site was filed only three years after the Board grant, while the variances for the subject site were granted in 1980 (34 years before the filing of the instant application) and in 2003 (10 years before the filing of the instant application); and

WHEREAS, the Board agrees that the differences in timing and in the health of the respective real estate markets distinguish the Bella Vista case from the instant case and supports the conclusion that the use of Lots 49 and 7502's unused development rights was not foreseeable by the owner of Lots 30, 31, and 32 or the Board; and

WHEREAS, the Board finds that, with respect to BSA

Cal. Nos. 902-79-BZ, 1097-79-BZ, 1096-79-BZ, and 148-03-BZ, the proposed transfer of development rights does not implicate or affect the basis for its findings in general, and specifically the (b) and (e) finding, at the time that they were made; and

WHEREAS, the Board observes that this finding is based on both the infeasibility of assemblage at the time of the grants and on the changing real estate market conditions in the neighborhood surrounding the site; and

WHEREAS, turning to the concerns of Community Board 5 and the Hotel Trades Council (the "Opposition"), as noted above, the Board finds that the proposal is not in conflict with the Bella Vista case and is consistent with the Board's precedent applying Bella Vista and disagrees that Lot 7502's development rights' value, such as they were, could be realized in 2003; similarly, the Board disagrees that there was an active market for hotel development in the neighborhood surrounding the site in 2003 and finds that the evidence in the record supports the applicants' assertion that hotel development was not occurring in the neighborhood in 2003; as for the Opposition's concerns regarding precedent, the Board observes that, under Bella Vista, it must determine on a case-by-case basis whether a proposed lot merger undermines a prior variance; and

WHEREAS, the Board has considered the Opposition's remaining contention and finds them without merit and/or irrelevant to the instant application; and

WHEREAS, based upon its review of the record, the Board does not object to the proposed merger of Lots 30, 31, 32, 49, and 7502; and

WHEREAS, additionally, the Board does not object to a transfer of unused development rights from Lots 49 and 7502 to Lots 30, 31, and 32, subsequent to the proposed zoning lot merger, but notes that any further changes to Lots 49 and 7502 that are inconsistent with prior approvals are subject to the Board's review and approval.

*Therefore it is Resolved*, that the Board of Standards and Appeals *reopens* and *amends* the resolutions, having been adopted on January 29, 1980 and October 28, 2003, so that as amended this portion of the resolutions shall read: "to permit the merger of Lots 49, 7502, 30, 31, and 32 and the associated modifications to the BSA-approved site plan, *on condition* that all site conditions will comply with drawings marked 'Received November 5, 2014'-(5) sheets; and *on further condition*:

THAT the zoning calculations, including any transfer of development rights, shall be subject to DOB's review and approval and shall be in full compliance with underlying bulk regulations;

THAT the site shall remain subject to the Board's jurisdiction, including modifications to the buildings on the site;

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

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

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# MINUTES

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

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

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## **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 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** – 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 to reopen and amend four existing variances to facilitate the transfer of unused development rights from Lots 49 and 7502 to Lots 30, 31, and 32; and

WHEREAS, a public hearing was held on this application on September 23, 2014, after due notice by publication in *The City Record*, with a continued hearing on November 18, 2014, and then to decision on December 16, 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 disapproval of the application, citing the following concerns regarding the proposed amendment to BSA Cal. No. 148-03-BZ to permit the transfer of development rights from Lot 7502 to Lots 30, 31, and 32: (1) that hotel development was entirely possible and foreseeable with unused development rights in 2003; (2) that there was an active hotel market in the neighborhood surrounding the site in 2003; (3) that an assemblage was possible in 2003 but intentionally not pursued by the owner of Lot 7502; (4) that permitting the transfer would set a negative precedent that would allow variance sites to receive a windfall; (5) that such precedent would encourage conversion of commercial/manufacturing space to residential with no affordability requirements; (6) that Lot 7502's condominium offering plan contemplated the transfer of unused

development rights; and (7) that Lots 30, 31, and 32 can be developed without Lot 7502's development rights but rather with Lot 49's development rights (through Lot 44), which it endorses; and

WHEREAS, the Hotel Trades Council submitted testimony in opposition to the application, citing the following concerns: (1) that hotel development was entirely possible and foreseeable with unused development rights in 2003; (2) that there was an active hotel market in the neighborhood surrounding the site in 2003; and (3) that allowing the proposed transfer of development rights from Lot 7502 to Lots 30, 31, and 32 undermines the (e) finding that the Board made in BSA Cal. No. 148-03-BZ; and

WHEREAS, the application is brought on behalf of the owners of Lots 30, 31, 32, 49, and 7502 (collectively, “the applicants”); and

WHEREAS, the owner of Lots 30, 31, and 32 (105-109 West 28th Street) (the “Development Parcel”) seeks the Board's authorization to form a zoning lot with two existing sites under the Board's jurisdiction: Lot 7502 (111-113 West 28th Street) (the “Flower House Condominium”) and Lot 49 (114-120 West 29th Street) (the “29th Street Buildings”); collectively, the lots comprise the subject site; and

WHEREAS, the site has 107.17 feet of frontage along West 28th Street, 85 feet of frontage along West 29th Street, and 18,976.46 sq. ft. of lot area; it is partially within a C6-4X zoning district and partially within an M1-6 zoning district; and

WHEREAS, the site is occupied by seven buildings; the 29th Street Buildings include the four-story building located at 114 West 29th Street (which has 7,337 sq. ft. of floor area), the 12-story building located at 116-118 West 29th Street (which has 42,908 sq. ft. of floor area), and the three-story building located at 120 West 29th Street (which has 5,727 sq. ft. of floor area); the Flower House Condominium is a seven-story building (which has 21,305 sq. ft. of floor area); the Development Parcel (Lots 30, 31, and 32) is occupied by three, four-story buildings, which are occupied by various uses, including residences, a florist supply establishment, a wholesale florist, and a retail store; and

WHEREAS, the applicants represent that Lot 49 has approximately 27,364 sq. ft. of unused development rights available for transfer to Lots 30, 31, and 32 and that Lot 7502 has approximately 20,993 sq. ft. of unused development rights available for transfer to Lots 30, 31, and 32; and

WHEREAS, the applicants state that Lot 7502 has been subject to the Board's jurisdiction since October 28, 2003, when, under BSA Cal. No. 148-03-BZ, the Board granted a variance pursuant to ZR § 72-21 authorizing residential use within portions of a building on a site within an M1-6 zoning district, contrary to use regulations; on April 4, 2006, the Board approved an amendment to this grant, which authorized the construction of a mezzanine at the penthouse level; and

WHEREAS, the applicants state that Lot 49 was historically known as Lots 49, 50, and 52; historic Lot 49 has been subject to the Board's jurisdiction since January 29, 1980, when, under BSA Cal. No. 902-79-BZ, the Board

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# MINUTES

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granted a variance pursuant to ZR § 72-21 authorizing the conversion of an existing 12-story manufacturing building to a multiple dwelling on a site within an M1-6 zoning district, contrary to use regulations; historic Lot 50 has been subject to the Board's jurisdiction since January 29, 1980, when, under BSA Cal. No. 1097-79-BZ, the Board granted a variance pursuant to ZR § 72-21 authorizing the conversion of an existing three-story manufacturing building to a multiple dwelling on a site within an M1-6 zoning district, contrary to use regulations; historic Lot 52 has been subject to the Board's jurisdiction since January 29, 1980, when, under BSA Cal. No. 1096-79-BZ, the Board granted a variance pursuant to ZR § 72-21 authorizing the conversion of an existing three-story manufacturing building to a multiple dwelling on a site within an M1-6 zoning district, contrary to use regulations; and

WHEREAS, thus, the Board notes that each of the subject variances involved a change of use of an existing building with little or no impact on bulk; and

WHEREAS, the applicants now seek amendments to the subject variances to reflect the merger of Lots 30, 31, 32, 49, and 7502 in order to facilitate the transfer of unused development rights from Lots 49 and 7502 to Lots 30, 31, and 32; and

WHEREAS, the applicants also propose to modify the site plans of the four variances to reflect the merger of Lots 30, 31, 32, 49, and 7502; and

WHEREAS, the applicants represent that the proposed zoning lot merger and development rights transfer will not have any effect on the existing buildings located on Lots 49 and 7502; and

WHEREAS, in addition, the applicants contend that the proposed transfer of development rights is consistent with the Court's decision in Bella Vista v. Bennett, 89 N.Y. 2d 565 (1997), setting forth the parameters of Board review of requests for the transfer of development rights from sites for which a variance has been granted; and

WHEREAS, the applicants assert that a transfer of the unused development rights from Lots 49 and 7502 is allowed because it is not in conflict with any of the Board's prior actions with respect to those lots; and

WHEREAS, the applicants state that the applications under BSA Cal. Nos. 902-79-BZ, 1097-79-BZ, and 1096-79-BZ reflect that the unused development rights were not considered in the Board's analysis; therefore, the applicants assert that it may be presumed that at the time the rights did not have a value; consequently, allowing Lot 49 to merge with and transfer its development rights to Lots 30, 31, and 32 would not undermine any of the Board's findings in those grants; and

WHEREAS, as for BSA Cal. No. 148-03-BZ, the applicant asserts that the excess development rights of Lot 7502 did not have any value in 2003, because there were no receiving sites available; in support of this assertion, the applicants analyzed whether any parcel adjacent to Lot 7502 was a viable development site as of 2003; the analysis took into account the ownership of the site (whether it was

commonly owned with adjacent parcels such that a development assemblage was possible), the lot width and lot area of the site, the permitted uses at the site, and the degree to which the site could be further developed independent of the available development rights; and

WHEREAS, in addition, the applicant states that the proposed transfer will occur more than ten years after the Board's original grant and that there have been substantial and unforeseeable changes in the economic climate of the city and the real estate market since 2003, including a significant increase in the demand for hotels in the neighborhood surrounding the site; and

WHEREAS, at hearing, the Board directed the applicant to provide additional information about the hotel development market in the neighborhood surrounding the site as of 2003; and

WHEREAS, in response, the applicant provided an analysis, which reflects that there were no land use transfers for hotel use between 2001 and 2004 in the area bound by Sixth Avenue, Seventh Avenue, West 24th Street, and West 31st Street; further, during this period there was a significant downturn in the economy, resulting in little to no hotel development in the area; hence, there was no market for development rights to facilitate hotel development at the time the variance was under consideration by the Board; and

WHEREAS, thus, the applicants state that an approval of the requested development rights transfer from Lots 49 and 7502 do not undermine the integrity of the Board's earlier findings concerning ZR §§ 72-21(b) or 72-21(e) because the facts of the instant application are readily distinguishable from those underlying the Court's holding in Bella Vista; and

WHEREAS, the applicants conclude that the use of the development rights as a result of the proposed zoning lot merger is therefore not inconsistent with the Board's prior approvals; and

WHEREAS, the Board notes that Bella Vista concerned a permit request for a new as-of-right residential building proposed to be built through the transfer of development rights—from a site in which the Board granted a use variance to permit operation of a movie theater in a residential zoning district, to a separate adjacent site under common ownership—for development of a complying residential building; and

WHEREAS, the Court held that review and approval of such transfers by the Board was required, inter alia, because the basis for the original grant, particularly with respect to the findings of financial hardship under ZR § 72-21(b) and minimum variance needed to provide relief under ZR § 72-21(e), may be implicated by the proposed transfer; and

WHEREAS, the Board notes that, unlike in Bella Vista, the transferring sites (Lots 49 and 7502) and the receiving site (Lots 30, 31, and 32) have been under separate, unrelated ownership since the Board's grants; therefore, the owners of Lots 49 and 7502 lacked control over the timing and nature of the development of Lots 30, 31, and 32; and

WHEREAS, the Board also notes that a brief period of time elapsed between the date of the Bella Vista variance

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# MINUTES

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grant and the date of the subsequent permit application which also distinguishes that case from the proposed development rights transfer under review in the subject application; and

WHEREAS, the Board notes that in Bella Vista, the permit application proposing to use floor area transferred from the variance site was filed only three years after the Board grant, while the variances for the subject site were granted in 1980 (34 years before the filing of the instant application) and in 2003 (10 years before the filing of the instant application); and

WHEREAS, the Board agrees that the differences in timing and in the health of the respective real estate markets distinguish the Bella Vista case from the instant case and supports the conclusion that the use of Lots 49 and 7502's unused development rights was not foreseeable by the owner of Lots 30, 31, and 32 or the Board; and

WHEREAS, the Board finds that, with respect to BSA Cal. Nos. 902-79-BZ, 1097-79-BZ, 1096-79-BZ, and 148-03-BZ, the proposed transfer of development rights does not implicate or affect the basis for its findings in general, and specifically the (b) and (e) finding, at the time that they were made; and

WHEREAS, the Board observes that this finding is based on both the infeasibility of assemblage at the time of the grants and on the changing real estate market conditions in the neighborhood surrounding the site; and

WHEREAS, turning to the concerns of Community Board 5 and the Hotel Trades Council (the "Opposition"), as noted above, the Board finds that the proposal is not in conflict with the Bella Vista case and is consistent with the Board's precedent applying Bella Vista and disagrees that Lot 7502's development rights' value, such as they were, could be realized in 2003; similarly, the Board disagrees that there was an active market for hotel development in the neighborhood surrounding the site in 2003 and finds that the evidence in the record supports the applicants' assertion that hotel development was not occurring in the neighborhood in 2003; as for the Opposition's concerns regarding precedent, the Board observes that, under Bella Vista, it must determine on a case-by-case basis whether a proposed lot merger undermines a prior variance; and

WHEREAS, the Board has considered the Opposition's remaining contention and finds them without merit and/or irrelevant to the instant application; and

WHEREAS, based upon its review of the record, the Board does not object to the proposed merger of Lots 30, 31, 32, 49, and 7502; and

WHEREAS, additionally, the Board does not object to a transfer of unused development rights from Lots 49 and 7502 to Lots 30, 31, and 32, subsequent to the proposed zoning lot merger, but notes that any further changes to Lots 49 and 7502 that are inconsistent with prior approvals are subject to the Board's review and approval.

*Therefore it is Resolved*, that the Board of Standards and Appeals *reopens* and *amends* the resolutions, having been adopted on January 29, 1980 and October 28, 2003, so that as

amended this portion of the resolutions shall read: "to permit the merger of Lots 49, 7502, 30, 31, and 32 and the associated modifications to the BSA-approved site plan, *on condition* that all site conditions will comply with drawings marked 'Received November 5, 2014'-(5) sheets; and *on further condition*:

THAT the zoning calculations, including any transfer of development rights, shall be subject to DOB's review and approval and shall be in full compliance with underlying bulk regulations;

THAT the site shall remain subject to the Board's jurisdiction, including modifications to the buildings on the site;

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

THAT DOB shall 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, December 16, 2014.

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## **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 6<sup>th</sup> Street, Eighth Avenue, 5th Street and Sixth Street, Block 1084, Lot(s) 39, 164, 1001, 1084, Borough of Brooklyn.

## **COMMUNITY BOARD #6BK**

**ACTION OF THE BOARD** – Request for Rehearing Deny.

**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 pursuant to 2 RCNY § 1-12.4 to reargue BSA Cal. Nos. 289-13-BZ and 142-92-BZ, or, in the alternative, pursuant to 2 RCNY § 1-12.5, to rehear BSA Cal. Nos. 289-13-BZ and 142-92-BZ; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on the same date; and

WHEREAS, the subject site comprises the majority of Block 1084; it includes Tax Lots 39, 164, 1001, and 1002, and has frontages along Fifth Street, Sixth Street, Seventh Avenue, and Eighth Avenue; and

WHEREAS, on June 17, 2014, under BSA Cal. No. 289-13-BZ, the Board granted a variance pursuant to ZR §

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# MINUTES

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72-21 to allow the expansion and redevelopment of New York Methodist Hospital (the "Hospital") contrary to the applicable provisions of the Zoning Resolution for FAR, lot coverage, rear setback, rear yard, rear yard equivalent, and signage; and

WHEREAS, in addition, on that same date, under BSA Cal. No. 142-92-BZ, the Board adopted an amendment to an existing special permit to allow certain changes to the parking facility at the site; and

WHEREAS, this application is filed by a coalition of neighbors known as Preserve Park Slope (the "Applicant"), which, through counsel, opposed the Board's June 17, 2014 grants; and

WHEREAS, the Hospital, through counsel, submitted testimony opposing the application; and

WHEREAS, the Applicant seeks a rehearing of BSA Cal. Nos. 289-13-BZ and 142-92-BZ pursuant to Rule 1-12.4, on the ground that the Board misapprehended facts relevant to those applications; and

WHEREAS, the Applicant asserts that the Hospital's programmatic needs, which formed the basis for the Board's June 17, 2014 grants, were misapprehended by the Board; and

WHEREAS, in particular, the Applicant contends that the Hospital's programmatic needs were insufficiently established in the prior grants, as evidenced by certain statements included in reports issued by two credit ratings agencies on August 1, 2014 (the "Reports"); the Reports include information on the potential financing of the Hospital expansion and are issued to disclose to potential purchasers of the Hospital's bonds the extent to which the Hospital will be able to ensure repayment of the bonds; in essence, the Reports are examination of the financial feasibility of the proposed expansion; and

WHEREAS, Rule 1-12.4 provides, in relevant part, that:

The Board will not grant a request to reargue a case which was denied, dismissed, or approved unless the applicant shows that the Board misapprehended the relevant facts or misapplied any controlling principles of law, including the Zoning Resolution ...; and

WHEREAS, the Board observes that the Reports were issued on August 1, 2014, approximately six weeks *after* it granted the variance and the amendment to the special permits on June 17, 2014; and

WHEREAS, accordingly, the Board finds that it could not logically have misapprehended any facts contained within the Reports; the Board cannot have misapprehended that which did not exist; and

WHEREAS, moreover, the Board finds that even if the Reports had been available for review during the hearing process, they would not be "relevant facts" in determining whether the Hospital had sufficiently established its programmatic needs since the Board does not consider an institution's credit rating as a factor in examining the institution's programmatic needs; the Board does not

examine the financial feasibility of an institution's proposal; rather, the Board limits its analysis to whether the proposal satisfies the institution's programmatic needs; and

WHEREAS, thus, the Board finds that the substance and timing of the Reports make them irrelevant to the Board's grants; and

WHEREAS, the Applicant seeks, in lieu of a rehearing pursuant to Rule 1-12.4, a rehearing of BSA Cal. Nos. 289-13-BZ and 142-92-BZ pursuant to Rule 1-12.5; and

WHEREAS, Rule 1-12.5 provides, in relevant part, that:

The Board will not grant a request to rehear a case which was denied, dismissed, or withdrawn with prejudice unless (1): substantial new evidence is submitted that was not available at the time of the initial hearing, (2) there is a material change in plans or circumstances, or (3) an applicant is filed under a different jurisdictional provision of the law...; and

WHEREAS, the Board finds that Rule 1-12.5, by its terms, is inapplicable to the Board's actions under BSA Cal. Nos. 289-13-BZ and 142-92-BZ, because these applications were *granted* and this rule applies only where an application was "denied, dismissed, or withdrawn"; and

WHEREAS, based on the foregoing, the Board finds that the Applicant has not provided a basis to allow reargument or rehearing of BSA Cal. Nos. 289-13-BZ and 142-92-BZ.

*Therefore it is Resolved*, that the subject application, seeking a reargument or a rehearing of BSA Cal. Nos. 289-13-BZ and 142-92-BZ, is hereby *denied*.

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

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**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** – 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 –

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# MINUTES

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WHEREAS, this is an application to reopen and amend four existing variances to facilitate the transfer of unused development rights from Lots 49 and 7502 to Lots 30, 31, and 32; and

WHEREAS, a public hearing was held on this application on September 23, 2014, after due notice by publication in *The City Record*, with a continued hearing on November 18, 2014, and then to decision on December 16, 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 disapproval of the application, citing the following concerns regarding the proposed amendment to BSA Cal. No. 148-03-BZ to permit the transfer of development rights from Lot 7502 to Lots 30, 31, and 32: (1) that hotel development was entirely possible and foreseeable with unused development rights in 2003; (2) that there was an active hotel market in the neighborhood surrounding the site in 2003; (3) that an assemblage was possible in 2003 but intentionally not pursued by the owner of Lot 7502; (4) that permitting the transfer would set a negative precedent that would allow variance sites to receive a windfall; (5) that such precedent would encourage conversion of commercial/manufacturing space to residential with no affordability requirements; (6) that Lot 7502's condominium offering plan contemplated the transfer of unused development rights; and (7) that Lots 30, 31, and 32 can be developed without Lot 7502's development rights but rather with Lot 49's development rights (through Lot 44), which it endorses; and

WHEREAS, the Hotel Trades Council submitted testimony in opposition to the application, citing the following concerns: (1) that hotel development was entirely possible and foreseeable with unused development rights in 2003; (2) that there was an active hotel market in the neighborhood surrounding the site in 2003; and (3) that allowing the proposed transfer of development rights from Lot 7502 to Lots 30, 31, and 32 undermines the (e) finding that the Board made in BSA Cal. No. 148-03-BZ; and

WHEREAS, the application is brought on behalf of the owners of Lots 30, 31, 32, 49, and 7502 (collectively, "the applicants"); and

WHEREAS, the owner of Lots 30, 31, and 32 (105-109 West 28th Street) (the "Development Parcel") seeks the Board's authorization to form a zoning lot with two existing sites under the Board's jurisdiction: Lot 7502 (111-113 West 28th Street) (the "Flower House Condominium") and Lot 49 (114-120 West 29th Street) (the "29th Street Buildings"); collectively, the lots comprise the subject site; and

WHEREAS, the site has 107.17 feet of frontage along West 28th Street, 85 feet of frontage along West 29th Street, and 18,976.46 sq. ft. of lot area; it is partially within a C6-4X zoning district and partially within an M1-6 zoning district; and

WHEREAS, the site is occupied by seven buildings; the 29th Street Buildings include the four-story building located at 114 West 29th Street (which has 7,337 sq. ft. of floor area), the 12-story building located at 116-118 West 29th Street (which has 42,908 sq. ft. of floor area), and the three-story building located at 120 West 29th Street (which has 5,727 sq. ft. of floor area); the Flower House Condominium is a seven-story building (which has 21,305 sq. ft. of floor area); the Development Parcel (Lots 30, 31, and 32) is occupied by three, four-story buildings, which are occupied by various uses, including residences, a florist supply establishment, a wholesale florist, and a retail store; and

WHEREAS, the applicants represent that Lot 49 has approximately 27,364 sq. ft. of unused development rights available for transfer to Lots 30, 31, and 32 and that Lot 7502 has approximately 20,993 sq. ft. of unused development rights available for transfer to Lots 30, 31, and 32; and

WHEREAS, the applicants state that Lot 7502 has been subject to the Board's jurisdiction since October 28, 2003, when, under BSA Cal. No. 148-03-BZ, the Board granted a variance pursuant to ZR § 72-21 authorizing residential use within portions of a building on a site within an M1-6 zoning district, contrary to use regulations; on April 4, 2006, the Board approved an amendment to this grant, which authorized the construction of a mezzanine at the penthouse level; and

WHEREAS, the applicants state that Lot 49 was historically known as Lots 49, 50, and 52; historic Lot 49 has been subject to the Board's jurisdiction since January 29, 1980, when, under BSA Cal. No. 902-79-BZ, the Board granted a variance pursuant to ZR § 72-21 authorizing the conversion of an existing 12-story manufacturing building to a multiple dwelling on a site within an M1-6 zoning district, contrary to use regulations; historic Lot 50 has been subject to the Board's jurisdiction since January 29, 1980, when, under BSA Cal. No. 1097-79-BZ, the Board granted a variance pursuant to ZR § 72-21 authorizing the conversion of an existing three-story manufacturing building to a multiple dwelling on a site within an M1-6 zoning district, contrary to use regulations; historic Lot 52 has been subject to the Board's jurisdiction since January 29, 1980, when, under BSA Cal. No. 1096-79-BZ, the Board granted a variance pursuant to ZR § 72-21 authorizing the conversion of an existing three-story manufacturing building to a multiple dwelling on a site within an M1-6 zoning district, contrary to use regulations; and

WHEREAS, thus, the Board notes that each of the subject variances involved a change of use of an existing building with little or no impact on bulk; and

WHEREAS, the applicants now seek amendments to the subject variances to reflect the merger of Lots 30, 31, 32, 49, and 7502 in order to facilitate the transfer of unused development rights from Lots 49 and 7502 to Lots 30, 31, and 32; and

WHEREAS, the applicants also propose to modify the site plans of the four variances to reflect the merger of Lots 30, 31, 32, 49, and 7502; and

WHEREAS, the applicants represent that the proposed

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# MINUTES

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zoning lot merger and development rights transfer will not have any effect on the existing buildings located on Lots 49 and 7502; and

WHEREAS, in addition, the applicants contend that the proposed transfer of development rights is consistent with the Court's decision in Bella Vista v. Bennett, 89 N.Y. 2d 565 (1997), setting forth the parameters of Board review of requests for the transfer of development rights from sites for which a variance has been granted; and

WHEREAS, the applicants assert that a transfer of the unused development rights from Lots 49 and 7502 is allowed because it is not in conflict with any of the Board's prior actions with respect to those lots; and

WHEREAS, the applicants state that the applications under BSA Cal. Nos. 902-79-BZ, 1097-79-BZ, and 1096-79-BZ reflect that the unused development rights were not considered in the Board's analysis; therefore, the applicants assert that it may be presumed that at the time the rights did not have a value; consequently, allowing Lot 49 to merge with and transfer its developments rights to Lots 30, 31, and 32 would not undermine any of the Board's findings in those grants; and

WHEREAS, as for BSA Cal. No. 148-03-BZ, the applicant asserts that the excess development rights of Lot 7502 did not have any value in 2003, because there were no receiving sites available; in support of this assertion, the applicants analyzed whether any parcel adjacent to Lot 7502 was a viable development site as of 2003; the analysis took into account the ownership of the site (whether it was commonly owned with adjacent parcels such that a development assemblage was possible), the lot width and lot area of the site, the permitted uses at the site, and the degree to which the site could be further developed independent of the available development rights; and

WHEREAS, in addition, the applicant states that the proposed transfer will occur more than ten years after the Board's original grant and that there have been substantial and unforeseeable changes in the economic climate of the city and the real estate market since 2003, including a significant increase in the demand for hotels in the neighborhood surrounding the site; and

WHEREAS, at hearing, the Board directed the applicant to provide additional information about the hotel development market in the neighborhood surrounding the site as of 2003; and

WHEREAS, in response, the applicant provided an analysis, which reflects that there were no land use transfers for hotel use between 2001 and 2004 in the area bound by Sixth Avenue, Seventh Avenue, West 24th Street, and West 31st Street; further, during this period there was a significant downturn in the economy, resulting in little to no hotel development in the area; hence, there was no market for development rights to facilitate hotel development at the time the variance was under consideration by the Board; and

WHEREAS, thus, the applicants state that an approval of the requested development rights transfer from Lots 49 and 7502 do not undermine the integrity of the Board's earlier

findings concerning ZR §§ 72-21(b) or 72-21(e) because the facts of the instant application are readily distinguishable from those underlying the Court's holding in Bella Vista; and

WHEREAS, the applicants conclude that the use of the development rights as a result of the proposed zoning lot merger is therefore not inconsistent with the Board's prior approvals; and

WHEREAS, the Board notes that Bella Vista concerned a permit request for a new as-of-right residential building proposed to be built through the transfer of development rights—from a site in which the Board granted a use variance to permit operation of a movie theater in a residential zoning district, to a separate adjacent site under common ownership—for development of a complying residential building; and

WHEREAS, the Court held that review and approval of such transfers by the Board was required, inter alia, because the basis for the original grant, particularly with respect to the findings of financial hardship under ZR § 72-21(b) and minimum variance needed to provide relief under ZR § 72-21(e), may be implicated by the proposed transfer; and

WHEREAS, the Board notes that, unlike in Bella Vista, the transferring sites (Lots 49 and 7502) and the receiving site (Lots 30, 31, and 32) have been under separate, unrelated ownership since the Board's grants; therefore, the owners of Lots 49 and 7502 lacked control over the timing and nature of the development of Lots 30, 31, and 32; and

WHEREAS, the Board also notes that a brief period of time elapsed between the date of the Bella Vista variance grant and the date of the subsequent permit application which also distinguishes that case from the proposed development rights transfer under review in the subject application; and

WHEREAS, the Board notes that in Bella Vista, the permit application proposing to use floor area transferred from the variance site was filed only three years after the Board grant, while the variances for the subject site were granted in 1980 (34 years before the filing of the instant application) and in 2003 (10 years before the filing of the instant application); and

WHEREAS, the Board agrees that the differences in timing and in the health of the respective real estate markets distinguish the Bella Vista case from the instant case and supports the conclusion that the use of Lots 49 and 7502's unused development rights was not foreseeable by the owner of Lots 30, 31, and 32 or the Board; and

WHEREAS, the Board finds that, with respect to BSA Cal. Nos. 902-79-BZ, 1097-79-BZ, 1096-79-BZ, and 148-03-BZ, the proposed transfer of development rights does not implicate or affect the basis for its findings in general, and specifically the (b) and (e) finding, at the time that they were made; and

WHEREAS, the Board observes that this finding is based on both the infeasibility of assemblage at the time of the grants and on the changing real estate market conditions in the neighborhood surrounding the site; and

WHEREAS, turning to the concerns of Community

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# MINUTES

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Board 5 and the Hotel Trades Council (the "Opposition"), as noted above, the Board finds that the proposal is not in conflict with the Bella Vista case and is consistent with the Board's precedent applying Bella Vista and disagrees that Lot 7502's development rights' value, such as they were, could be realized in 2003; similarly, the Board disagrees that there was an active market for hotel development in the neighborhood surrounding the site in 2003 and finds that the evidence in the record supports the applicants' assertion that hotel development was not occurring in the neighborhood in 2003; as for the Opposition's concerns regarding precedent, the Board observes that, under Bella Vista, it must determine on a case-by-case basis whether a proposed lot merger undermines a prior variance; and

WHEREAS, the Board has considered the Opposition's remaining contention and finds them without merit and/or irrelevant to the instant application; and

WHEREAS, based upon its review of the record, the Board does not object to the proposed merger of Lots 30, 31, 32, 49, and 7502; and

WHEREAS, additionally, the Board does not object to a transfer of unused development rights from Lots 49 and 7502 to Lots 30, 31, and 32, subsequent to the proposed zoning lot merger, but notes that any further changes to Lots 49 and 7502 that are inconsistent with prior approvals are subject to the Board's review and approval.

*Therefore it is Resolved*, that the Board of Standards and Appeals *reopens* and *amends* the resolutions, having been adopted on January 29, 1980 and October 28, 2003, so that as amended this portion of the resolutions shall read: "to permit the merger of Lots 49, 7502, 30, 31, and 32 and the associated modifications to the BSA-approved site plan, *on condition* that all site conditions will comply with drawings marked 'Received November 5, 2014'-(5) sheets; and *on further condition*:

THAT the zoning calculations, including any transfer of development rights, shall be subject to DOB's review and approval and shall be in full compliance with underlying bulk regulations;

THAT the site shall remain subject to the Board's jurisdiction, including modifications to the buildings on the site;

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

THAT DOB shall 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, December 16, 2014.

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## 964-87-BZ

APPLICANT – Eric Palatnik, P.C., for Leemilt Petroleum, Ink., owner; Lotus Management Group II, LLC, lessee.

SUBJECT – Application April 21, 2014 – Amendment to a previously approved Variance for the operation of an Automotive Service Station (UG 16B), with accessory uses.

The Amendment seeks to convert a portion of a service bay to an accessory convenience store; Extension of Time to obtain a Certificate of Occupancy which expired on May 10, 2012; Waiver of the Rules. C1-3/R6 zoning district.

PREMISES AFFECTED – 786 Burke Avenue, aka 780-798 Burke Avenue, Block 4571, Lot 28, Borough of Bronx.

### COMMUNITY BOARD #12BX

**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 waiver of the Rules of Practice and Procedure, an extension of time to obtain a certificate of occupancy for the continued operation of a gasoline service station (Use Group 16), which expired on May 10, 2012, and an amendment to permit the conversion of a portion of the station to an accessory convenience store; and

WHEREAS, a public hearing was held on this application on October 7, 2014 after due notice by publication in *The City Record*, with a continued hearing on November 18, 2014, and then to decision on December 16, 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 12, Bronx, recommends approval of this application; and

WHEREAS, the site is located on the southwest corner of the intersection of Burke Avenue and Barnes Avenue, partially within a C1-3 (R6) zoning district and partially within an R6 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since October 22, 1957 when, under BSA Cal. No. 52-57-BZ, the Board granted a variance to permit the construction of a gasoline service station with accessory uses for a term of 15 years; and

WHEREAS, subsequently, the grant was amended and the term extended by the Board at various times, until its expiration on October 22, 1982; and

WHEREAS, on February 6, 1990, under the subject calendar number, the Board re-established the variance pursuant to ZR § 11-411 to legalize the existing gasoline service station with accessory uses and parking for more than five automobiles, for a term of ten years; and

WHEREAS, on January 15, 2002, the Board granted a ten-year extension of the term of the variance, which expired on February 6, 2010, and on May 10, 2011, the Board

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# MINUTES

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granted a further extension of term, a one-year extension of time to obtain a certificate of occupancy, and an amendment to permit a change in the hours of operation of the service station and to legalize public parking (Use Group 8) at the site; and

WHEREAS, the applicant states that a certificate of occupancy was not obtained by May 10, 2012; as such, the applicant now seeks an extension of time to obtain a certificate of occupancy; and

WHEREAS, in addition, the applicant seeks an amendment to permit the conversion of a portion of the gasoline service station currently used as accessory office and storage space to an accessory convenience store; and

WHEREAS, the applicant notes that the one-story gasoline service station building has approximately 2,580 sq. ft. of floor area (0.15 FAR); and

WHEREAS, the applicant represents that the accessory convenience store will occupy approximately 663 sq. ft. of the existing floor area of the building; the applicant notes that the proposal reflects the preservation of three service bays; and

WHEREAS, the applicant also states that the proposal complies with DOB Technical Policy and Procedure Notice No. 10/1999, which sets forth the requirements for convenience stores accessory to gasoline and automotive service stations; and

WHEREAS, at hearing, the Board directed the applicant to: (1) provide landscaping in accordance with the approved plans, including replacement of evergreen trees, as appropriate; (2) replace fence slats in disrepair; (3) remove excessive signage; and (4) remove all debris from the site, including abandoned gasoline pumps, junked automobiles, and weeds; and

WHEREAS, in response, the applicant provided: (1) a revised site plan indicating that landscaping and fence slats would be replaced and maintained, as necessary; and (2) photographs showing the removal of excessive signage (including banners) and debris from the site; and

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

*Therefore it is Resolved*, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated February 6, 1990, so that as amended the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy to December 16, 2016 and to permit the conversion of a portion of the building to an accessory convenience store; *on condition* that the use and operation of the site shall substantially conform to the approved drawings, filed with this application and marked ‘December 12, 2014’ - (7) sheets; and *on further condition*:

THAT the accessory convenience store shall be limited to a maximum of 663 sq. ft. of floor area;

THAT a maximum of ten parking spaces on the site shall be made available for rent, and such parking spaces shall be rented on a monthly basis only;

THAT the hours of operation for gasoline sales on the site shall be 24 hours per day, seven days per week, and the hours of operation for the repair use on the site shall be Monday through Friday, from 8:00 a.m. to 6:00 p.m., Saturday, from 8:00 a.m. to 3:00 p.m., and closed on Sundays;

THAT all signage shall comply with C1 zoning district sign regulations;

THAT all landscaping and fencing shall be maintained;

THAT all lighting shall be directed downward and away from adjacent residential uses;

THAT the site shall be maintained free of debris and graffiti;

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

THAT a certificate of occupancy shall be obtained by December 16, 2016;

THAT all conditions from the prior resolutions 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.”

(DOB Application No. 220077976)

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

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## 164-04-BZ

APPLICANT – Warsaw Burstein, LLP., for 2241 Westchester Avenue Realty Corp., owner; Castle Hill Fitness Group, LLC., lessee.

SUBJECT – Application April 25, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a physical culture establishment (*Planet Fitness Center*) occupying the entire second floor of a two story building which expired on July 15, 2014. R6/C2-4 zoning district.

PREMISES AFFECTED – 2241 Westchester Avenue, Northwest corner of Westchester Avenue and Glebe Avenue, Block 3963, Lot 57, Borough of Bronx.

## COMMUNITY BOARD #10BX

**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 July 15, 2014; and

WHEREAS, a public hearing was held on this application on November 18, 2014, after due notice by publication in *The City Record*, and then to decision on December 16, 2014; and

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# MINUTES

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

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

WHEREAS, the subject site is located on the northwest corner of the intersection of Westchester Avenue and Glebe Avenue, within a C2-2 (R6) zoning district;

WHEREAS, the site has 22,790 sq. ft. of lot area and is occupied by a two-story commercial building with approximately 25,290 sq. ft. of floor area (1.11 FAR); and

WHEREAS, the PCE occupies approximately 12,695 sq. ft. of floor area (0.56 FAR) on the second story; and

WHEREAS, the PCE is operated as a Planet Fitness; and

WHEREAS, on February 7, 2006, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to permit, the legalization of a PCE operated as Gotham City Fitness, for a term of ten years from the date that the PCE began operating, to expire on July 15, 2014; and

WHEREAS, on October 5, 2010, the Board authorized an amendment to the grant to permit certain modifications to the BSA-approved plans, a change in the hours of operation, and a change in operator from Gotham City Fitness to Planet Fitness; and

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

WHEREAS, at hearing, the Board directed the applicant to: (1) demonstrate that the fire alarm and sprinkler systems have been installed and that the PCE has a Place of Assembly ("PA") certificate of operation; (2) determine whether the open Environmental Control Board violation regarding the air conditioning units on the building's roof are related to the PCE; and (3) remove graffiti from the exterior of the building and implement a graffiti management plan; and

WHEREAS, in response, the applicant: (1) provided copies of all permit applications and signoffs and provided a copy of the PA certificate of operation; and (2) stated that the violation relates to units that service the PCE and that permits will be obtained to legalize the installation; and

WHEREAS, as to the graffiti, the applicant represents that it is working with local elected officials to combat the presence of graffiti at the site; 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 February 7, 2006, 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 September 19, 2014'-(4) sheets; and on further condition: *on condition*:

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

to expire on July 15, 2024;

THAT graffiti shall be removed within 48 hours of its appearance at the site;

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 a certificate of occupancy for the operation of the PCE shall be obtained by December 16, 2015;

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

THAT Department of Buildings shall 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. 210053378)

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

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## **164-94-BZ**

APPLICANT – Jeffrey Chester, Esq., for Tuckahoe Realty LLC., owner; LRHC Park Chester NY Ink., lessee.

SUBJECT – Application March 28, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the operation of physical culture establishment (*Lucille Roberts*), which expired on March 1, 2014. C1-2/R6 zoning district.

PREMISES AFFECTED – 84 Hugh Grant Circle, Cross Bronx Expressway Sr. South, Block 3794, Lot 109, Borough of Bronx.

## **COMMUNITY BOARD #9BX**

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

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## **APPEALS CALENDAR**

### **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 February 10, 2014, at 10 A.M., for continued hearing.

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# MINUTES

## 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

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.

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## 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

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 February 24, 2015, at 10 A.M., for decision, hearing closed.

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## 128-14-A

APPLICANT – Bryan Cave LLP, for Alicat Family LLC & AEEE Family LLC, owner.

SUBJECT – Application June 6, 2014 – Appeal challenging DOB determination that the proposed off-street loading berth is not accessory to a medical office. 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

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 February 24, 2015, at 10 A.M., for decision, hearing closed.

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## 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

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.

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## ZONING CALENDAR

### 2-13-BZ

#### CEQR #13-BSA-075R

APPLICANT – Alfonso Duarte, for Humberto Arias, owner.

SUBJECT – Application January 8, 2013 – Variance (§72-21) to legalize the extension of a retail building, contrary to use regulations (§23-00). R3A zoning district.

PREMISES AFFECTED – 438 Targee Street, west side 10.42' south of Roff Street, Block 645, Lot 56, Borough of Staten Island.

### COMMUNITY BOARD #1SI

**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 December 6, 2012, acting on DOB Application No. 520026695, reads in pertinent part:

Present application is filed to legalize an enlargement of a non-conforming and non-complying building not permitted as per 52-40 and 54-30 of the NYC Zoning Resolution ...

WHEREAS, this is an application under ZR § 72-21, to legalize, on a site within an R3A zoning district, the enlargement of a non-complying one-story building and the extension of a non-conforming Use Group 6 retail use, which are contrary to ZR §§ 52-40 and 54-30; and

WHEREAS, a public hearing was held on this

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# MINUTES

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application on April 29, 2014, after due notice by publication in the *City Record*, with continued hearings on September 9, 2014, November 18, 2014, and December 9, 2014, and then to decision on December 16, 2014; and

WHEREAS, Commissioners Ottley-Brown and Montanez performed examinations of the subject site and premises, and surrounding area; and

WHEREAS, Community Board 1, Staten Island, recommends approval of this application on the condition that the subject premises not be used as a liquor store or bar; and

WHEREAS, the subject site is an interior triangular lot with approximately 102 feet of frontage on Targee Street, within an R3A zoning district; the site has approximately 2,060 sq. ft. of lot area; and

WHEREAS, the as-of-right development of the subject site is limited to either a residential development with an FAR of 0.5 or a community facility use with an FAR of 1.0; and

WHEREAS, the site is occupied by a non-complying one-story commercial building containing approximately 1,135 sq. ft. of floor area, the non-conforming use of which is as a Use Group 6 food store; and

WHEREAS, prior to 2001, the applicant's predecessor-in-interest enlarged the non-complying building by constructing an addition with approximately 563 sq. ft. of floor area; permits were not obtained for this enlargement; and

WHEREAS, the applicant proposes to legalize the non-complying extension and permit a non-conforming Use Group 6 retail store thereof; and

WHEREAS, in order to legalize the extension of the subject building and permit the extension of the non-conforming use thereof, the applicant seeks a waiver of ZR §§ 52-40 and 54-30, which govern non-complying buildings and non-conforming uses and prohibit the pre-2001 enlargement; and

WHEREAS, the applicant states that, per ZR § 72-21(a), the following are unique physical conditions which create unnecessary hardship in using or developing the site in conformance and compliance with the applicable zoning regulations: (1) the site's irregular triangular shape, and (2) the site's limited floor area; and

WHEREAS, the applicant notes that when the bulk regulations applicable to the site's R3A zoning district are applied to the site, the buildable floor area of the site is limited to either 1,030 sq. ft. for residential use or 2,060 sq. ft. for community facility use and that the unique shape of the subject site increases the impact of the required yards on the footprint of any as-of-right building, reducing the foot print of an as-of-right residential building on the subject site to 639 sq. ft. or of an as-of-right community facility on the subject site to 977 sq. ft.; and

WHEREAS, the applicant further notes that an as-of-right community facility use of the subject site would require the applicant to develop a two-story building on the site, thereby necessitating an elevator and accessibility features which would further decrease the available floor area of the site, rendering the development inefficient and infeasible; and

WHEREAS, the applicant analyzed four similarly shaped triangular lots along Targee Street within the applicable zoning district and demonstrated that such lots are significantly larger in floor area and as such would permit more useable and efficient floor plans if developed in conformance with the applicable zoning regulations; and

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

WHEREAS, the applicant considered the as-of-right development of the site for a single-family house as well as the continued non-conforming retail use of the non-complying building; and

WHEREAS, the applicant concludes that neither alternative would realize a reasonable return; and

WHEREAS, the applicant asserts that only the legalization of the already-constructed non-complying extension and an expansion of the non-conforming use would yield a reasonable return; and

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

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

WHEREAS, the applicant asserts that the surrounding area is characterized by mixed uses including significant retail use with frontage on Targee Street; and

WHEREAS, the applicant represents that (1) the majority of the subject structure has existed for commercial use since 1947 and that the subject enlargement was constructed by the applicant's predecessor over ten years prior to the instant application, (2) that Targee Street contains several non-residential uses and is already burdened by significant traffic, and (3) that the surrounding area is characterized by a mix of uses which includes single-story retail and convenience stores; and

WHEREAS, the applicant further represents that the existing enlargement does not directly impact any of the adjoining properties in that the adjacent property on Roff Street is vacant and the two properties on Metcalfe Street which are contiguous to the subject site are adjacent to the legal, existing, non-conforming food market; and

WHEREAS, the Board finds that the character of the area is mixed-use and that the legalization of the already-existing non-complying structure and expansion of the pre-existing non-conforming use will not impact nearby complying and/or conforming uses and, accordingly, 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

# MINUTES

detrimental to the public welfare; and

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the site's history of development, size and shape, and the limited economic potential of conforming uses on the lot; 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 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 13-BSA-075R, dated October 25, 2012 ; and

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

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

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; 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 legalize, on a site within an R3A zoning district, the enlargement of a non-complying one-story building and to permit the extension of a non-conforming Use Group 6 retail use thereof, contrary to ZR §§ 52-40 and 54-30; *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 "October 21, 2014"– five (5) sheets; and *on further condition*:

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

THAT a Certificate of Occupancy for the subject site shall be obtained by December 16, 2018; and

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; and

THAT all signage at the subject site shall conform to the requirements of a C-1 district for both the existing retail use and the proposed retail use; and

THAT the non-conforming use of the legal non-complying structure and the subject non-complying enlargement shall be limited to a Use Group 6 retail use; and

THAT the hours of operation of for the existing and proposed retail shall be Monday through Saturday, from 7:00 a.m. to 11:00 p.m., and Sunday, from 7:00 a.m. to 10:00 p.m.

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

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## **119-14-BZ CEQR #14-BSA-163M**

APPLICANT – Law Office of Jay Goldstein, PLLC, for 1151 Third Avenue LLC, owner; Flywheel Sport Inc., lessee.

SUBJECT – Application June 2, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Flywheel Sports*) of the second and third floor of the existing building. Located within a C1-9 zoning district.

PREMISES AFFECTED – 1151 Third Avenue aka 201 East 67<sup>th</sup> Street, Block 1422, Lot 1, 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 May 5, 2014, acting on DOB Application No. 110365453, reads, in pertinent part:

Proposed work of a Physical Culture Establishment at 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> floors is not permitted as-of-right in Zoning C1-9 district...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C1-9 zoning district, the operation of a physical culture establishment ("PCE") operating on the second and third story of a five-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on November 18, 2014, after due notice by publication in the *City Record*, and then to decision on December 16, 2014; and

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

WHEREAS, Community Board 8, Manhattan,

# MINUTES

recommends approval of this application; and

WHEREAS, the subject site is located on the northeast corner of the intersection of Third Avenue and East 67<sup>th</sup> Street, in Manhattan;

WHEREAS, the site has approximately 25.42 sq. ft. of frontage along Third Avenue and approximately 100 sq. ft. of frontage along East 67<sup>th</sup> Street, with approximately 2,542 sq. ft. of lot area; and

WHEREAS, the site is occupied by a five-story commercial building with approximately 9,795 sq. ft. of floor area (3.9 FAR); and

WHEREAS, the PCE shall occupy the second and third floor of the building, comprising approximately 3,918 sq. ft. of floor area; and

WHEREAS, the PCE shall be operated under the trade name Flywheel; and

WHEREAS, the hours of operation for the PCE are seven days a week, from 5:30 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, 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 Checklist action discussed in the CEQR Checklist No. 14-BSA-163M, dated May 5, 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 C1-9 zoning district, the operation of a PCE operating on the second and third stories of a five-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed

with this application marked “August 6, 2014”- Three (3) sheets; *on further condition*:

THAT the term of the PCE grant will expire on December 16, 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 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 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 December 16, 2018;

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, December 16, 2014.

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## 120-14-BZ

### CEQR #14-BSA-164M

APPLICANT – Law Office of Jay Goldstein, PLLC, for 1151 Third Avenue, owner; Upper East Fitting Room LLC, lessee.

SUBJECT – Application June 2, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Fitting Room*) on the fifth floor of the existing building. C1-9 zoning district.

PREMISES AFFECTED – 1151 Third Avenue aka 201 East 67<sup>th</sup> Street, north East corner of 3rd Avenue and East 67<sup>th</sup> Street, Block 1422, Lot 1, 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 May 5, 2014, acting on DOB Application No. 110365453, reads, in pertinent part:

Proposed work of a Physical Culture Establishment at 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> floors is not permitted as-of-

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# MINUTES

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right in Zoning C1-9 district...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C1-9 zoning district, the operation of a physical culture establishment (“PCE”) operating on the fifth story of a five-story mixed commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on November 18, 2014, after due notice by publication in the *City Record*, and then to decision on December 16, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Ottley-Brown; 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 Third Avenue and East 67<sup>th</sup> Street, in Manhattan;

WHEREAS, the site has approximately 25.42 sq. ft. of frontage along Third Avenue and approximately 100 sq. ft. of frontage along East 67<sup>th</sup> Street, with approximately 2,542 sq. ft. of lot area; and

WHEREAS, the site is occupied by a five-story commercial building with approximately 9,795 sq. ft. of floor area (3.9 FAR); and

WHEREAS, the PCE shall occupy the fifth floor of building, comprising approximately 1,959 sq. ft. of floor area; and

WHEREAS, the PCE shall be operated under the trade name Flitting Room; and

WHEREAS, the hours of operation for the PCE are Monday through Friday, from 5:30 a.m. to 10:00 p.m., and on Saturday and Sunday from 6:30 a.m. to 7:00 p.m.; and

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

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

WHEREAS, the PCE 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, 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 to ensure that the continued operation of the PCE does not negatively impact the building; 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 Checklist action discussed in the CEQR Checklist No. 14-BSA-164M dated May 30, 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 C1-9 zoning district, the operation of a PCE operating on the fifth story of a five-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “August 6, 2014”- Three (3) sheets; *on further condition*:

THAT the term of the PCE grant will expire on December 16, 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 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 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 December 16, 2018;

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, December 16, 2014.

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# MINUTES

## 121-14-BZ

### CEQR #14-BSA-165M

APPLICANT – Law office of Jay Goldstein, PLLC, for 1151 Third Avenue, owner; Strengthen Lengthen Tone LLC., lessee.

SUBJECT – Application June 2, 2014 – Special Permit (§73-36) to allow for the operation of a physical culture establishment (SLT) on the 4th floor of the existing building, C1-9 zoning district.

PREMISES AFFECTED – 1151 Third Avenue aka 201 East 67<sup>th</sup> Street, northeast corner of 3rd Avenue and East 67th Street, Block 1422, Lot 1, 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 May 5, 2014, acting on DOB Application No. 110365453, reads, in pertinent part:

Proposed work of a Physical Culture Establishment at 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> floors is not permitted as-of-right in Zoning C1-9 district...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C1-9 zoning district, the operation of a physical culture establishment (“PCE”) operating on the fourth story of a five-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on November 18, 2014, after due notice by publication in the *City Record*, and then to decision on December 16, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Ottley-Brown; 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 Third Avenue and East 67<sup>th</sup> Street, in Manhattan;

WHEREAS, the site has approximately 25.42 sq. ft. of frontage along Third Avenue and approximately 100 sq. ft. of frontage along East 67<sup>th</sup> Street, with approximately 2,542 sq. ft. of lot area; and

WHEREAS, the site is occupied by five-story commercial building with approximately 9,795 sq. ft. of floor area (3.9 FAR); and

WHEREAS, the PCE shall occupy the fourth floor of the building, comprising approximately 1,959 sq. ft. of floor area; and

WHEREAS, the PCE shall be operated under the trade name SLT; and

WHEREAS, the hours of operation for the PCE are Monday through Friday, from 6:00 a.m. to 9:30 p.m., and on

Saturday and Sunday from 8:00 a.m. to 7:00 p.m.; and

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

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

WHEREAS, the PCE 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, 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 Checklist action discussed in the CEQR Checklist No. 14-BSA-165M, dated May 5, 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 C1-9 zoning district, the operation of a PCE operating on the fourth story of a five-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “August 6, 2014”- Three (3) sheets; *on further condition*:

THAT the term of the PCE grant will expire on December 16, 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 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 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 December 16, 2018;

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# MINUTES

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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, December 16, 2014.

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## 151-14-BZ

### CEQR #15-BSA-019M

APPLICANT – Law Office of Fredrick A. Becker, for Fifth Partners, LLC., owner; Exhale Enterprises Inc., owner.

SUBJECT – Application June 26, 2014 – Special Permit (§73-36) to legalize the operation of a physical culture establishment/ yoga studio (*Exhale Enterprises*) on a portion of the ground floor of the subject 12-story commercial building, C6-4A zoning district.

PREMISES AFFECTED – 19 West 21<sup>st</sup> Street, northerly side of West 21<sup>st</sup> Street, 309' 10" westerly of Fifth Avenue, Block 823, Lot 24, 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 June 25, 2014, acting on DOB Application No. 121995494, reads, in pertinent part:

ZR 32-10 – Proposed Physical Culture Establishment at zoning C6-4A is not permitted as-of-right...; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site within a C6-4A zoning district, within the Ladies’ Mile Historic District, a physical culture establishment (“PCE”) on the first floor of a 12-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on November 18, 2014, after due notice by publication in the *City Record*, and then to decision on December 16, 2014; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Brown; and

WHEREAS, Community Board 5, Manhattan, elected to waive any comments to the instant application; and

WHEREAS, the subject site is located on the north side of West 21<sup>st</sup> Street, between 5<sup>th</sup> Avenue and the Avenue of the

Americas, in a C6-4A zoning district within the Ladies’ Mile Historic District; and

WHEREAS, the site has approximately 105 feet of frontage along West 21<sup>st</sup> Street and 10,377 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 12-story commercial building; and

WHEREAS, the PCE occupies 2,764 sq. ft. of floor area on the first floor of the subject building; and

WHEREAS, the PCE operates as Exhale Enterprises LLC; and

WHEREAS, the PCE’s hours of operation are Monday through Friday, from 6:00 a.m. to 9:00 p.m., and on Saturday and Sunday from 8:00 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, the Landmarks Preservation Commission has approved the proposed alterations of the building by Certificate of No Effect No. 15-6808, issued on April 21, 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 Checklist action discussed in the CEQR Checklist No. 15-BSA-019M, dated September 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 C6-4A zoning district, within the Ladies’ Mile Historic District, the operation of a PCE on the first story of a 12-story commercial building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to

# MINUTES

drawings filed with this application marked "September 3, 2014"- three (3) sheets; *on further condition:*

THAT the term of the PCE grant will expire on June 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 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 December 16, 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, December 16, 2014.

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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 7<sup>th</sup> Road, Block 15454, Lot 21. Borough of Queens.

### COMMUNITY BOARD #14Q

**ACTION OF THE BOARD** – Application withdrawn.

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

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## 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 March 3, 2015, at 10 A.M., for continued hearing.

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## 343-12-BZ

APPLICANT – Akerman Senterfitt, LLP., for Ocean Ave Education Support, Inc., owner.

SUBJECT – Application December 19, 2012 – Variance (§72-21) to permit the construction of a Use Group 3 school (*Brooklyn School for Medically Frail Children*) with dormitory facilities in a split zoning lot, contrary to lot coverage( §24-11), yard requirements (§24-382, §24-393, §24-33) and use regulations (§22-13). R1-2/R7A zoning district.

PREMISES AFFECTED – 570 East 21st Street, between Dorchester Road and Ditmas Avenue, Block 5184, Lot(s) 39, 62, 66, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

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

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## 350-12-BZ

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

SUBJECT – Application December 31, 2012 – Variance (§72-21) to permit the construction of an 11-story community facility/residential building, contrary to use regulations (§42-00). M3-1 zoning district.

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

### COMMUNITY BOARD #7BK

**ACTION OF THE BOARD** – Laid over to February 3, 2015, at 10 A.M., for adjourned 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

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,

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# MINUTES

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2015, at 10 A.M., for decision, hearing closed.  
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## 94-14-BZ

APPLICANT – Dennis D. Dell'Angelo, for Rivka Shapiro, owner.

SUBJECT – Application May 5, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-141) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1150 East 22nd Street, west side of East 22nd Street, 140' north of Avenue "K", Block 7603, Lot 79, 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 27, 2015, at 10 A.M., for decision, hearing closed.  
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## REGULAR MEETING

TUESDAY MORNING, DECEMBER 16, 2014

1:00 P.M.

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

## 287-14-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.

PREMISES AFFECTED – 138 Roma Avenue, Block 0408, Lot 80025. Borough of Staten Island.

### COMMUNITY BOARD #2SI

**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 waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development ("HPD") on behalf of the owner and in connection with the Mayor's Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner's Authorization); and

WHEREAS, the subject site is located on the east side of Roma Avenue between Garibaldi Avenue and Ebbets Street, within an R3X zoning district; and

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

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 815 sq. ft. of floor area (0.40 FAR); the existing site has the following yard non-compliances: a front yard depth of 2'-9" (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); a rear yard depth of 18'-9" (a minimum rear yard depth of 30'-0" is required, per ZR § 23-47); and side yards with widths of 4'-2" (eastern side yard) and 1'-3" (western side yard) (the requirement is two side yards with minimum widths of 5'-0", per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,082 sq. ft. of floor area (0.54 FAR); the new building will provide a front yard depth of 14'-6", a rear yard depth of 18'-0", an southern side yard width of 5'-0", and northern side yard width of 6'-3½"; and

WHEREAS, in addition, the applicant represents that the proposed building may be less than 8'-0" from the buildings directly north and south of the site; and

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# MINUTES

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WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8'-0" is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5'-0"; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 14'-6", a rear yard depth of 18'-0", and a minimum distance of less than 8'-0" from the buildings directly north and south of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings: (a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front, side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, rear, and side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 2'-9" to 14'-6", and increases in the width of both side yards; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,082 sq. ft. of floor area (0.54 FAR), a minimum front yard depth of 14'-6", a minimum rear yard depth of 18'-0", and side yards with minimum widths of 5'-0" and 6'-3½", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly north and south of the site;

THAT this approval shall be limited to the relief

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# MINUTES

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

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

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## 291-14-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. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 19 Millbank Road, Block 0409, Lot 10027, Borough of Staten Island.

### COMMUNITY BOARD #2SI

**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 waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the

Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the north side of Millbank Road, west of Cedar Grove Avenue, within an R3X zoning district; and

WHEREAS, the site has 40 feet of frontage along Millbank Road and 2,400 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 720 sq. ft. of floor area (0.30 FAR); the existing site has the following yard non-compliances: a front yard depth 6’-8” (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); a rear yard depth of 2’-9” (a minimum rear yard depth of 20’-0” is required, per ZR §§ 23-47 and 23-52); side yards with widths of 3’-9” (western side yard) and 2’-6” (eastern side yard) (the requirement is two side yards with minimum widths of 5’-0”, and a minimum distance between adjacent buildings along a side lot line of 8’-0”, per ZR § 23-461); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-52; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.53 FAR); the new building will provide a front yard depth of 18’-0”, a rear yard depth of 16’-1”, an eastern side yard width of 10’-5”, and western side yard width of 5’-0”; and

WHEREAS, in addition, the applicant states that the proposed building may be less than 8’-0” from the building directly west of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 16’-1”, and a minimum distance of less than 8’-0” from the building directly west of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying

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# MINUTES

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Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from a non-complying 6'-8" to a complying 18'-

0", and increase in the widths of both side yards, and increase in the depth of the rear yard from 12'-8" to 16'-1"; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 15, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,272 sq. ft. of floor area (0.53 FAR) and a minimum rear yard depth of 16'-1", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the building directly west of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

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

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## 292-14-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 located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 19 Milbank Road, Block 0409, Lot 10027, Borough of Staten Island.

### COMMUNITY BOARD #2SI

**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 to permit the construction of a single-family home that does not front a mapped street, contrary to General City Law § 36; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is applicant is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, this site is also the subject of a companion application filed under BSA Cal. No. 291-14-BZ, for a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; and

WHEREAS, the subject site is located on the north side of Millbank Road, west of Cedar Grove Avenue, within an R3X zoning district; Millbank Road is an unmapped access road; and

WHEREAS, the site is occupied by a flood-damaged one-story, single-family home with 720 sq. ft. of floor area (0.30 FAR); and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.53 FAR);

WHEREAS, because the site is located along an unmapped access road, the applicant request a waiver of General City Law § 36; and

WHEREAS, by letter dated December 2, 2014, the Fire Department states that it has reviewed the proposal and has no objections, provided that: (1) the entire building is fully-sprinklered in conformity 2014 Building Code; (2) combination Smoke/Carbon Monoxide detectors as well NFPA 13D fire sprinklers are installed; (3) exterior walls and floors are constructed of eight-inch Autoclaved Aerated Concrete (AAC) panels (or an approved equivalent), which provide a four-hour fire-resistance rating; (4) penetrations through the AAC floor over parking are firestopped per required the occupancy separation; and (5) the height of the highest window does not exceed 30 feet from grade level below such window; and

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

*Therefore it is Resolved*, the appeal is granted by the power vested in the Board by Section 36 of the General City Law and on condition that construction shall substantially conform to the drawing filed with the application marked “December 15, 2014”- one (1) sheet, and on further condition:

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

THAT the entire building shall be fully-sprinklered in conformity with provisions of 2014 Building Code;

THAT combination Smoke/Carbon Monoxide detectors and NFPA 13D fire sprinklers shall be installed;

THAT the exterior walls and floors shall be constructed of eight-inch autoclaved AAC panels (or an approved equivalent), which provide a four-hour fire-resistance rating;

THAT the penetrations through the AAC floor over parking shall be firestopped per required the occupancy separation;

THAT the height of the highest window sill shall not exceed 30 feet from grade level below such window;

THAT this approval shall be limited to the Build to Back program; and

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

THAT changes to the use or occupancy of the building will be subject to Board review and approval; and

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

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

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## 293-14-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. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 23 Neutral Avenue, between Roma Avenue and Cedar Grove Avenue, Block 0409, Lot 20026, Borough of Staten Island.

### COMMUNITY BOARD #2SI

**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 waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the north side of Neutral Avenue, west of Cedar Grove Avenue, within an R3X zoning district; and

WHEREAS, the site has 40 feet of frontage along Neutral Avenue and 2,880 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 1,055 sq. ft. of floor area (0.36 FAR); the existing site has the following yard non-compliances: a front yard depth 6’-5” (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); a rear yard depth of 3’-4” (a minimum rear yard depth of 20’-0” is required, per ZR §§ 23-47 and 23-52); side yards with widths of 5’-6” (western side yard) and 4’-6” (eastern side

yard) the requirement is two side yards with minimum widths of 5’-0”, and a minimum distance between adjacent buildings along a side lot line of 8’-0”, per ZR § 23-461); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-52; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.44 FAR); the new building will provide a front yard depth of 18’-0”, a rear yard depth of 16’-1”, an eastern side yard width of 16’-0”, and western side yard width of 7’-5”; and

WHEREAS, in addition, the applicant states that the proposed building may be less than 8’-0” from the building directly east of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 16’-1”, and a minimum distance of less than 8’-0” from the buildings directly east of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

- (a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood’s potential development in accordance with flood-resistant construction standards; and

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# MINUTES

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WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from a non-complying 6'-5" to a complying 18'-0", and increase in the widths of both side yards beyond the minimum requirement, and increase in the depth of the rear yard from 3'-4" to 16'-1"; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to

permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 15, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,272 sq. ft. of floor area (0.44 FAR) and a minimum rear yard depth of 16'-1", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the building directly east of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

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

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**294-14-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 located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 23 Neutral Avenue, between Roma Avenue and Cedar Grove Avenue, Block 0409, Lot 20026, Borough of Staten Island.

**COMMUNITY BOARD #2SI**  
**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 to permit the construction of a single-family home that does not front a

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# MINUTES

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mapped street, contrary to General City Law § 36; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is applicant is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, this site is also the subject of a companion application filed under BSA Cal. No. 293-14-BZ, to permit pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; and

WHEREAS, the subject site is located on the north side of Neutral Avenue, west of Cedar Grove Avenue, within an R3X zoning district; Neutral Avenue is an unmapped access road; and

WHEREAS, the site has 40 feet of frontage along Neutral Avenue and 2,880 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 1,055 sq. ft. of floor area (0.36 FAR); and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.44 FAR); and

WHEREAS, because the site is located along an unmapped access road, the applicant requests a waiver of General City Law § 36; and

WHEREAS, by letter dated December 2, 2014, the Fire Department states that it has reviewed the proposal and has no objections, provided that: (1) the entire building is fully-sprinklered in conformity 2014 Building Code; (2) combination Smoke/Carbon Monoxide detectors as well NFPA 13D fire sprinklers are installed; (3) exterior walls and floors are constructed of eight-inch Autoclaved Aerated Concrete (AAC) panels (or an approved equivalent), which provide a four-hour fire-resistance rating; (4) penetrations through the AAC floor over parking are firestopped per required the occupancy separation; and (5) the height of the highest window does not exceed 30 feet from grade level below such window; and

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

*Therefore it is Resolved*, the appeal is granted by the power vested in the Board by Section 36 of the General City Law and on condition that construction shall substantially conform to the drawing filed with the application marked “December 15, 2014”- one (1) sheet, and on further condition:

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

THAT the entire building shall be fully-sprinklered in conformity with provisions of 2014 Building Code;

THAT combination Smoke/Carbon Monoxide detectors and NFPA 13D fire sprinklers shall be installed;

THAT the exterior walls and floors shall be constructed of eight-inch autoclaved AAC panels (or an approved equivalent), which provide a four-hour fire-resistance rating;

THAT the penetrations through the AAC floor over parking shall be firestopped per required the occupancy separation;

THAT the height of the highest window sill shall not exceed 30 feet from grade level below such window;

THAT this approval shall be limited to the Build to Back program; and

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

THAT changes to the use or occupancy of the building will be subject to Board review and approval; and

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

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

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## **295-14-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. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 58 Seafoam Avenue, between Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 10068, Borough of Staten Island.

## **COMMUNITY BOARD #2SI**

**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 waiver of the

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# MINUTES

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Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-2 (C1-1) zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the south side of Seafoam Street, west of Cedar Grove Avenue, within an R3-2 (C1-1) zoning district; and

WHEREAS, the site comprises Lots 68 and 69; it has 40 feet of frontage along Seafoam Street and 2,400 sq. ft. of lot area; historically, Lot 68 was developed independent of Lot 69, which is vacant; and

WHEREAS, the site is occupied by a one-story, single-family home with 642 sq. ft. of floor area (0.27 FAR); the existing site has the following yard non-compliances: a front yard depth 8’-0” (a minimum front yard depth of 15’-0” is required, per ZR § 23-45); no rear yard (a minimum rear yard depth of 20’-0” is required, per ZR § 23-47); side yards with widths of 2’-0” (western side yard) and 22’-5” (eastern side yard) the requirement is two side yards with minimum widths of 5’-0”, a minimum combined width of 13’-0”, and a minimum distance between adjacent buildings along a side lot line of 8’-0”, per ZR § 23-461); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 816 sq. ft. of floor area (0.34 FAR); the new building will provide a front yard depth of 12’-6”, a rear yard depth of 10’-0”, an western side yard width of 11’-8”, and eastern side yard width of 5’-0”; and

WHEREAS, in addition, the applicant states that the proposed building will be less than 8’-0” from the building

directly east of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 12’-6”, a rear yard depth of 10’-0”, and a minimum distance of less than 8’-0” from the building directly east of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood’s potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front, rear, and side yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, rear, and side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR §

# MINUTES

64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 8'-0" to 12'-6", an increase in rear yard depth from 0'-0" to 10'-0", and increase in the widths of both side yards; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-2 (C1-1) zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 15"-four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 816 sq. ft. of floor area (0.34 FAR), a minimum front yard depth of 12'-6", a minimum rear yard depth of 10'-0", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the building directly east of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

granted; and

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

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

## 296-14-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 located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 58 Seafoam Avenue, between Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 10068, Borough of Staten Island.

## COMMUNITY BOARD #2SI

**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 to permit the construction of a single-family home that does not front a mapped street, contrary to General City Law § 36; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is applicant is brought by the Department of Housing Preservation and Development ("HPD") on behalf of the owner and in connection with the Mayor's Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner's Authorization); and

WHEREAS, the site is also the subject of a companion application filed under BSA Cal. No. 295-14-BZ, for a special permit pursuant to ZR § 64-92, to permit, on a site within an R3-2 (C1-1) zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR

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# MINUTES

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§§ 23-45, 23-461, and 23-47; and

WHEREAS, the subject site is located on the south side of Seafoam Street, west of Cedar Grove Avenue, within an R3-2 (C1-1) zoning district; and

WHEREAS, the site comprises Lots 68 and 69; it has 40 feet of frontage along Seafoam Street and 2,400 sq. ft. of lot area; historically, Lot 68 was developed independent of Lot 69, which is vacant; and

WHEREAS, Seafoam Street is an unmapped access road; and

WHEREAS, the site is occupied by a flood-damaged, single-family home with a 642 sq. ft. of floor area (0.27); and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 816 sq. ft. of floor area (0.34 FAR); and

WHEREAS, because the site is located along an unmapped access road, the applicant request a waiver of General City Law § 36; and

WHEREAS, by letter dated December 2, 2014, the Fire Department states that it has reviewed the proposal and has no objections, provided that: (1) the entire building is fully-sprinklered in conformity 2014 Building Code; (2) combination Smoke/Carbon Monoxide detectors as well NFPA 13D fire sprinklers are installed; (3) exterior walls and floors are constructed of eight-inch Autoclaved Aerated Concrete (AAC) panels (or an approved equivalent), which provide a four-hour fire-resistance rating; (4) penetrations through the AAC floor over parking are firestopped per required the occupancy separation; and (5) the height of the highest window does not exceed 30 feet from grade level below such window; and

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

*Therefore it is Resolved*, the appeal is granted by the power vested in the Board by Section 36 of the General City Law and on condition that construction shall substantially conform to the drawing filed with the application marked "December 15, 2014"- one (1) sheet, and on further condition:

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

THAT the entire building shall be fully-sprinklered in conformity with provisions of 2014 Building Code;

THAT combination Smoke/Carbon Monoxide detectors and NFPA 13D fire sprinklers shall be installed;

THAT the exterior walls and floors shall be constructed of eight-inch autoclaved AAC panels (or an approved equivalent), which provide a four-hour fire-resistance rating;

THAT the penetrations through the AAC floor over parking shall be firestopped per required the occupancy separation;

THAT the height of the highest window sill shall not exceed 30 feet from grade level below such window;

THAT this approval shall be limited to the Build to

Back program; and

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

THAT changes to the use or occupancy of the building will be subject to Board review and approval; and

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

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

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### **303-14-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.

PREMISES AFFECTED – 1032 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 0380, Lot 80016. Borough of Staten Island.

### **COMMUNITY BOARD #2SI**

**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 waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development ("HPD") on behalf of the owner and in connection with the Mayor's Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2

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# MINUTES

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RCNY § 1-09.4 (Owner's Authorization); and

WHEREAS, the subject site is located on the west side of Olympia Boulevard between Hempstead Avenue and Mapleton Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Olympia Boulevard and 1,980 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 583 sq. ft. of floor area (0.29 FAR); the existing site has the following yard non-compliances: no front yard (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); a rear yard depth of 20'-4" (a minimum rear yard depth of 30'-0" is required, per ZR § 23-47); and side yards with widths of 3'-7" (northern side yard) and 1'-10" (southern side yard) (the requirement is two side yards with minimum widths of 5'-0", per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,082 sq. ft. of floor area (0.55 FAR); the new building will provide a front yard depth of 18'-0", a rear yard depth of 21'-0", a northern side yard width of 3'-5", and southern side yard width of 3'-0"; and

WHEREAS, in addition, the applicant represents that the proposed building will be less than 8'-0" from the building directly south of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8'-0" is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5'-0"; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 21'-0", a minimum distance of less than 8'-0" from the building directly south of the site, and side yard widths of 3'-5" and 3'-0"; and

WHEREAS, pursuant to ZR § 64-92, in order to allow

for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding

# MINUTES

neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from a non-complying 0'-0" to a complying 18'-0", and an increase in open space ratio from 71 percent to 73 percent; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,082 sq. ft. of floor area (0.55 FAR), a minimum rear yard depth of 21'-0", and side yards with minimum widths of 3'-0" and 3'-5", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the building directly south of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

Adopted by the Board of Standards and Appeals,

December 16, 2014.

## 304-14-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.

PREMISES AFFECTED – 1034 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 0380, Lot 80015 Borough of Staten Island.

## COMMUNITY BOARD #2SI

**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 waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development ("HPD") on behalf of the owner and in connection with the Mayor's Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner's Authorization); and

WHEREAS, the subject site is located on the west side of Olympia Boulevard between Hempstead Avenue and Mapleton Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Olympia Boulevard and 1,860 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 756 sq. ft. of floor area (0.40 FAR); the existing site has the following yard non-compliances: no front yard (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); a rear yard depth of

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# MINUTES

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26'-9" (a minimum rear yard depth of 30'-0" is required, per ZR § 23-47); and side yards with widths of 1'-7" (northern side yard) and 3'-1" (southern side yard) (the requirement is two side yards with minimum widths of 5'-0", per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,082 sq. ft. of floor area (0.58 FAR); the new building will provide a front yard depth of 15'-0", a rear yard depth of 20'-9", a northern side yard width of 3'-5", and southern side yard width of 3'-0"; and

WHEREAS, in addition, the applicant represents that the proposed building will be less than 8'-0" from the buildings directly north and south of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8'-0" is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5'-0"; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 15'-0", a rear yard depth of 20'-9", a minimum distance of less than 8'-0" from the buildings directly north and south of the site, and side yard widths of 3'-5" and 3'-0"; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front, rear and side yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, rear, and side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 0'-0" to 15'-0", and an increase in open space ratio from 60 percent to 71 percent; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair

# MINUTES

the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,082 sq. ft. of floor area (0.58 FAR), a minimum rear yard depth of 20'-9", and side yards with minimum widths of 3'-0" and 3'-5", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly north and south of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

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

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## 305-14-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.

PREMISES AFFECTED – 296 Adams Avenue, between Mapleton Avenue and Hempstead Avenue, Block 0367, Lot 30011 Borough of Staten Island.

## COMMUNITY BOARD #2SI

**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 waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development ("HPD") on behalf of the owner and in connection with the Mayor's Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner's Authorization); and

WHEREAS, the subject site is located on the south side of Adams Avenue between Boundary Avenue and Haven Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Adams Avenue and 1,700 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 1,059 sq. ft. of floor area (0.62 FAR); the existing site has the following yard non-compliances: floor area (a maximum FAR of 0.60 is permitted); no front yard (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); a rear yard depth of 14'-0" (a minimum rear yard depth of 30'-0" is required, per ZR § 23-47); and side yards with widths of 3'-0" (eastern side yard) and 1'-2" (western side yard) (the requirement is two side yards with minimum widths of 5'-0", per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department

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# MINUTES

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of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,020 sq. ft. of floor area (0.60 FAR); the new building will provide a front yard depth of 15'-0", a rear yard depth of 12'-10", an eastern side yard width of 3'-5", and western side yard width of 3'-0"; and

WHEREAS, in addition, the applicant represents that the proposed building will be less than 8'-0" from the buildings directly east and west of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8'-0" is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5'-0"; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 15'-0", a rear yard depth of 12'-10", a minimum distance of less than 8'-0" from the buildings directly east and west of the site, and side yard widths of 3'-5" and 3'-0"; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character

of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front, side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, rear, and side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a reduction in FAR, a smaller footprint, an increase in front yard depth from 0'-0" to 15'-0", increases in the width of both side yards, an increase in open space ratio from 38 percent to 70 percent; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure,

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# MINUTES

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issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,020 sq. ft. of floor area (0.60 FAR), a minimum front yard depth of 15'-0", a minimum rear yard depth of 12'-10", and side yards with minimum widths of 3'-0" and 3'-5", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly east and west of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

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

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## **306-14-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.

PREMISES AFFECTED – 156 Baden Place, Block 0381, Lot 00018 Borough of Staten Island.

## **COMMUNITY BOARD #2SI**

**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 waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for side yards, contrary to ZR §§ 23-461 and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development ("HPD") on behalf of the owner and in connection with the Mayor's Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner's Authorization); and

WHEREAS, the subject site is located on the south side of Baden Place between Hempstead Avenue and Mapleton Avenue, within an R3-1 zoning district; and

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

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 580 sq. ft. of floor area (0.29 FAR); the existing site has the following yard non-compliances: no front yard (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); a rear yard depth of 25'-7" (a minimum rear yard depth of 30'-0" is required, per ZR § 23-47); and no northern side yard and a southern side yard with a width of 2'-0" (the requirement is two side yards with minimum widths of 5'-0", per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the

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# MINUTES

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existing building and construct a two-story, single-family home with 1,082 sq. ft. of floor area (0.54 FAR); the new building will provide a front yard depth of 18'-0", a rear yard depth of 35'-10", a northern side yard width of 3'-2½", and a southern side yard width of 3'-2½"; and

WHEREAS, in addition, the applicant represents that the proposed building may be less than 8'-0" from the buildings directly north and south of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8'-0" is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5'-0"; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a minimum distance of less than 8'-0" from the buildings directly north and south of the site and two side yards with widths of 3'-2½"; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings: (a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 0'-0" to 18'-0", an increase in rear yard depth from 25'-7" to 35'-10", increases in the widths of both side yards, an increase in open space ratio from 71 percent to 73 percent; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for side yards, contrary to ZR §§ 23-461 and 54-313; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 9, 2014" - four (4) sheets; and *on further condition*:

# MINUTES

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,082 sq. ft. of floor area (0.54 FAR), a minimum front yard depth of 18'-0", a minimum rear yard depth of 35'-10", and side yards with minimum widths of 3'-2½" and 3'-2½", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly north and south of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2014;

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

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

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

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## 309-14-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.

PREMISES AFFECTED – 55 Hempstead Avenue, Block 0380, Lot 90003 Borough of Staten Island.

## COMMUNITY BOARD #2SI

**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 waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; and

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

same date; and

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

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development ("HPD") on behalf of the owner and in connection with the Mayor's Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner's Authorization); and

WHEREAS, the subject site is located on the north side of Hempstead Avenue between Baden Place and Colony Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Hempstead Avenue and 1,900 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 960 sq. ft. of floor area (0.50 FAR); the existing site has the following yard non-compliances: 50 percent open space ratio (a minimum open space ratio of 65 percent is required, per ZR § 23-141); a front yard depth 0'-5" (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); a rear yard depth of 14'-6" (a minimum rear yard depth of 30'-0" is required, per ZR § 23-47); no side yards (the requirement is two side yards with minimum widths of 5'-0", per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,134 sq. ft. of floor area (0.60 FAR); the new building will provide a front yard depth of 18'-0", a rear yard depth of 23'-1", an eastern side yard width of 3'-0", and western side yard width of 3'-5"; and

WHEREAS, in addition, the applicant represents that the proposed building will be less than 8'-0" from the buildings directly east and west of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-

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# MINUTES

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complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8'-0" is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5'-0"; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 23'-1", a minimum distance of less than 8'-0" from the buildings directly east and west of the site, and side yard widths of 3'-5" and 3'-0"; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant

construction standards without the requested side and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from a non-complying 0'-5" to a complying 18'-0", an increase in open space ratio from 50 percent to 70 percent, and increase in the widths of both side yards, and increase in the depth of the rear yard from 14'-6" to 23'-1"; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,134 sq. ft. of floor area (0.60 FAR), a minimum rear yard depth of 23'-1", and side yards with minimum widths of 3'-0" and 3'-5", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly east and west of the site;

THAT this approval shall be limited to the relief

# MINUTES

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

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

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## 311-14-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.

PREMISES AFFECTED – 178 Kiswick Street, Block 0373, Lot 60019, Borough of Staten Island.

### COMMUNITY BOARD #2SI

**ACTION OF THE BOARD** – Application withdrawn.

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

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## 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

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

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## 118-14-BZ

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

SUBJECT – Application June 3, 2014 – Variance (§72-21) to allow a three-story sixteen unit condominium contrary to use regulations, 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

**ACTION OF THE BOARD** – Laid over to February 3, 2015, at 10 A.M., for continued hearing.

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## 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

**ACTION OF THE BOARD** – Laid over to February 3, 2015, at 10 A.M., for continued hearing.

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## 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

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.

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## 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

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# MINUTES

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**ACTION OF THE BOARD** – Laid over to February 3, 2015, at 10 A.M., for continued hearing.  
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**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**

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.  
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**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**

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.  
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**285-14-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.  
PREMISES AFFECTED – 84 McLaughlin Street, Block 0341, Lot 20049. Borough of Staten Island.

**COMMUNITY BOARD #2SI**

**ACTION OF THE BOARD** – Laid over to January 13, 2015, at 10 A.M., for continued hearing.  
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**286-14-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.  
PREMISES AFFECTED – 20 Orlando Street, Block 0340, Lot 30016. Borough of Staten Island.

**COMMUNITY BOARD #2SI**

**ACTION OF THE BOARD** – Laid over to January 13, 2015, at 10 A.M., for continued hearing.  
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**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.  
PREMISES AFFECTED – 131 Cedar Grove Avenue, Block 0408, Lot 70002. Borough of Staten Island.

**COMMUNITY BOARD #2SI**

**ACTION OF THE BOARD** – Laid over to January 13, 2015, at 10 A.M., for continued hearing.  
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**297-14-BZ & 298-14-A**

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.  
SUBJECT – Application November 6, 2014 – homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.  
PREMISES AFFECTED – 6 Topping Street, between Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 50042 Borough of Staten Island.

**COMMUNITY BOARD #2SI**

**ACTION OF THE BOARD** – Laid over to January 13, 2015, at 10 A.M., for continued hearing.  
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**299-14-A & 300-14-A**

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.  
SUBJECT – Application November 6, 2014 – homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.  
PREMISES AFFECTED – 28 Topping Street, between Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 50043. Borough of Staten Island.

**COMMUNITY BOARD #2SI**

**ACTION OF THE BOARD** – Laid over to January

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# MINUTES

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13, 2015, at 10 A.M., for continued hearing.  
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**307-14-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.

PREMISES AFFECTED – 540 Hunter Avenue, Block 0379, Lot 60024 Borough of Staten Island.

**COMMUNITY BOARD #2SI**

**ACTION OF THE BOARD** – Laid over to January 13, 2015, at 10 A.M., for continued hearing.  
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**308-14-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.

PREMISES AFFECTED – 179 Kiswick Street, Block 50042, Lot 60024 Borough of Staten Island.

**COMMUNITY BOARD #2SI**

**ACTION OF THE BOARD** – Laid over to January 13, 2015, at 10 A.M., for continued hearing.  
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**310-14-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.

PREMISES AFFECTED – 297 Colony Avenue, Block 0381, Lot 40032, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

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

PREMISES AFFECTED – 65 Hempstead Avenue, Block

0381, Lot 00008, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

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