

---

# BULLETIN

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

Published weekly by The Board of Standards and Appeals at its office at:  
250 Broadway, 29<sup>th</sup> Floor, New York, N.Y. 10007.

---

Volume 99, No. 7

February 19, 2014

---

### DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

CHRISTOPHER COLLINS, *Vice-Chair*

DARA OTTLEY-BROWN

SUSAN M. HINKSON

EILEEN MONTANEZ

*Commissioners*

Jeffrey Mulligan, *Executive Director*

Becca Kelly, *Counsel*

---

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

TELEPHONE - (212) 386-0009
FAX - (646) 500-6271

### CONTENTS

DOCKET .....120

CALENDAR of March 4, 2014

Morning .....121/122

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, February 11, 2014**

Morning Calendar .....123

**Affecting Calendar Numbers:**

74-49-BZ	515 Seventh Avenue, Manhattan
406-82-BZ	2411 86 <sup>th</sup> Street, Brooklyn
327-88-BZ	136-36 39 <sup>th</sup> Avenue, aka 136-29 & 136-35A Roosevelt Avenue, Queens
239-02-BZ	110 Waverly Place, Manhattan
13-78-BZ	144-02 Liberty Avenue, Queens
546-82-BZ	148-15 89 <sup>th</sup> Avenue, Queens
1070-84-BZ	234 East 58 <sup>th</sup> Street, Manhattan
178-99-BZ	8973/95 Bay Parkway, Brooklyn
201-02-BZ	6778 Hylan Boulevard, Staten Island
348-12-A & 349-12-A	15 & 19 Starr Avenue, Staten Island
191-13-A	3161 Richmond Terrace, Staten Island
287-13-A & 288-13-A	525 & 529 Durant Avenue, Staten Island
80-11-A, 84-11-A 85-11-A & 103-11-A	335, 333, 331, 329 East 9 <sup>th</sup> Street, Manhattan
123-13-A	86 Bedford Street, Manhattan
156-13-A	450 West 31 <sup>st</sup> Street, Manhattan
43-12-BZ	25 Great Jones Street, Manhattan
212-13-BZ	151 Coleridge Street, Brooklyn
245-13-BZ	2660 East 27 <sup>th</sup> Street, Brooklyn
62-12-BZ	614/618 Morris Avenue, Bronx
299-12-BZ	40-56 Tenth Avenue, Manhattan
88-13-BZ	69-40 Austin Street, Queens
254-13-BZ	2881 Nostrand Avenue, Brooklyn
269-13-BZ	110 West 73 <sup>rd</sup> Street, Manhattan
289-13-BZ	473-541 6 <sup>th</sup> Street, aka 502-522 8 <sup>th</sup> Avenue, Brooklyn

---

# DOCKETS

---

New Case Filed Up to February 11, 2014  
-----

**23-14-A**

198-35 51st Avenue, 51st Avenue between Weeks Lane and 199th Street, Block 7374, Lot(s) 13, Borough of **Queens, Community Board: 11.** Common Law Vesting Rights: appeal seeking a determination that the owner has acquire a common law vested right to complete constriction under the prior R3-2-X zoning district. district.  
-----

**24-14-BZ**

106-02 Sutter Avenue, Sout6h side of Sutter Avenue on the corner formed by the intersection of 106th Street and Sutter Avenue, Block 11506, Lot(s) 42, Borough of **Queens, Community Board: 10.** Variance (§72-21) to permit the vertical enlargement of and existing one family residence and a conversion from on dwelling unit to two dwelling units in an R4 zoning district contrary to front and side yards §23-45 and §23-46. R4 district.  
-----

**25-14-BZ**

1601-1323 Avenue J, North side of Avenue J from East 16th Street to East 17th St. extending north on East 17th St., Block 6709, Lot(s) 32, 34, 36, Borough of **Bronx, Community Board: 14.** Variance (§72-21) to permit the construction of a variance to allow the enlargement of an existing four story Yeshiva. R2 & R5 zoning district. R2 & R5 district.  
-----

**26-14-BZ**

45 East 75th Street, North Side, East 75th Street through block to S/S E 76th between Park & Madison Avenues, Block 1390, Lot(s) 28, 46, Borough of **Manhattan, Community Board: 8.** Variance (§72-21) to permit the construction of the school (Hewett) for a bulk variance to construct a rooftop and rear yard addition contrary §24-591 & §24-36. R8B zoning district. R8B district.  
-----

**27-14-BZ**

496 Broadway, Located on the east side of Broadway between Broome Street and Spring Street, Block 483, Lot(s) 4, Borough of **Manhattan, Community Board: 2.** Variance (§72-21) to permit a UG 6 retail use on the first floor and cellar contrary to §42-14D(2)(b). M1-5B zoning district M1-5B district.  
-----

**28-14-BZ**

3540 Nostrand Avenue, Westside of Nostrand Avenue, between Avenue V and Avenue W, Block 7386, Lot(s) 114 & 117, Borough of **Brooklyn, Community Board: 15.** Special Permit (§73-243) to permit the continued use and (Use Group 6) eating and drinking establishment with an accessory drive-through. C1-2/R4 zoning district. R4/C1-2 district.  
-----

**29-14-BZ**

1255 East 27th Street, East side of East 27th Street, 325 feet from the North corner of Avenue M, Block 7645, Lot(s) 25, Borough of **Brooklyn, Community Board: 14.** Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (23-14(A) side yard, 23-461, in an R2 zoning district R2 district.  
-----

**30-14-BZ**

6101 16th Avenue, Beginning at the NE corner of 62nd St. and SE side of 16th Ave. 110' NE, 80'SE, 100'NE 190'NW, Block 5524, Lot(s) 1, Borough of **Brooklyn, Community Board: 11.** Variance (§72-21) proposed enlargement to an exiting school (Use Group 3) is contrary to §§42-00 & 43-43. M1-1 zoning district. M1-1 district.  
-----

**31-14-BZ**

165 Spencer Street, 32'6" Northerly from the corner of the northerly side of Willoughby Avenue and easterly side of Spencer Street, Block 1751, Lot(s) 3, Borough of **Brooklyn, Community Board: 3.** Special Permit (§73-19) proposed conversion of an existing Synagogue building (Use Group4 to (Use Group 3). M1-2 zoning district. M1-2 district.  
-----

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

---

# CALENDAR

---

**MARCH 4, 2014, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, March 4, 2014, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

-----  
**SPECIAL ORDER CALENDAR**

**246-01-BZ**

APPLICANT – Eric Palatnik, P.C., for Bodhi Fitness Center Inc., owner.

SUBJECT – Application October 16, 2013 – Amendment of a previously approved Special Permit (§73-36) which permitted operation of a physical culture establishment (*Bodhi Fitness Center*). The amendment seeks to enlarge the PCE space by 3,999 sq. ft. M1-1, C2-2/R6 zoning district.

PREMISES AFFECTED – 35-11 Prince Street, between 35th Avenue and Northern Boulevard, Block 4958, Lot 1, Borough of Queens.

**COMMUNITY BOARD #4Q**

-----

**APPEALS CALENDAR**

**140-11-A & 141-11-A**

APPLICANT – Sheldon Lobel, P.C., for BQM Management, LLC, owner.

SUBJECT – Application December 18, 2013 – Extension of time and complete construction and secure Certificates of Occupancy. R5D zoning district.

PREMISES AFFECTED – 69-17 38th Avenue aka 69-19 38<sup>th</sup> Avenue, north side of 38th Avenue, between the BQE and 69th Street, Block 1282, Lot 64, Borough of Queens.

**COMMUNITY BOARD #2Q**

-----

**ZONING CALENDAR**

**163-13-BZ**

APPLICANT – Eric Palatnik, P.C., for 39th Avenue Realty Management, LLC, owner.

SUBJECT – Application May 30, 2013 – Special Permit (§73-44) to permit the reduction of the allowed parking spaces contrary to §36-31 in a C4-2 district, the alteration of the 2-story and cellar Use Group 6 of professional offices also include a vertical and horizontal enlarged cellar third floor and a parking requirement category B1. C4-2 zoning district.

PREMISES AFFECTED – 133-10 39th Avenue, 39th Avenue, east of College Pt. Boulevard, Block 4973, Lot 12,

Borough of Queens.

**COMMUNITY BOARD #7Q**

-----

**252-13-BZ**

APPLICANT – Law Office of Fredrick A. Becker, for Eli Schron, owner.

SUBJECT – Application August 29, 2013 – 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). R-2 zoning district.

PREMISES AFFECTED – 1221 East 22nd Street, east side of East 22nd Street between Avenue K and Avenue L, Block 7622, Lot 21, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

-----

**270-13-BZ**

APPLICANT – Eric Palatnik, P.C., for Margaret Angel, LLC, owner.

SUBJECT – Application September 13, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area (ZR 23-141). R3-1 zoning district.

PREMISES AFFECTED – 288 Dover Street, Dover Street, south of Oriental Boulevard, Block 8417, Lot 38, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

-----

**273-13-BZ**

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

SUBJECT – Application September 26, 2013 – Variance (§72-21) to vary the requirements of the zoning resolution to permit within a C8-4 commercial zoning district, the construction of an eight-story residential building containing 28 dwelling units which would not comply with the use regulations of §32-10.

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

**COMMUNITY BOARD #8M**

-----

**281-13-BZ**

APPLICANT – Joshua Rinesmith, Warshaw Burstein LLP for FC-Canal LLC, owner; 320 Canal Fitness Group, LLC, lessee.

SUBJECT – Application October 4, 2013 – Special Permit (§73-36) to permit the operation of a physical culture establishment (Planet Fitness) on the cellar and first floor of the existing building. C6-2A zoning district.

PREMISES AFFECTED – 350-370 Canal Street, premises is comprised of 3 properties located on the west portion of block 211 at the intersection of Canal Street and Church

---

# CALENDAR

---

Street. Block 211, Lot(s) 3, 29, 7501. Borough of Manhattan.

**COMMUNITY BOARD #1M**

-----

**291-13-BZ**

APPLICANT – Eric Palatnik, P.C., for 840-842 LLC, owner; Crunch LLC, lessee.

SUBJECT – Application October 22, 2013 – Special Permit (§73-36) to allow physical culture establishment (*Crunch LLC*) within a portion of an existing building. C8-2 zoning district.

PREMISES AFFECTED – 842 Lefferts Avenue, south side of Lefferts Avenue, approximately 262’ west of intersection of Utica Avenue and Lefferts Avenue, Block 1430, Lot 22, Borough of Brooklyn.

**COMMUNITY BOARD #9BK**

-----

**297-13-BZ**

APPLICANT – Sheldon Lobel, P.C., for 308 Cooper LLC, owner.

SUBJECT – Application October 25, 2013 – Variance (§72-21) to permit the development of a residential building contrary to §42-10. M1-1 zoning district.

PREMISES AFFECTED – 308 Cooper Street, east side of Cooper Street at the corner of Cooper Street and Irving Avenue, Block 3442, Lot 37, Borough of Brooklyn.

**COMMUNITY BOARD #4BK**

-----

*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, JANUARY 28, 2014  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**74-49-BZ**

APPLICANT – Sheldon Lobel, P.C., for 515 Seventh Avenue, LLC, owner.

SUBJECT – Application August 26, 2013 – Extension of Time to obtain a Certificate of Occupancy for an existing parking garage, which expired on January 11, 2012; Waiver of the Rules. M1-6 (*Garment Center*) zoning district.

PREMISES AFFECTED – 515 Seventh Avenue, southeast corner of 7th Avenue and West 38th Street, Block 813, Lot 64, Borough of Manhattan.

**COMMUNITY BOARD #5M**

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

**THE VOTE TO GRANT** –

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

**THE RESOLUTION** –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to obtain a certificate of occupancy for an existing parking garage; and

WHEREAS, a public hearing was held on this application on October 29, 2013, after due notice by publication in *The City Record*, with a continued hearing on January 14, 2014, and then to decision on February 11, 2014; and

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

WHEREAS, the site is located on the southeast corner of the intersection at Seventh Avenue and West 38th Street, within an M1-6 zoning district within the Special Garment District; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 29, 1949 when, under the subject calendar number, the Board granted a variance to permit the construction of a garage building for a term of 20 years; and

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

WHEREAS, most recently, on March 17, 2009, the Board granted an extension of the term until June 28, 2019; and

WHEREAS, in addition, on January 11, 2011, the Board granted an extension of time to obtain a certificate of occupancy, which expired on January 11, 2012; and

WHEREAS, the applicant now requests an extension of time to obtain a certificate of occupancy; and

WHEREAS, at hearing, the Board directed the applicant to: (1) explain why a DOB permit has not yet been obtained for the parking stackers, given that obtaining a permit was a condition of the prior grants; (2) provide a timetable for the necessary repairs, including waterproofing; and (3) clarify whether the location of the stackers is in accordance with the BSA-approved plans; and

WHEREAS, in response, the applicant states that in order to obtain a permit to legalize the stackers, it must submit a report of special inspection completed by an engineer on DOB form TR1; the applicant represents that it has retained a consultant to complete the form and expects to submit the form and obtain the permit soon; and

WHEREAS, the applicant notes that, on December 16, 2013, it obtained an engineer’s report confirming that the existing building is structurally capable of carrying the loads imposed by the stackers (in addition to anticipated snow loads); and

WHEREAS, as to the timetable of necessary repairs, the applicant states that the work requires warmer weather and that it is in the process of obtaining a contractor so that work may commence in the spring; and

WHEREAS, as to the location of the stackers, the applicant provided a photograph showing that the stackers have been moved further back from the parapet wall in order to be less visible from the street; and

WHEREAS, based upon the above, the Board finds that the requested extension of time to obtain a certificate of occupancy 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 March 29, 1949, so that as amended this portion of the resolution shall read: “to grant a one year extension of time to obtain a certificate of occupancy, to expire on January 11, 2015; *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and *on further condition*:

THAT a certificate of occupancy will be obtained by January 11, 2015;

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

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

(DOB Application Nos. 102460089 and 121851683)

Adopted by the Board of Standards and Appeals

---

# MINUTES

---

February 11, 2014.  
-----

## 406-82-BZ

APPLICANT – Eric Palatnik, P.C., for Adolf Clause & Theodore Thomas, owner; Hendel Products, lessee.

SUBJECT – Application August 13, 2013 – Extension of term of a special permit (§73-243) allowing an eating and drinking establishment (*McDonald's*) with accessory drive-thru which expired on January 18, 2013; Extension of time to obtain a Certificate of Occupancy which expired on September 11, 2013; Waiver of the Rules. C1-3/R5 zoning district.

PREMISES AFFECTED – 2411 86th Street, northeast corner of 24th Avenue and 86th Street, Block 6859, Lot 1, Borough of Brooklyn.

## COMMUNITY BOARD #11BK

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

### THE VOTE TO GRANT –

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

Negative:.....0

### THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term for an accessory drive-through, which expired on January 18, 2013, and an extension of time to obtain a certificate of occupancy, which expired on September 11, 2013; and

WHEREAS, a public hearing was held on this application on December 17, 2013, after due notice by publication in *The City Record*, with a continued hearing on January 28, 2014, and then to decision on February 11, 2014; and

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

WHEREAS, the site is located on the northeast corner of 24th Avenue and 86th Street, within a C1-3 (R5) zoning district; and

WHEREAS, the site is operated as a McDonald's eating and drinking establishment (Use Group 6); and

WHEREAS, on January 18, 1983, under the subject calendar number, the Board adopted a resolution granting a special permit for the installation of an accessory drive-through facility for an existing eating and drinking establishment, for a term of five years; and

WHEREAS, the special permit was subsequently extended and amended at various times; and

WHEREAS, on July 22, 2008, the Board granted a five-year extension of term, which expired on January 18, 2013; a condition of the grant was that a certificate of occupancy be obtained by January 22, 2009; however, on September 11, 2012, the Board granted a one-year extension of time to obtain

a certificate of occupancy, which expired on September 11, 2013; and

WHEREAS, the applicant now seeks an extension of term and an extension of time to obtain a new certificate of occupancy; and

WHEREAS, the applicant states that a certificate of occupancy has not yet been obtained due to open applications and open violations at DOB; and

WHEREAS, at hearing, the Board questioned whether the signage at the site is in compliance with C1 district regulations and directed the applicant to clarify the restaurant's hours of operation, as well as the status of open DOB violations at the site; and

WHEREAS, as to the signage, the applicant explained that directional signage is excluded from the signage calculations, per the ZR § 12-10 definition of "sign"; and

WHEREAS, as to the hours of operation, the applicant provided a letter from McDonald's, which indicates that the hours of operations are Sunday through Thursday, from 6:00 a.m. to 12:00 a.m., and Friday and Saturday from 6:00 a.m. to 1:00 a.m.; and

WHEREAS, as to the open violations, the applicant provided a certification from its architect, which indicates that the open violations relate to the expired special permit and will be resolved immediately subsequent to the renewal of the grant; and

WHEREAS, based upon its review of the record, the Board finds that the proposed extension of term and extension of time to obtain a certificate of occupancy 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 January 18, 1983, so that as amended this portion of the resolution reads: "to permit an extension of the term of the special permit for an additional five years, to expire on February 11, 2019, and an extension of six months to obtain a certificate of occupancy, to expire on August 11, 2014; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked 'Received January 14, 2014' - six (6) sheets; and *on further condition*:

THAT the grant will expire on February 11, 2019;

THAT signage will comply with the C1 regulations;

THAT directional signage will be limited to a total of 12 sq. ft., per the ZR § 12-10 definition of "sign";

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

THAT a certificate of occupancy will be obtained by August 11, 2014;

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

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

THAT DOB must ensure compliance with all other

---

# MINUTES

---

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. 310120142)

Adopted by the Board of Standards and Appeals, February 11, 2014.

-----

## **327-88-BZ**

APPLICANT – Eric Palatnik, P.C., for George Hui, owner.  
SUBJECT – Application October 4, 2012 – Amendment to a previously granted variance (§72-21) to legalize the addition of a 2,317 square foot mezzanine in a UG 6 eating and drinking establishment (*Jade Asian Restaurant*). C4-3 zoning district.

PREMISES AFFECTED – 136-36 39th Avenue aka 136-29 & 136-35A Roosevelt Avenue, between Main Street and Union Street, Block 4980, Lot 14, Borough of Queens.

## **COMMUNITY BOARD #7Q**

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

### **THE VOTE TO GRANT –**

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

### **THE RESOLUTION –**

WHEREAS, this is an application for a reopening and an amendment to a previously-granted variance, which, pursuant to ZR § 72-21, authorized in a C4-2 zoning district the enlargement of existing retail stores and offices (Use Group 6) within a mixed residential and commercial building without the required number of accessory off-street parking spaces and loading berths, contrary to ZR §§ 36-21 and 36-62; and

WHEREAS, a public hearing was held on this application on July 23, 2013, after due notice by publication in the *City Record*, with continued hearings on September 10, 2013, October 22, 2013, November 26, 2013, and January 14, 2014, and then to decision on February 11, 2014; and

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

WHEREAS, Community Board 7, Queens, recommends disapproval of this application, citing concerns about open Department of Buildings (“DOB”) violations and the applicant’s overall lack of cooperation; and

WHEREAS, the subject site is a rectangular through lot located on the block bounded by Main Street, Roosevelt Avenue, Union Street and 39th Avenue, within a C4-3 zoning district; and

WHEREAS, the site has 97.33 feet of frontage on Roosevelt Avenue, 97.33 feet of frontage on 39th Avenue, and approximately 17,130 sq. ft. of lot area; and; and

WHEREAS, the site is occupied by a two- and three-

story mixed residential and commercial building with 31,439.07 sq. ft. of floor area (1.88 FAR); and

WHEREAS, on October 21, 1991, under the subject calendar number, the Board granted a variance to allow the enlargement of the building without the required number of accessory off-street parking spaces and loading berths; per ZR §§ 36-21 and 36-62, 52 parking spaces and one loading berth were required for the retail and office uses (Use Group 6) in the building; under the grant, no parking spaces or loading berths were required; and

WHEREAS, the applicant represents that subsequent to the grant and without the Board’s authorization, in 1996, a mezzanine was constructed between the second and third stories, increasing the floor area by 2,296 sq. ft. (from 29,143.07 sq. ft. (1.70 FAR) to 31,439.07 sq. ft. (1.88 FAR)) and increasing the required number of accessory parking spaces on the lot from 52 to 60; in connection with this enlargement, the use of the second story was converted from retail and offices to an eating and drinking establishment; and

WHEREAS, the applicant notes that the 1996 enlargement was completed under DOB permit Application No. 400627835, which referred to the space as a “greenhouse”; and

WHEREAS, the applicant now requests an amendment to legalize the enlargement by increasing the degree of the previously-granted parking waiver by eight spaces; and

WHEREAS, as noted above, the applicant states that the enlargement increased the number of required accessory parking spaces from 52 to 60; and

WHEREAS, the applicant states that, consistent with the basis of the prior grant, the history of development at the site, namely, the existing building’s full-lot coverage and limited cellar height, creates a practical difficulty in providing the required number of accessory parking spaces; and

WHEREAS, specifically, the applicant asserts that the only location on the site where parking could be provided as-of-right is in the cellar; however, creating parking in the cellar would require substantial demolition of existing retail space at the cellar and first story, temporary or permanent displacement of tenants, complex structural work, construction of ramps, and relocation of the sprinkler connection, water main, sewer connection, storm water connection, and electrical units, at significant cost; and

WHEREAS, the applicant notes that even with the additional 2,296 sq. ft. of floor area, the lot is significantly underdeveloped in that its 1.88 FAR is well below the maximum permitted FAR of 3.40; and

WHEREAS, the applicant states that the enlarged portion of the restaurant accommodates 72 persons, and that the second story accommodates 224 persons, for a total restaurant capacity of 296; and

WHEREAS, the applicant contends that the enlargement, while modest, is essential to the operations of the eating and drinking establishment, because it allows for semi-private dining, which makes it popular for community events and professional and/or corporate meetings; and

WHEREAS, the applicant also represents that the semi-

---

# MINUTES

---

private dining area is used primarily for events, except on weekends and on holidays, when the demand for seating increases substantially; and

WHEREAS, as such, the applicant states that the enlargement does not negatively impact the surrounding community; and

WHEREAS, the applicant states that the surrounding community is overwhelmingly commercial and includes, across 39th Avenue, a large, metered parking facility; and

WHEREAS, in addition, the applicant represents that parking is unnecessary for the majority of the restaurant's (and the site's) visitors and employees due to the abundance of nearby public transportation, including the No. 7 subway line and the 20 public bus routes within a one-block radius of the site; and

WHEREAS, further, the applicant provided a parking analysis study, which concludes that existing nearby parking is adequate to accommodate the anticipated increase in demand generated by the enlargement; and

WHEREAS, finally, the applicant notes that the restaurant is popular within the community and that the enlargement complies in all respects with the C4-3 bulk regulations; and

WHEREAS, at hearing, the Board questioned the compliance of the proposed signage, egress, seating layouts, and occupant loads; in addition, the Board directed the applicant to refine and further explain its parking analysis, and to submit photographs showing the removal of egress obstructions; and

WHEREAS, in response, the applicant submitted amended plans showing compliance with the C4-3 sign regulations, an additional means of egress in the restaurant, the proposed seating arrangements, and a detailed chart showing the permitted and proposed occupant loads of all floor space within the building; and

WHEREAS, in addition, the applicant submitted a revised parking study and a series of photographs showing the restaurant's clear and unobstructed egress; and

WHEREAS, based upon the above, the Board has determined that the evidence in the record supports a grant of the requested amendment with the conditions listed below.

*Therefore it is Resolved,* that the Board of Standards and Appeals reopens and amends the resolution, dated October 21, 1991, to grant the noted modifications to the previous approval; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked 'Received January 28, 2014'- eight (8) sheets; and *on further condition:*

THAT the bulk parameters of the building will be as follows: a maximum of 31,439.07 sq. ft. of floor area (1.88 FAR);

THAT the occupant loads of the building will be in accordance with the BSA-approved plans;

THAT all signage will be in accordance with the C4-3 regulations;

THAT a certificate of occupancy will be obtained by

February 11, 2015;

THAT all conditions from the prior grant will remain in effect, except as otherwise stated herein;

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

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

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

Adopted by the Board of Standards and Appeals, February 11, 2014.

-----

## 239-02-BZ

APPLICANT – Greenberg Traurig, LLP by Deirdre A. Carson, Esq., for Babbo Realty LLC, owner.

SUBJECT – Application November 9, 2012 – Extension of Term of a previously-granted Variance (§72-21) for the continued operation of a Use Group 6A eating and drinking establishment (*Babbo*) located at the cellar level, ground floor, and second floor of the subject premises, which expired on December 17, 2012. R7-2 zoning district.

PREMISES AFFECTED – 110 Waverly Place, south side of Waverly Place, between Sixth Avenue and Washington Square West/MacDougal Street, Block 552, Lot 53, Borough of Manhattan.

## COMMUNITY BOARD #2M

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

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a reopening, a waiver of the Rules of Practice and Procedure, an amendment, and an extension of term for an eating and drinking establishment (Use Group 6), which expired on December 12, 2012; and

WHEREAS, a public hearing was held on this application on February 26, 2013, after due notice by publication in the *City Record*, with continued hearings on March 23, 2013, June 11, 2013, September 24, 2013, December 10, 2013, and January 14, 2014, and then to decision on February 11, 2014; and

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

WHEREAS, Community Board 2, Manhattan, recommends denial of the requested extension of term until

---

# MINUTES

---

(1) the impacts on conforming uses are mitigated and (2) the noise and vibration from the HVAC and exhaust equipment are addressed and that the term be limited to two years; and

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

WHEREAS, the adjacent neighbor, represented by counsel, provided testimony in opposition to the operation of the restaurant, citing the following primary concerns: (1) the rooftop mechanicals create noise and vibration that can be heard in the adjacent building and were installed contrary to plan and without permits; (2) the kitchen exhaust is contrary to Code and emits excessive sound, vibration, and odors; (3) garbage collection is disruptive as it occurs at late and early hours; (4) the use of the cellar is contrary to the Certificate of Occupancy and egress and ventilation requirements; and (5) the use of upper floors for commercial use is contrary to the terms of the variance; and

WHEREAS, certain other members of the community provided testimony in opposition to the operation of the restaurant, noting that the variance is limited to the cellar, first floor, and rear portion of the second floor, but commercial use also occupies the remainder of the building; and

WHEREAS, the subject site is on the south side of Waverly Place between Sixth Avenue and Washington Square West/MacDougal Street, within an R7-2 zoning district within the Greenwich Village Historic District; and

WHEREAS, the site is occupied by a four-story townhouse building occupied on the first floor and cellar by a Use Group 6A restaurant, Babbo; the occupancy of the front portion of the second floor and the entire third and fourth floors is limited to conforming use; and

WHEREAS, on December 17, 2002, under the subject calendar number, the Board granted an application under ZR § 72-21, to permit the re-establishment of a Use Group 6A eating and drinking establishment, without music or entertainment, located at the cellar level, ground floor, and second floor of the subject premises, and to permit the continuation of a non-conforming accessory business sign; and

WHEREAS, on December 14, 2004, the Board granted an amendment to permit the enlargement of the cellar for use as a wine storage area for the existing restaurant; and

WHEREAS, in response to the neighbor's concerns related to the HVAC units, the applicant agreed to adjust the HVAC equipment mounted on the dunnages of the building's fourth-floor roof, extend the kitchen exhaust up the building, as per new plans filed with and approved by DOB and LPC, and enclose the fan equipment of the kitchen exhaust within an acoustical enclosure; and

WHEREAS, the applicant also states that (1) the installation of all HVAC units has been approved and it is resolving any inconsistencies between the plans and the built conditions with DOB and ECB; (2) new, more effective, and quieter mechanical units have been installed, which include a low noise fan rotor, low speed fan motor, a compressor sound attenuation blanket and new vibration pads between the unit and dunnage for each unit; and (3) its acoustic engineer has

studied the sound of the new system and concludes that the noise levels in the adjacent building are reduced and now match the ambient noise level, thus not exceeding any Noise Code limits; and

WHEREAS, as to the exhaust duct, the applicant states that it submitted DOB and LPC permits for the installation work and notes that the current applications and approvals supersede all prior ones and includes a custom-designed enclosure for the exhaust duct fan apparatus and

WHEREAS, the applicant submitted a Certificate of No Effect from LPC, dated September 9, 2013, which permits the changes to the rooftop mechanicals; and

WHEREAS, as to the garbage collection and bottle-crushing, the applicant states that it employs a service that is restricted to pickup after 8:00 a.m. and that it has installed a camera to monitor collections which reflects that collection has occurred after 8:00 a.m. and is therefore in compliance; and

WHEREAS, as to the occupancy of the cellar, the applicant states that it has removed a prep table and oven from the cellar and is in the process of obtaining a permit to remove a sink at which time it will be able to file a revised Certification of Correction and have the cellar use violation closed; and

WHEREAS, as to the use of the upper floors, the applicant represents that the fourth floor apartment is used as a pied a terre for one of the owners and that the second/third floor duplex was under lease until vacated in September 2012; and

WHEREAS, the applicant submitted photographs of the vacant duplex residential unit; and

WHEREAS, the applicant represents that office use has ceased and the duplex apartment is currently listed with a real estate broker to find a new tenant; and

WHEREAS, the Board finds that, in response to the neighbor's concerns, the applicant has undertaken significant improvements to its HVAC and exhaust fan duct systems, completed work while its application was in the hearing public process, and also addressed concerns related to the garbage collection hours and use of the cellar and the upper floors; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports a grant of the requested ten-year extension of term.

*Therefore it is Resolved*, that the Board of Standards and Appeals reopens and amends the resolution, so that as amended this portion of the resolution will read: "to extend the term of the variance for ten years from the prior expiration on December 12, 2012 to December 12, 2022; *on condition* that all work shall substantially conform to drawings as filed with this application, marked 'Received April 19, 2013' – one (1) sheet; and *on further condition*;

THAT the term will expire on December 12, 2022;

THAT a new Certificate of Occupancy be obtained by February 11, 2015;

THAT all rooftop mechanicals and associated sound attenuation measures be installed and maintained pursuant to the BSA-approved plans;

# MINUTES

THAT the rooftop mechanicals and all other use of the building comply with Noise Code regulations;

THAT garbage collection hours are restricted to 8:00 a.m. to 8:00 p.m.;

THAT the use of the cellar must comply with all relevant regulations;

THAT the use of the front portion of the second and the entire third and fourth floors is restricted to residential occupancy;

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

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

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

(DOB Permit No. 102702522)

Adopted by the Board of Standards and Appeals, February 11, 2014.

-----

## 13-78-BZ

APPLICANT – Sheldon Lobel, P.C., for 2K Properties Inc., owner.

SUBJECT – Application July 23, 2013 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a plumbing supply establishment (*Jamaica Plumbing and Heating Supply, Inc.*) which expired on June 27, 2013. R4-1 & R6A/C2-4 zoning districts.

PREMISES AFFECTED – 144-02 Liberty Avenue, east side of Liberty Avenue between Inwood Street and Pinegrove Street, Block 10043, Lot 6, Borough of Queens.

### COMMUNITY BOARD #12Q

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to March 4, 2014, at 10 A.M., for decision, hearing closed.

-----

## 546-82-BZ

APPLICANT – Akerman Senterfitt, LLP, for Pasquale Carpentire, owner; Ganesh Budhu, lessee.

SUBJECT – Application June 20, 2013 – Extension of term of previously granted variance for the continued operation of a non-conforming open public parking lot which expired on June 14, 2013. R7-A zoning district.

PREMISES AFFECTED – 148-15 89th Avenue, bounded by 88th Avenue to its north, 150th Street to its east, 148th Street to its west, 89th Avenue to its south, Block 9693, Lot 60, Borough of Queens.

### COMMUNITY BOARD #12Q

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

-----

## 1070-84-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Epsom Downs, Inc., owner.

SUBJECT – Application November 7, 2013 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a UG6 Eating and Drinking establishment (*The Townhouse*) which expired on July 9, 2010; Extension of time to obtain a Certificate of Occupancy which expired on January 9, 2003; Waiver of the Rules. R8 zoning district.

PREMISES AFFECTED – 234 East 58th Street, south side of East 58th Street, Block 1331, Lot 32, Borough of Manhattan.

### COMMUNITY BOARD #6M

**ACTION OF THE BOARD** – Laid over to March 4, 2014, at 10 A.M., for continued hearing.

-----

## 178-99-BZ

APPLICANT – Eric Palatnik, P.C., for Saltru Associates Joint Venture, owner.

SUBJECT – Application November 30, 2012 – Amendment (§§72-01 & 72-22) of a previously granted Variance (§72-21) which permitted an enlargement of an existing non-conforming department store (UG 10A). The amendment seeks to replace an existing 7,502 sq. ft. building on the zoning lot with a new 34,626 sq. ft. building to be occupied by a department store (UG 10A) contrary to §42-12. M3-1 zoning district.

PREMISES AFFECTED – 8973/95 Bay Parkway, 1684 Shore Parkway, south side of Shore Parkway, 47/22' west of Bay Parkway, Block 6491, Lot 11, Borough of Brooklyn.

### COMMUNITY BOARD #11BK

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

-----

## 201-02-BZ

APPLICANT – Eric Palatnik, P.C., for Paco Page, LLC, owner.

SUBJECT – Application May 17, 2013 – Extension of Term of a previously approved Variance (§72-21) for the construction of an automotive service station (UG 16B) with accessory convenience store which expired on January 28, 2013; Waiver of the rules. C1-1/R3X (SRD) zoning district.

PREMISES AFFECTED – 6778 Hylan Boulevard, between Page Avenue and Culotta Lane, Block 7734, Lot 13 & 20, Borough of Staten Island.

### COMMUNITY BOARD #3SI

**ACTION OF THE BOARD** – Laid over to March 4, 2014, at 10 A.M., for continued hearing.

-----

---

# MINUTES

---

## APPEALS CALENDAR

### 348-12-A & 349-12-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Starr Avenue Development LLC, owner.

SUBJECT – Application December 28, 2012 – Proposed construction of two one-family dwellings located within the bed of a mapped street, contrary to General City Law, Section 35. R2 zoning district.

PREMISES AFFECTED – 15 & 19 Starr Avenue, north side of Starr Avenue, 248.73 east of intersection of Bement Avenue and Starr Avenue, Block 298, Lot 67, Borough of Staten Island.

### COMMUNITY BOARD #1SI

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

### THE VOTE TO GRANT –

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

### THE RESOLUTION –

WHEREAS, the decisions of the Staten Island Borough Commissioner, dated July 11, 2013, acting on Department of Buildings Application Nos. 520112789 and 520112798, read in pertinent part:

Proposed construction located within the bed of a mapped street is contrary to Section 35 of the General City Law (Lot 67 and 68);

Proposed new building has bulk non-compliances resulting from the location of such mapped street (Lot 67); and

WHEREAS, a public hearing was held on this application on December 10, 2013, after due notice by publication in *The City Record*, and then to decision on February 11, 2014; and

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

WHEREAS, this is an application to allow the construction of two three-story, one-family residences, with two parking spaces, which will be partially located in the bed of Hartford Avenue, a mapped but unbuilt street; and

WHEREAS, the subject site is located on the north side of Starr Avenue, approximately 139.96 feet west of the intersection of Starr Avenue and Oakland Avenue, within an R2 zoning district; and

WHEREAS, the applicant states that the subject zoning lots will be created through the apportionment of existing Lot 67; proposed (new) Lot 67 will be 40 feet in width and 128.12 feet in depth, with a lot area of 5,108 sq. ft.; proposed Lot 68 will be 40 feet in width and 127.7 feet in depth, with a lot area of 5,074 sq. ft.; and

WHEREAS, the applicant states that three additional zoning lots will also be created through the apportionment;

these lots are not subject to the instant application because they are not located within the bed of Hartford Avenue; and  
WHEREAS, by letter dated February 22, 2013, the Fire Department states that it has reviewed the proposal and offers no objections; and

WHEREAS, by letter dated February 13, 2013, the Department of Environmental Protection (“DEP”) states that: (1) there is an existing 6-inch diameter private sanitary sewer, and an eight-inch diameter City water main in the bed of Hartford Avenue, starting north of the subject site; and (2) City Drainage Plan No. PRD-1B & 2B, Sheet 10 of 14, dated November of 1968, for the above referenced location calls for a future 10-inch diameter sanitary sewer and a 12-inch storm sewer crossing the above referenced development and flowing towards Starr Avenue and Drainage Plan No. PRD-E, sheet 2 of 3, dated May of 1973, calls for a future 10-inch diameter sanitary sewer and a 12-inch diameter storm sewer, starting northerly of the proposed development and flowing towards Whitewood Avenue; and

WHEREAS, DEP further states that it requires the applicant to submit a survey/plan showing: (1) a 32-foot wide sewer corridor in the bed of Hartford Avenue along Lot 68 for the installation, maintenance, and/or reconstruction of the future 10-inch diameter sanitary sewer and the 12-inch diameter storm sewer; and (2) if a corridor is not possible, the applicant has the option to amend the drainage plan; and

WHEREAS, in response to DEP’s request, by letter dated March 10, 2013, the applicant asserts that the requested easement would eliminate an entire house and essentially result in a taking of the property; and

WHEREAS, the applicant also contends that the owner should not have to bear the expense of having to amend the City’s drainage plan; and

WHEREAS, by letter dated January 2, 2014, DEP states that: (1) the applicant must establish a \$5,000 security deposit along with the application for the proposed amendment to ensure the completion of the necessary amendments to the Drainage Plan for the above referenced location; and (2) after Board approval, the application will be accepted for a sewer connection request for the above referenced location and the House Connection Proposal can be certified with a condition No Certificate of Inspection will be issued until the Drainage Plan is amended; and

WHEREAS, by correspondence dated March 13, 2013, the Department of Transportation (“DOT”) requires that the applicant build a cul de sac at the dead end of Hartford Avenue since it is more than 300 feet to the closet intersection; DOT notes that the cul de sac must comply with American Association of State Highway and Transportation Officials (“AASHTO”) standards; in addition, DOT requests that the drawings for the cul de sac be submitted to DOT for approval; and

WHEREAS, by letter dated March 13, 2013, DOT states that according to the Staten Island Borough President’s Topographical Bureau, Hartford Avenue between Hartford Avenue between Starr Avenue and Whitewood Avenue is a mapped street to a 50-foot width on the Final City Map; and

---

# MINUTES

---

WHEREAS, DOT notes that the City does not have title to the mapped street, but there is a Corporation Counsel Opinion of Dedication, for Hartford Avenue from a point approximately 126 feet north of Starr Avenue to Whitewood Avenue to 44 to 45 feet as in use dated August 11, 1992;

WHEREAS, by letter dated October 22, 2013, in response to DOT's request, the applicant provided two alternate site plans; the first site plan depicts the cul de sac requested by DOT in its March 13, 2013 letter; the applicant states that to provide the requested cul de sac would result in unbuildable lots; the second plan depicts a hammerhead turnaround, which the applicant states is also impractical as it would result in a significant paved area that would greatly diminish the usable rear yard of the proposed buildings, as well as impact the existing home located on Lot 153; and

WHEREAS, the Board disagrees with DOT that the cul de sac is necessary for the following reasons: (1) the existing condition along Hartford Avenue will remain unchanged as a result of the proposed construction; (2) the proposed homes will have legal access from Starr Avenue; and (3) both a cul de sac and a hammerhead turnaround would significantly affect the usability of the homes' yards; and

WHEREAS, further, the Board notes that DOT has not represented that construction within the bed of Hartford Avenue would either conflict or interfere with the its Capital Improvement Program; and

WHEREAS, the Board notes that pursuant to GCL Section 35, the Board may authorize construction within the bed of the mapped street subject to reasonable requirements ; and

WHEREAS, the Board notes that pursuant to ZR § 72-01-(g), the Board may waive bulk regulations where construction is proposed in part within the bed of a mapped street; such bulk waivers will be only as necessary to address non compliances resulting from the location of construction within and outside of the mapped street, and the zoning lot will comply to the maximum extent feasible with all applicable zoning regulations as if the street were not mapped; and

WHEREAS, consistent with GCL § 35 and ZR § 72-01-(g), the Board finds that applying the bulk regulations across the portion of the subject lot within the mapped street and the portion of the subject lot outside the mapped street as if the portions were a lot unencumbered by a mapped street is both reasonable and necessary to allow the proposed construction; and

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

*Therefore it is Resolved*, that the Board modifies the decisions of the Staten Island Borough Commissioner, dated July 15, 2013, acting on Department of Buildings Application Nos. 520112789 and 520112798 by the power vested in it by Section 35 of the General City Law, and also waives the bulk regulations associated with the presence of the mapped but unbuild street pursuant to Section 72-01(g) of the Zoning

Resolution to grant this appeal, limited to the decision noted above *on condition* that construction will substantially conform to the drawing filed with the application marked "Received January 21, 2014" – one (1) sheet; and *on further condition*:

THAT DOB will review and approve the plans as though the site (Block 298, Tentative Lots 67 and 68) were two zoning lots;

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

THAT the applicant will file for the DEP amended drainage plan prior to obtaining a permit at DOB;

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

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

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

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

THAT DOB will not issue a Certificate of Occupancy until the Department of Environmental Protection has signed off on the amended drainage plan.

Adopted by the Board of Standards and Appeals on February 11, 2014.

-----

## 191-13-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for McAllister Maritime Holdings, LLC, owner.

SUBJECT – Application June 28, 2013 – Proposed construction of a three-story office building within the bed of a mapped street, pursuant to Article 3 of General City Law 35. M3-1 zoning district.

PREMISES AFFECTED – 3161 Richmond Terrace, north side of Richmond Terrace at intersection of Richmond Terrace and Grandview Avenue, Block 1208, Lot 15, Borough of Staten Island.

### COMMUNITY BOARD #1SI

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

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated December 13, 2013, acting on Department of Buildings ("DOB") Application No. 520141613 reads in pertinent part:

---

# MINUTES

---

Proposed construction of a three story office building and 24 parking spaces located within the bed of a mapped street is contrary to General City Law Section 35; and

WHEREAS, a public hearing was held on this application on November 26, 2013, after due notice by publication in *The City Record*, and then to decision on February 11, 2014; and

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

WHEREAS, Community Board 1, Staten Island, recommends approval of this application; and

WHEREAS, this is an application to allow the construction of a three-story office building with an accessory parking lot that will be partially located in the bed of Richmond Terrace, a mapped but unbuilt street; and

WHEREAS, the subject site is located on the north side of Richmond Terrace across from the intersection of Richmond Terrace and Grandview Avenue, within an M3-1 zoning district; and

WHEREAS, the applicant states that the proposed building will abut an existing one-story building in the southwest corner of the subject site, and that it will have approximately 17,321 sq. ft. of floor area (0.05 FAR), which will increase the total floor area on the zoning lot to approximately 33,506 sq. ft. (0.09 FAR); a total of 68 accessory parking spaces will be provided, 24 of which will be within the bed of Richmond Terrace; and

WHEREAS, the applicant notes that, at the request of the New York State Department of Environmental Conservation, it modified its site plan to shift accessory parking spaces further into the bed of Richmond Terrace; and

WHEREAS, by letter dated July 30, 2013, the Department of Environmental Protection (“DEP”) states that:

(1) there is an existing 20-inch diameter water main, and an existing 3’-4” by 3’-3” combined sewer, and a 24-inch diameter interceptor sewer in the bed of Richmond Terrace, starting north of the intersection with Grandview Avenue; and  
(2) City Drainage Plan No. PRD-1C, sheet 3 of 4, dated June 1973, calls for a future ten-inch diameter sanitary sewer and a 60-inch storm sewer to be installed in Richmond Terrace north of its intersection with Grandview Avenue; and

WHEREAS, DEP further states that it requires the applicant to submit a survey/plan showing: (1) the existing 20-inch diameter water main, the existing 24-inch diameter interceptor sewer, and the 3’-4” by 3’-3” combined sewer; (2) the distance from the southerly lot line of Lot 15 to the existing sewers and water main in the bed of Richmond Terrace and the width of the widening portion; and

WHEREAS, based on such survey/plan, DEP states that it will determine what portion of Richmond Terrace will be required for the installation, maintenance and/or reconstruction of the existing water main and sewer; and

WHEREAS, in response to DEP’s request, the applicant submitted a revised survey which shows the total width (100

feet) of mapped Richmond Terrace north of its intersection with Grandview Avenue and the 41.21-ft. of the width of the traveled portion of Richmond Terrace at its narrowest point, which will be available for the maintenance and/or reconstruction of the existing sewers, water main, and future sewers; and

WHEREAS, by letter dated December 10, 2013, DEP states that it has reviewed the information and has no objections; and

WHEREAS, by letter dated November 13, 2013, DOT states that, according to the Staten Island Borough President’s Topographical Bureau, Richmond Terrace from South Avenue to Mersereau Avenue is mapped at a 100-ft. width on the City Map and has an opinion of dedication for 41.25 feet to 80 feet, as in use on June 6, 1945; and

WHEREAS, Department of Transportation (“DOT”) states that it has reviewed the subject proposal and has no objections; and

WHEREAS, in addition, DOT states that the improvement of Richmond Terrace at this location is not presently included in DOT’s Capital Improvement Program; and

WHEREAS, by letter dated July 17, 2013, the Fire Department states that it has reviewed the proposal and offers no objections; and

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

*Therefore it is Resolved*, that the Board modifies the decision of the Staten Island Borough Commissioner, dated on December 13, 2013, acting on Department of Buildings Application No. 520141613 by the power vested in it by Section 35 of the General City Law, *on condition* that construction will substantially conform to the drawing filed with the application marked “Received January 28, 2014” two (2) sheets; and *on further condition*:

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

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

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

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

Adopted by the Board of Standards and Appeals on February 11, 2014.

-----  
**287-13-A & 288-13-A**  
APPLICANT – Rothkrug Rothkrug & Spec tor LLP, for BIRB Realty Inc., owner.

---

# MINUTES

---

SUBJECT – Application October 15, 2013 – Proposed construction of a building that does not front on a legally mapped street, contrary to General City Law Section 36. R3X SRD district.

PREMISES AFFECTED – 525 & 529 Durant Avenue, north side of Durant Avenue, 104-13 ft. west of intersection of Durant Avenue and Finlay Avenue, Block 5120, Lot 64, Borough of Staten Island.

## COMMUNITY BOARD #3SI

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

### THE VOTE TO GRANT –

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

Negative:.....0

### THE RESOLUTION –

WHEREAS, the decisions of the Staten Island Borough Commissioner, dated September 13, 2013, acting on Department of Buildings (“DOB”) Application Nos. 520160441 and 520160432, read in pertinent part:

The proposed two family dwelling, which does not front on a legally mapped street, is contrary to Article 111, Section 36 of the General City Law; and

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

WHEREAS, a public hearing was held on this application on December 10, 2013, after due notice by publication in *The City Record*, and then to decision on February 11, 2014; and

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

WHEREAS, the subject site comprises two proposed zoning and tax lots (Tentative Tax Lots 64 and 66) located on the north side of Durant Avenue, approximately 104 feet west of the intersection of Durant Avenue and Fieldway Avenue, within an R3X zoning district, within the Special South Richmond Development District; and

WHEREAS, the applicant notes that a third two-family home, to be located on a proposed third lot (Tax Lot 62) is not part of this application, because it is proposed to front on Durant Avenue, which is a legally mapped street; and

WHEREAS, the applicant also notes that a separate application will be filed with the Department of City Planning seeking a text amendment to permit modification of the designated open space at the site; and

WHEREAS, the applicant represents that the proposed buildings, which will be fully-sprinklered, will front only on an access road that will be paved to a width of 34 feet and will extend from the boundary of Durant Avenue to the western boundary of Lot 66; the road will extend for approximately 100 feet, and it will be maintained by the homeowners of the affected lots; and

WHEREAS, initially, the applicant proposed a minimum paved width of 30 feet; however, based on discussions with the Fire Department, as noted below, the proposal was revised to provide a minimum paved width of 34 feet; and

WHEREAS, by letter dated December 6, 2013, the Fire Department informed the Board of its objections to the proposal; specifically, the Fire Department stated that because the development includes six dwelling units, it is contrary to Fire Code § FC503.2.1, which generally requires a minimum access road width of 38 feet, but allows for a minimum access road width of 30 feet where, among other things, not more than five dwelling units will be accessed by the road; and

WHEREAS, in response to the concerns of the Fire Department, by letter dated January 28, 2014, the applicant submitted a revised proposal, which increased the width of the extension of Durant Avenue to 34 feet, and which indicated that “No Parking” signs will be posted to establish a no parking zone for the entire extension of Durant Avenue; and

WHEREAS, by letter dated February 3, 2014, the Fire Department informed the Board that it no longer objected to the proposal, provided that: (1) the access road is constructed and maintained with a minimum paved width of 34 feet, measured curb to curb; (2) “No Parking” signs are installed on both sides of the access road for its entire length, establishing a no parking zone; (3) all buildings fronting on the access road comply with Fire Code § FC502.1; (4) the applicant submits and obtains from the Fire Department a formal variance for the proposal; and (5) the two buildings fronting on the access road are fully-sprinklered; and

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

*Therefore it is Resolved*, that the decisions of the Staten Island Borough Commissioner, dated September 13, 2013, acting on Department of Buildings Application Nos. 520160441 and 520160432, are modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received February 4, 2014” one (1) sheet; and *on further condition*:

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

THAT the site and roadway will conform to the BSA-approved plans;

THAT the roadway will be maintained with a minimum paved width of 34 feet, measured curb to curb;

THAT “No Parking” signs will be installed on both sides of the roadway, establishing a no parking zone for its entire length;

THAT a formal variance will be obtained from the Fire Department prior to the issuance of DOB permits;

THAT both buildings fronting on the roadway will comply with Fire Code § FC502.1 and be fully sprinklered;

THAT all required approvals will be obtained from the

# MINUTES

Department of City Planning prior to the issuance of DOB permits;

THAT a Homeowners' Association will be created to maintain the street;

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

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

Adopted by the Board of Standards and Appeals February 11, 2014.

-----

## 80-11-A, 84-11-A & 85-11-A & 103-11-A

APPLICANT – Law Office of Marvin B. Mitzner LLC, for Kushner Companies, owners.

SUBJECT – Application November 29, 2013 – An amendment to the previously approved waivers to the Multiple Dwelling Law (MDL) to address MDL objections raised by the Department of Buildings. R8B zoning district. PREMISES AFFECTED – 335, 333, 331, 329 East 9th Street, north side East 9th Street, 2nd and 1st Avenue, Block 451, Lot 47, 46, 45, 44 Borough of Manhattan.

### COMMUNITY BOARD #3M

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

-----

## 123-13-A

APPLICANT – Bryan Cave, for Speakeasy 86 LLC c/o Newcastle Realty Services, owner; TSI West 41 LLC dba New York Sports Club, lessee.

SUBJECT – Application April 29, 2013 – Appeal challenging the determination of the Department of Buildings' to revoke a permit on the basis that (1) a lawful commercial use was not established and (2) even assuming lawful establishment, the commercial use discontinued in 2007. 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 #2M

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to March 11, 2014, at 10 A.M., for decision, hearing closed.

-----

## 156-13-A

APPLICANT – Bryan Cave LLP, for 450 West 31 Street Owners Corp, owner; OTR Media Group, Inc., lessee.

SUBJECT – Application May 17, 2013 – Appeal of DOB determination that the subject advertising sign is not entitled to non-conforming use status. C6-4/HY zoning district.

PREMISES AFFECTED – 450 West 31<sup>st</sup> Street, West 31<sup>st</sup> Street, between Tenth Avenue and Lincoln Tunnel Expressway, Block 728, Lot 60, Borough of Manhattan.

### COMMUNITY BOARD #10M

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to April 8, 2014, at 10 A.M., for decision, hearing closed.

-----

*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

## ZONING CALENDAR

### 43-12-BZ

#### CEQR #12-BSA-080M

APPLICANT – Raymond H. Levin, Wachtel & Masyr, LLP, for SDS Great Jones, LLC, owner.

SUBJECT – Application February 17, 2012 – Variance (§72-21) to permit a residential building, contrary to use regulations (§42-00). M1-5B zoning district.

PREMISES AFFECTED – 25 Great Jones Street, lot fronting on both Great Jones and Bond Street, between Lafayette and Bowery Streets, Block 530, Lot 19, Borough of Manhattan.

### COMMUNITY BOARD #2M

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

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decisions of the Borough Commissioner of the Department of Buildings, dated February 9, 2012 and January 6, 2014, acting on Department of Buildings Application No. 101569269, read, in pertinent part:

ZR 42-00 – Proposed Residential Use (Use Group 2) contrary to ZR 42-00 and not permitted in an M1-5B district.

ZR 42-14(d)(2)(b) – Proposed Use Group 6 Commercial use below the second story level of the building is not permitted; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an M1-5B zoning district within the NoHo Historic District Extension, the construction of an 11-story mixed residential and commercial building (Use Groups 2 and

---

# MINUTES

---

6), contrary to ZR §§ 42-10 and 42-14; and

WHEREAS, a public hearing was held on this application on July 17, 2012, after due notice by publication in the *City Record*, with continued hearings on August 21, 2012 and January 14, 2014, and then to decision on February 11, 2014; and

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

WHEREAS, Community Board 2, Manhattan, recommended approval of the original iteration of the proposal and its Landmarks Committee recommends approval of the Landmarks application, which reflects the current variance proposal; and

WHEREAS, the subject site is a through lot with frontage on Great Jones Street and Bond Street, between Lafayette Street and the Bowery, within an M1-5B zoning district within the NoHo Historic District Extension; and

WHEREAS, the site has 25'-8" of frontage along Great Jones Street and along Bond Street, a depth of 200'-2", and a lot area of 5,134 sq. ft.; and

WHEREAS, the site is occupied by a vacant 13-story superstructure set back 19 feet from the Great Jones Street frontage (the "Hotel Building") and a partially demolished two-story unoccupied building fronting on Bond Street; and

WHEREAS, the applicant represents that the 13-story superstructure was constructed pursuant to lawfully-issued permits which were issued prior to the May 12, 2008 designation of the NoHo Historic District Extension, with plans to be occupied by a restaurant on the ground floor and a hotel above; and

WHEREAS, the Hotel Building was to include a 13-story portion on Great Jones Street (with a height of 173'-4" and 5.0 FAR), set back 19 feet from the Great Jones Street frontage, and a one-story base extending towards Bond Street, with a plaza between it and the Bond Street frontage, with a depth of 30 feet; and

WHEREAS, the permits for the building facades were issued after the historic designation and, thus were subject to LPC approval, which was obtained in 2009; and

WHEREAS, the applicant states that construction was halted in 2009 and it seeks to modify the existing superstructure to accommodate residential, rather than hotel use, as the hotel use is not viable; and

WHEREAS, the applicant initially sought to retain the 13-story height (of 149'-11" with a mechanical floor up to a height of 163'-4"), to increase the floor area to 5.99 FAR, and to not return to the Landmarks Preservation Commission (LPC) for approval of any changes; and

WHEREAS, the Board directed the applicant to reduce the height and the 5.99 FAR request to be consistent with the 5.0 FAR permitted in the district for a conforming use and noted that LPC approval is required; and

WHEREAS, accordingly, the applicant proposed a building built to the Great Jones Street streetline, which would fill in the open space between the Hotel Building and the

street line, with 5.0 FAR, a six-story streetwall with a setback of 19'-3", then at a height of 117 feet a setback of 23'-7" before reaching a height of 128 feet on Great Jones Street; additionally, the applicant also proposed a four-story townhouse on Bond Street; and

WHEREAS, the applicant represents that it returned to LPC with the noted proposal and LPC required certain design changes, which resulted in the current proposal that includes (1) replacing the Bond Street townhouse with a residential entry and screen wall, (2) increasing the height of the Great Jones Street streetwall from 73 feet to 83'-11", (3) increasing the roof height by approximately 2'-0" to 130'-0" and the bulkhead by approximately 3'-6", (4) eliminating the 11<sup>th</sup> floor setback on Great Jones Street, (5) shifting the townhouse bulk onto the tower, and (6) increasing the depth of the Bond Street building by approximately 10'-0"; and

WHEREAS, the applicant represents that LPC's design changes reflect its interest in matching the heights of adjacent buildings without setback and its belief that there is not a context for a Bond Street townhouse; and

WHEREAS, the current proposal is for a building with a floor area of 25,533 sq. ft. (4.97 FAR), which includes an 11-story building with six residential units on the first through 11<sup>th</sup> floors and commercial use on the cellar and ground floor levels fronting on Great Jones Street; and

WHEREAS, the applicant represents that the proposed 11-story mixed residential (Use Group 2) and commercial (Use Group 6) building, will have a total floor area of 25,533 sq. ft. (4.97 FAR), a residential floor area of 24,782 sq. ft. (4.82 FAR), a commercial floor area of 751 sq. ft. (0.15 FAR), a street wall height of 83'-11" at the seventh story, a building height of 130 feet (excluding the bulkhead), and an open space at the second story; the applicant notes that the cellar will include commercial space, mechanical rooms, and accessory storage for the residences; the Great Jones Street first story will be occupied by commercial space and the Bond Street first story will be occupied by the residential entrance; and the second through 11th stories will be occupied by a total of six dwelling units; and

WHEREAS, the building entrance will be through Bond Street, which includes a screen and rooftop open space above the one-story entrance; and

WHEREAS, because Use Group 2 is not permitted and Use Group 6 is not permitted below the floor level of the second story within the subject M1-5B zoning district, the applicant seeks use variances; and

WHEREAS, the applicant states that, per ZR § 72-21(a), the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the history of development on the site; and (2) the narrow through lot condition; and

WHEREAS, the applicant represents that in 1820, a three-story rowhouse was built at 22 Bond Street with a stable in the back fronting on Great Jones Street, which was the model for other homes on the block; and

WHEREAS, the applicant represents that at the end of the 19<sup>th</sup> Century, the Great Jones Street stable was replaced

---

# MINUTES

---

with a five-story building occupied by manufacturing use; the three upper stories were removed in 1939 when an auto repair business took over the site and the Bond Street building was used, unchanged, by various businesses; and

WHEREAS, finally, the applicant represents that in the 1990s, the Bond Street building was partially demolished and renovated and the two-story Great Jones Street building was demolished; and

WHEREAS, the applicant states that since the time the larger former Great Jones Street building was partially demolished in the late 1930s and the Bond Street building was retained, there were limited development options for the site; and

WHEREAS, the applicant asserts that the limited usefulness of the site during the past 200 years supports the conclusion that there is hardship inherent in the site; and

WHEREAS, the applicant states that the site's configuration, with a width of 25'-8" and a depth of approximately 200 feet is a historic condition, which is unique in the area where other such lots, first created in the early 19<sup>th</sup> Century, have been subdivided, which allowed for separate development on Great Jones Street and Bond Street; and

WHEREAS, the applicant represents that the narrow through lot configuration has existed for more than 200 years; and

WHEREAS, the applicant states that the disproportionate narrowness in relation to depth leads to significant building inefficiencies due to the fact that the options for development are either to construct two essentially separate buildings with frontage on each of the streets or to construct one building at one of the frontages or set back from the street, which would have considerable depth but access to windows only on the narrow north and south facades; and

WHEREAS, the applicant has identified \$3 million in construction premiums associated with constructing on a site of this configuration when compared to a more conventional 50'-0" by 100'-0" lot, due primarily to the significant extent of surface area of the façade and requirement for redundancies such as stairs and elevators and other infrastructure; and

WHEREAS, the applicant asserts that the unique configuration, namely its depth in relation to its street frontage, also leads to constraints related to access for a conforming use; and

WHEREAS, the applicant asserts that the irregular configuration of the site has led to the retention of the small building on Bond Street, which limited the ability to maximize opportunity to build a larger commercial building in the late 1800s on Great Jones Street; and

WHEREAS, as to uniqueness, the applicant analyzed the surrounding area and found that the site is the only such narrow through lot in the M1-5B zoning district north of Houston Street and, and only the second in the surrounding forty blocks, bounded by Houston Street, First Avenue, St. Marks Place, and LaGuardia Place with such configuration; and

WHEREAS, the Board agrees that the noted unique physical conditions, when considered in the aggregate, create

unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

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

WHEREAS, in particular, the applicant initially examined the economic feasibility of: (1) an as-of-right hotel and restaurant scenario; (2) an as-of-right hotel and restaurant on a lot that is 50'-0" by 100'-0" and (3) the residential building with an 11-story tower and four-story townhouse; and

WHEREAS, the applicant concluded that only the residential proposal and as-of-right building on the 50'-0" by 100'-0" lot would realize a reasonable rate of return; thus, the applicant represents that the residential proposal is the only economically viable scenario on the 25'-8" by 200'-2" lot; and

WHEREAS, after the applicant had completed its process at LPC including the redesign of its building to obtain a Certificate of Appropriateness, the Board directed the applicant to re-examine the financial analysis in light of the changes associated with the LPC-approved design which eliminated the townhouse and added bulk to the tower; and

WHEREAS, the applicant submitted a supplemental financial analysis which reflects that the rate of return for the current proposal is consistent with that of the prior proposal; thus, the financial feasibility is not implicated by the design change; and

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

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

WHEREAS, as to use, the applicant states that the immediate area is characterized by a mix of medium-density residential and commercial uses, with some remaining manufacturing/industrial uses and that the introduction of six residential units and 751 sq. ft. of first floor commercial space (and 3,494 sq. ft. in the cellar) will not disrupt the neighborhood character; and

WHEREAS, the applicant states that many of the buildings on both streets are occupied, at least in part by commercial uses and at least 28 out of the 38 buildings fronting on Great Jones Street or Bond Street have some residential occupants either as Joint Living Work Quarters for Artists or pursuant to use variances; and

WHEREAS, the applicant notes that the subject M1-5B zoning district is a two-block wide strip centered along Lafayette Street from Astor Place to Bleecker and Houston streets; and South of Houston Street the district widens to

---

# MINUTES

---

the west where it abuts an M1-5A district at Mercer Street and a block east of the site is a C6-1 district at the Bowery, a block to the south and west are C6-2 zoning district; and

WHEREAS, the applicant asserts that all of the C6 districts permit residential, commercial, and community facility uses as-of-right; and

WHEREAS, the applicant asserts that the proposed use is more compatible with the surrounding area than the as-of-right hotel use; and

WHEREAS, as to bulk, the applicant notes that the proposed 4.97 FAR complies with the bulk regulations for a conforming use in the M1-5B zoning district; and

WHEREAS, the applicant states that the Bond Street frontage is between a six-story building to the east and a seven-story building to the west and the Great Jones Street frontage is between a six-story building to the east and a vacant lot, with an approved variance for a seven-story mixed use building to the west (BSA Cal. No. 64-06-BZ); and

WHEREAS, the applicant states that the north side of Great Jones Street is occupied by a parking lot and a fire station and the south side of Great Jones Street is characterized by three- to seven-story, mostly masonry buildings; Bond Street includes a similar mix of buildings; and

WHEREAS, the applicant states that the proposed building will reestablish a consistent street wall on Great Jones Street with the addition of a six-story extension to fill the 19-ft. setback of the existing superstructure; and

WHEREAS, the applicant represents that, per LPC's request, the streetwall addition will match the adjacent building heights; and

WHEREAS, the applicant also represents that it will install a mural on its highly-visible western wall; and

WHEREAS, the applicant asserts that the proposed matching streetwall of 83'-11" and reduction in the overall height of the building from 149'-11" (13 stories) to 130'-0" (11 stories) is significantly more compatible with the surrounding area than the Hotel Building, which sets back from the street and is not harmonious with the surrounding built context; and

WHEREAS, the applicant also submitted a height map which reflects that the majority of buildings on the subject block have heights of between five and eight stories with one other 11 or more story building with frontage on Bond Street; and

WHEREAS, additionally, the applicant notes that the proposed building height is approximately 30 feet less, including mechanicals, than that of the existing as of right Hotel Building; and

WHEREAS, the Board notes that its initial recommendation was for a building that included a second setback at 117 feet and a total height of 128 feet, which it found to be more consistent with residential contextual building envelopes as well as the building envelopes approved for other recent variances on Bond Street and Lafayette Street; and

WHEREAS, the Board initially questioned whether a height of 130 feet with such great visibility—and particularly without the second setback—would be appropriate in the surrounding context; and

WHEREAS, however, the Board recognizes that LPC supports the proposed 130-ft. height in the context of a significant improvement on the existing Hotel Building and, thus, concludes that only under those circumstances does it accept the 130-ft. height; and

WHEREAS, LPC approved of the proposed building by Certificate of Appropriateness dated December 9, 2013; and

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

WHEREAS, the Board notes that some ground floor Use Group 6 is contemplated in the M1-5B district, as evidenced by the existence of ZR § 74-781, a City Planning Commission special permit, which allows modification of the use regulations set forth in ZR § 42-14; and

WHEREAS, the applicant proposes that the entrance to the commercial space is on the Great Jones Street frontage, which has a context for such first floor use; and

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

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

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

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

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617 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. 12-BSA-080M, dated February 10, 2014; and

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

# MINUTES

WHEREAS, the New York City Department of Environmental Protection's ("DEP") Bureau of Environmental Planning and Analysis reviewed the project for potential hazardous materials impacts; and

WHEREAS, DEP reviewed and accepted the March 2013 Site Investigation Work Plan, proposed Phase II air testing protocol, and the April 2013 site-specific Health and Safety Plan; and

WHEREAS, DEP stated that the Phase II air testing can be conducted after construction of the proposed project; 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 Type I Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, within an M1-5B zoning district within the NoHo Historic District Extension, the construction of an 11-story mixed residential and commercial building (Use Groups 2 and 6) with ground floor retail, contrary to ZR §§ 42-10 and 42-14, *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 6, 2014"- (13) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: a total floor area of 25,533 sq. ft. (4.97 FAR), a residential floor area of 24,782 sq. ft. (4.82 FAR), a commercial floor area of 751 sq. ft. (0.15 FAR) on the first floor, a maximum of 11 stories on Great Jones Street, a street wall height of 83'-11" before a setback of 15'-0", a total height of 130'-0" (excluding the bulkhead) and a one-story with additional rooftop screenwall on Bond Street, as reflected on the BSA-approved plans;

THAT DOB will not issue a Certificate of Occupancy until the applicant has provided it with DEP's approval of the Phase II air testing report and other remedial actions or measures required based on the testing results;

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

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

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

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

Adopted by the Board of Standards and Appeals, February 11, 2014.

## 212-13-BZ

APPLICANT – Eric Palatnik, P.C., for Andrey Novikov, owner.

SUBJECT – Application July 12, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, open space and lot coverage (ZR 23-141) and less than the required rear yard (ZR 23-47). R3-1 zoning district.

PREMISES AFFECTED – 151 Coleridge Street, Coleridge Street between Oriental Boulevard and Hampton Avenue, Block 4819, Lot 39, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Executive Zoning Specialist of the New York City Department of Buildings ("DOB"), dated June 17, 2013, acting on DOB Application No. 320513495, reads in pertinent part:

1. Proposed floor area is contrary to ZR 23-141(b)
2. Proposed open space is contrary to ZR 23-141(b)
3. Proposed lot coverage is contrary to ZR 23-141(b)
4. Proposed rear yard is contrary to ZR 23-47; and

WHEREAS, this is an application under ZR § 73-622, to permit, within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), open space, lot coverage, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on December 10, 2013, after due notice by publication in *The City Record*, with a continued hearing on January 28, 2014, and then to decision on February 11, 2014; and

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

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of Coleridge Street, between Oriental Boulevard and Hampton Avenue, within an R3-1 zoning district; and

WHEREAS, the site has a total lot area of 6,000 sq. ft. and is occupied by a single-family home with a floor area of 3,890.9 sq. ft. (0.65 FAR); and

# MINUTES

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks an increase in the floor area from of 3,890.9 sq. ft. (0.65 FAR) to 5,905 sq. ft. (0.98 FAR); the maximum permitted floor area is 3,000 sq. ft. (0.5 FAR), however, a 20 percent increase in FAR pursuant to ZR § 23-141(b)(1) is available, resulting in a maximum permitted floor area of 3,600 sq. ft. (0.6 FAR); and

WHEREAS, the applicant seeks to reduce the open space from 78.8 percent to 59.3 percent; the minimum required open space is 65 percent; and

WHEREAS, the applicant seeks to increase the lot coverage from 21.2 percent to 40.7 percent; the maximum permitted lot coverage is 35 percent; and

WHEREAS, the applicant also seeks to increase its rear yard depth from 11'-2" to 23'-0"; thus, although the proposal reflects a decrease in the degree of non-compliance, because a minimum rear yard depth of 30'-0" is required, a waiver is necessary; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, in particular, the applicant represents that the proposed 0.98 FAR is consistent with the bulk in the surrounding area and submitted an analysis showing that there are 12 homes within a 400-foot radius of the site with an FAR of 0.8 or greater; and

WHEREAS, accordingly, the Board agrees with the applicant that the proposed bulk is compatible with the character of the neighborhood; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

*Therefore it is resolved,* that the Board of Standards and Appeals 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 § 73-622, to permit, within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space, lot coverage, and rear yard, contrary to ZR §§ 23-141 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 October 25, 2013 – six (6) sheets and "January 14, 2014"- (5) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 5,905 sq. ft. (0.98 FAR),

a minimum open space of 59.3 percent, a maximum lot coverage of 40.7, a minimum rear yard depth of 23'-0", and side yards with minimum widths of 8'-5" and 11'-7", as illustrated on the BSA-approved plans;

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

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

THAT substantial construction be completed in accordance with ZR § 73-70; 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, February 11, 2014.

-----

## 245-13-BZ

APPLICANT – Eric Palatnik, P.C., for Dmitriy Gorelik, owner.

SUBJECT – Application August 21, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (§23-141) and less than the required rear yard (§23-47). R4 zoning district.

PREMISES AFFECTED – 2660 East 27th Street, between Voorhies Avenue and Avenue Z, Block 7471, Lot 30, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

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

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner of the New York City Department of Buildings ("DOB"), dated July 22, 2013, acting on DOB Application No. 320784790, reads in pertinent part:

1. Proposed floor area is contrary to ZR 23-141(a)
2. Proposed open space is contrary to ZR 23-141(a)
3. Proposed lot coverage is contrary to ZR 23-141
4. Proposed rear yard is contrary to ZR 23-47; and

WHEREAS, this is an application under ZR § 73-622, to permit, within an R4 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio

---

# MINUTES

---

("FAR"), open space, lot coverage, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on January 14, 2014, after due notice by publication in *The City Record*, and then to decision on February 11, 2014; and

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

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the west side of East 27th Street, between Avenue Z and Voorhies Avenue, within an R4 zoning district; and

WHEREAS, the site has a total lot area of 4,000 sq. ft. and is occupied by a single-family home with a floor area of 2,791 sq. ft. (0.7 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks an increase in the floor area from of 2,791 sq. ft. (0.7 FAR) to 3,401.5 sq. ft. (0.85 FAR); the maximum permitted floor area is 3,000 sq. ft. (0.75 FAR); and

WHEREAS, the applicant seeks to reduce the open space from 63 percent to 54.5 percent; the minimum required open space is 55 percent; and

WHEREAS, the applicant seeks to increase the lot coverage from 37 percent to 45.5 percent; the maximum permitted lot coverage is 45 percent; and

WHEREAS, the applicant also seeks to decrease its rear yard depth from 29'-2" to 20'-0"; a minimum rear yard depth of 30'-0" is required; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, in particular, the applicant represents that the proposed 0.85 FAR is consistent with the bulk in the surrounding area and submitted an analysis indicating that there are 38 homes within a 400-foot radius of the site with an FAR of 1.0 or greater; and

WHEREAS, at hearing, the Board directed the applicant to demonstrate the proposal's compliance with the landscaping requirements of the Zoning Resolution; and

WHEREAS, in response, the applicant submitted amended plans showing the required landscaping; and

WHEREAS, accordingly, the Board agrees with the applicant that the proposed bulk is compatible with the character of the neighborhood; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

*Therefore it is resolved*, that the Board of Standards and Appeals 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 § 73-622, to permit, within an R4 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space, lot coverage, and rear yard, contrary to ZR §§ 23-141 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 January 28, 2014"- eight (8) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 3,401.5 sq. ft. (0.85 FAR), a minimum open space of 54.5 percent, a maximum lot coverage of 45.5, a minimum rear yard depth of 20'-0", and side yards with minimum widths of 5'-0" and 9'-0", as illustrated on the BSA-approved plans;

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

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

THAT substantial construction be completed in accordance with ZR § 73-70; 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, February 11, 2014.

-----  
**62-12-BZ**

APPLICANT – Akerman Senterfitt LLP, for VBI Land Inc., owner.

SUBJECT – Application March 19, 2012 – Variance (§72-21) to permit the construction of commercial building, contrary to use regulations (§22-00). R7-1 zoning district. PREMISES AFFECTED – 614/618 Morris Avenue, northeastern corner of Morris Avenue and E 151th Street, Block 2411, Lot 1, Borough of Bronx.

**COMMUNITY BOARD #1BX**

**ACTION OF THE BOARD** – Laid over to March 25, 2014, at 10 A.M., for adjourned hearing.  
-----

**299-12-BZ**

APPLICANT – Goldman Harris LLC, for 544 Hudson Street, owner.

SUBJECT – Application October 18, 2012 – Variance (§72-21) to permit the construction of a 12-story commercial

---

# MINUTES

---

building, contrary to floor area (§43-12), height and setback (§43-43), and rear yard (§43-311/312) regulations. M1-5 zoning district.

PREMISES AFFECTED – 40-56 Tenth Avenue, east side of Tenth Avenue between West 13th and West 14th Streets, Block 646, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #2M**

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

-----

**88-13-BZ**

APPLICANT – Lawrence M. Gerson, Esq., for Allied Austin LLC, owner; American United Company, LLC, lessee.

SUBJECT – Application March 14, 2013 – Special Permit (§73-36) to allow the legalization of a physical culture establishment (*Title Boxing Club*) within an existing building. C2-3/R5D zoning district.

PREMISES AFFECTED – 69-40 Austin Street, south side of Austin Street, 299’ east of intersection with 69th Avenue, Block 3234, Lot 150, Borough of Queens.

**COMMUNITY BOARD #6Q**

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to March 4, 2014, at 10 A.M., for decision, hearing closed.

-----

**254-13-BZ**

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

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

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

**COMMUNITY BOARD #18BK**

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

-----

**269-13-BZ**

APPLICANT – Law Office of Marvin B. Mitzner, LLC, for Robert Malta, owner.

SUBJECT – Application September 13, 2013 – Special Permit (§73-42) to permit the expansion of UG6 restaurant (*Arte Café*) across zoning district boundary lines. R8B zoning district.

PREMISES AFFECTED – 110 West 73rd Street, south side

of 73rd Street between Columbus Avenue and Amsterdam Avenue, Block 1144, Lot 37, Borough of Manhattan.

**COMMUNITY BOARD #7M**

**ACTION OF THE BOARD** – Laid over to March 11, 2014, at 10 A.M., for continued hearing.

-----

---

# MINUTES

---

**289-13-BZ**

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

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

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

**COMMUNITY BOARD #6BK**

**ACTION OF THE BOARD** – Laid over to April 8, 2014, at 10 A.M., for continued hearing.

-----

*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*