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DOCKETS

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230-14-A

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231-14-BZ

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232-14-BZ

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233-14-BZ

4545 Center Boulevard, Easterly side of Center Boulevard between North Basin Road and 46th Avenue, Block 00021, Lot(s) 0020, Borough of **Queens, Community Board: 2**. Special Permit (§73-36) to allow for a physical culture establishment within a portion of an existing commercial building. M3-1 Zoning District M3-1 district.

234-14-A

738 East 6th Street, South side of East 6th Street between Avenue C and Avenue D, Block 00375, Lot(s) 0028, Borough of **Manhattan, Community Board: 3**. Appeal of the NYC Department of Buildings' determination to not revoke a Certificate of Occupancy issued in 1989 and reinstate the Certificate of Occupancy issued in 1985. R8B district.

235-14-A

4020 Atlantic Avenue, 200 feet to Beach 40th Street from East property line, Block 7042, Lot(s) 0011, Borough of **Brooklyn, Community Board: 13**. Proposed reconstruction of a single family home to replace the dwelling destroyed by Hurricane Sandy, not fronting a legally mapped street contrary to General City Law 36. R3-1 zoning district. R3-1 district.

236-14-BZ

106 East 57th Street, South side of East 57th Street, 90 feet from Park Avenue, Block 01311, Lot(s) 0065, Borough of **Manhattan, Community Board: 5**. Special Permit (§73-241) to legalize the operation of an eating and drinking establishment (UG 6C) with entertainment, but not dancing, with a capacity of 200 persons or fewer. C5-3 (MID) zoning district. C5-3 (MID) district.

237-14-BZ

162-01 Jamaica Avenue, corner of Jamaica Avenue and 162nd Street, Block 09761, Lot(s) 0001, Borough of **Queens, Community Board: 12**. Special Permit (§73-36) to allow for the operation of a physical culture establishment. C6-3 Zoning District C6-3 district.

238-14-BZ

98-100 Franklin Street, Bounded by Avenue of the Americas, Franklin and White Streets, West Broadway, Block 00178, Lot(s) 0029, Borough of **Manhattan, Community Board: 1**. Variance (§72-21) to permit the construction of two mixed residential and commercial buildings on a single zoning lot contrary to §§35-21 & 23-145 (Lot Coverage), 35-24c (Height and setback), 35-52 and 33-23 (minimum width of open area along a side lot li C6-2A district.

239-14-BZ

8008 Harber View Terrace, Harbor View Terrace between 80th Street and 82nd Street, Block 05975, Lot(s) 0076, Borough of **Brooklyn, Community Board: 10**. Special Permit (§73-622) to enlarge an existing two story dwelling. R5 zoning district. R2 (SBRD) district.

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241-14-BZ

517 East 117th Street, located within a large scale development located along FDR Drive between East 116th Street and 119th Streets, Block 1715,, Lot(s) 22, 8, Borough of **Manhattan, Community Board: 11**. Special Permit (§73-36) to allow the operation of physical culture establishment (Fitness Center) on a portion of the third floor of the existing large scale development, located within an C4-4 zoning district. C4-4 district.

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

CALENDAR

OCTOBER 28, 2014, 10:00 A.M.

APPEALS CALENDAR

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, October 28, 2014, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

545-56-BZ

APPLICANT – Eric Palatnik, P.C., for Williamsbridge Road Realty corporation, owner.

SUBJECT – Application June 12, 2014 – Extension of Term (§11-411) to seek the term of a previously granted variance for a gasoline service station and maintenance which expired October 19, 2012; Waiver of the Rules. C2-4/R5D zoning district.

PREMISES AFFECTED – 2001-2007 Williamsbridge Road aka 1131 Neil Avenue, southeast corner of Williamsbridge Road and Neil Avenue, Block 4306, Lot 20, Borough of Bronx.

COMMUNITY BOARD #11BX

164-94-BZ

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

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

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

COMMUNITY BOARD #9BX

195-02-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for McDonald's Real Estate Company, owner; Lauren Enterprises, lessee.

SUBJECT – Application December 2, 2013 – Extension of Term of a previously approved Variance (§72-21) permitting an eating and drinking establishment with an accessory drive through facility with a legalization of a small addition to the establishment, which expired on February 11, 2013; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 2797 Linden Boulevard, between Drew and Ruby Streets, Block 4471, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #5BK

61-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP., for Guido Passarelli, Trustee, owner.

SUBJECT – Application April 18, 2014 – Proposed construction of a two-story two family dwelling located within the bed of unmapped street, contrary to Article 3 Section 36 of the General City law. R3X (SRD) zoning district.

PREMISES AFFECTED – 11 Massachusetts Street South, southeast corner of intersection of Hylan Boulevard and Massachusetts Street, Block 7936, Lot 3(tentative), Borough of Staten Island.

COMMUNITY BOARD #3SI

109-14-A

APPLICANT – Eric Palatnik, P.C., for Carlo Saccheri, owner.

SUBJECT – Application May 23, 2014 – Appeal to permit the construction of a proposed two story commercial building which does not front on a legally, mapped street contrary to GCL Section 36. M1-1 SRD Zoning District.

PREMISES AFFECTED – 44 Marjorie Street, south of Sharrotts Road and East of Arthur Kill Road, Block 7328, Lot 645, Borough of Queens.

COMMUNITY BOARD #3Q

ZONING CALENDAR

186-13-BZ

APPLICANT – Harold Weinberg, P.E., for Apostollis Goutsios, owner.

SUBJECT – Application June 21, 2013 – Special Permit (§73-622) for an enlargement to an existing single family home, contrary to side yard regulations (ZR 23-461) of the zoning resolution. R5 (BR) zoning district.

PREMISES AFFECTED – 117 Gelston Avenue, east side 125'-13/8" south of 90th Street and 92nd Street, Block 6089, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #10BK

26-14-BZ

APPLICANT – Francis R. Angelino, Esq., for The Hewitt School, owner.

SUBJECT – Application February 6, 2014 – Variance (§72-21) to permit the enlargement of an existing community facility (*Hewitt School*), contrary to maximum building height (24-591); street wall height (§24-592); and rear yard requirements (§24-36). R8B zoning district.

PREMISES AFFECTED – 45 East 75th Street aka 42-76 East 76th Street, north side, East 75th Street through block to south side E 76th between Park & Madison Avenues, Block

CALENDAR

1390, Lot(s) 28, 46, Borough of Manhattan.

COMMUNITY BOARD #8M

31-14-BZ

APPLICANT – Moshe M. Friedman, PE, for Bnos Square of Williamsburg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-19) to allow a conversion of an existing Synagogue (*Bnos Square of Williamsburg*) building (Use Group 4 to (Use Group 3). M1-2 zoning district.

PREMISES AFFECTED – 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 3, Borough of Brooklyn.

COMMUNITY BOARD #3BK

56-14-BZ

APPLICANT – Walter Gorman, P.E.P.C., for Leemilts Petroleum Ink., owner; Capitol Petroleum Group, lessee.

SUBJECT – Application April 10, 2014 – Re-Instatement (§11-411) of a variance which permitted an auto service station (UG16B), with accessory uses; Waiver of the Rules. C1-3/R3-A zoning district.

PREMISES AFFECTED – 161-51/6 Bailey Boulevard, northwest corner of Guy Brewer Boulevard, Block 12256, Lot 36, Borough of Queens.

COMMUNITY BOARD #12Q

100-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Medina Eco Friendly Ink., owner; Blink Macombs Road, Ink., lessee.

SUBJECT – Application May 8, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (PCE) to be operated as Blink Fitness within a portions of a new two-story commercial building (currently under construction). C8-3 zoning district.

PREMISES AFFECTED – 1490 Macombs Road, east side of Macombs Road intersection Macombs Road, W 172nd Street and Inwood Avenue, Block 2865, Lot 1, Borough of Bronx.

COMMUNITY BOARD #1BX

114-14-BZ

APPLICANT – Eric Palatnik, P.C., for Boris Vaysurb, owner.

SUBJECT – Application May 30, 2014 – Special Permit (§73-622) for enlargement of an existing two story single family dwelling contrary to floor area ratio, open space and lot coverage (ZR 23-141); side yard (ZR 23-461) and less than the rear yard requirements (ZR 23-47). R4 zoning district.

PREMISES AFFECTED – 2442 East 14th Street, between

Avenue X and Avenue Y, Block 7415, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #15BK

150-14-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Gotham Broad LIC, owner; BFX 30 Broad Street LLC dba BFX Studio, lessee.

SUBJECT – Application June 25, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*BFX Studio*) in portions of the second floor and second floor mezzanine with an entrance at the ground level. C5-5 zoning district.

PREMISES AFFECTED – 30 Broad Street, between Exchange Place and Beaver Street, Block 24, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #1M

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**REGULAR MEETING
TUESDAY MORNING, OCTOBER 7, 2014
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

822-59-BZ

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

SUBJECT – Application January 9, 2014 – Amendment (§11-412) to convert existing automotive service bays into an accessory convenience store and enlarge the accessory building at an existing gasoline service station. C2-1/R3-2 zoning district.

PREMISES AFFECTED – 1774 Victory Boulevard, southwest corner of Victory Boulevard and Manor Road, Block 709, Lot 28, Borough of Staten Island.

COMMUNITY BOARD #1SI

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

964-87-BZ

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

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

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

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

COMMUNITY BOARD #12B

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

203-92-BZ

APPLICANT – Jeffrey Chester, Esq., for Mowry Realty Associates LLC., The Fitness Place Forest Hills NY Ink., lessee.

SUBJECT – Application March 28, 2014 – Extension of Term of a previously approved Special Permit (§73-36) for the continued operation of a Physical Culture Establishment (*Lucille Roberts Gym*), which expired on March 1, 2014. C2-3(in R5D) zoning district.

PREMISES AFFECTED – 70-20 Austin Street, south side of Austin Street between 70th Avenue and 70th Road, Block 3234, Lot 173, Borough of Queens.

COMMUNITY BOARD #6Q

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

302-01-BZ

APPLICANT – Deirdre A. Carson, Esq. for Creston Avenue Realty LLC, owner.

SUBJECT – Application May 28, 2014 – Extension of Time to obtain a Certificate of Occupancy of a previously granted variance (§72-21) for the continued operation of a parking facility accessory to commercial use which expired on December 11, 2013. R8 zoning district.

PREMISES AFFECTED – 2519-2525 Creston Avenue, West side of Creston Avenue between East 190th and East 191st Streets. Block 3175, Lot 26, Borough of Bronx.

COMMUNITY BOARD #7BX

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

152-07-BZ

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

SUBJECT – Application December 31, 2013 – Extension of Term of a previously granted Special Permit (§73-36) for the continued use of a physical culture establishment (*Dolphin*) on the second floor of a two-story commercial building which expired on January 1, 2013; Extension of Time to obtain a Certificate of Occupancy which expired on February 5, 2009; Waiver of the Rules. C4-2A zoning district.

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

COMMUNITY BOARD #10BK

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

159-07-BZ

APPLICANT – Eric Palatnik, P.C., for Stillwell Sports Center INK., owner.

SUBJECT – Application April 21, 2014 – Extension of Term of a previously approved Special Permit (§73-36) which allowed a physical cultural establishment (*Stillwell Sports Center*); Amendment to permit minor alterations; Extension of Time to obtain a Certificate of Occupancy which expired on January 1, 2012; Waiver of the Rules. C8-2 zoning district.

PREMISES AFFECTED – 2402 86th Street, south Coroner of 86th Street and 24th Avenue, Block 6864, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #11BK

THE VOTE TO CLOSE HEARING –

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

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

APPEALS CALENDAR

19-12-A

APPLICANT – Law Offices of Marvin B Mitzner, LLC., for 38-30 28th Street, LLC., owner.

SUBJECT – Application May 9, 2014 – Application for an extension of time to complete construction of the building and obtain a Certificate of Occupancy on a previously approved grant granted common law vested right of complete construction and permitting in an M1-3 zoning district. M1-2/R5B (LIC) zoning district.

PREMISES AFFECTED – 38-30 28th Street, west side of 28th Street between 38th and 39th Avenues, Block 386, Lot 27, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for an extension of time to complete construction and obtain a certificate of occupancy for an eight-story hotel building at the subject site; and

WHEREAS, a public hearing was held on this application on September 16, 2014, after due notice by publication in *The City Record*, and then to decision on October 7, 2014; and

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

WHEREAS, the subject site is located on the west side of 28th Street, between 38th Avenue and 39th Avenue; and

WHEREAS, the site has 25 feet of frontage along 28th Avenue and 2,450 sq. ft. of lot area; and

WHEREAS, the applicant proposes to develop the site with an eight-story, 16-room hotel building with 12,250 sq. ft. of floor area (the “Building”); and

WHEREAS, the site was formerly located within an M1-3D zoning district; and

WHEREAS, the applicant states, on July 16, 2007, the Department of Buildings (“DOB”) issued Alteration Permit No. 402232534-01-AL (the “Alteration Permit”) authorizing construction of the Building in accordance with the M1-3D zoning district regulations; and

WHEREAS, on October 7, 2008, (the “Enactment Date”), the City Council voted to adopt the Dutch Kills Rezoning, which rezoned the site from M1-3D to M1-2/R5B, within the Special Long Island City District; and

WHEREAS, the applicant states that as of October 7,

2008, the Alteration Permit had been obtained and 100 percent of the foundation had been completed; as such, per ZR § 11-331, the right to continue construction vested and the applicant had until October 7, 2010 to complete construction and obtain a certificate of occupancy; however, as of that date, construction had not been completed and a certificate of occupancy had not been obtained and within 30 days after that date, an application to the Board to extend the time to complete construction pursuant to ZR § 11-332 had not been filed; and

WHEREAS, accordingly, under the subject calendar number, the applicant sought a common law vested right to continue construction under the M1-3D regulations; and

WHEREAS, the applicant notes that in connection with the prior application, by letter dated February 29, 2012, DOB indicated that the Alteration Permit was lawfully issued, authorizing construction of the Building prior to the Rezoning Date; and

WHEREAS, on June 5, 2012, the Board adopted a resolution recognizing that a vested right to continue construction under the Alteration Permit had accrued under the common law doctrine of vested rights, and the Board reinstated the Alteration Permit for a term of two years, to expire on June 5, 2014; and

WHEREAS, the applicant represents that, as of June 5, 2014, construction has not been completed and a certificate of occupancy has not been issued for the Building; and

WHEREAS, thus, the applicant now seeks an additional two-year term in which to complete construction and obtain a certificate of occupancy; and

WHEREAS, the applicant notes that, subsequent to the 2012 grant and prior to the June 5, 2014 expiration of the permits, the following work was performed: installation and inspection of the elevator, installation of the marquee, completion of stucco on the north and south elevations, completion of masonry on front and rear elevations, installation and testing of the sprinkler system, installation of roof drains and storm lines, completion of waste lines, vents and plumbing roughing for bathrooms, completion of window sills, windows and doors throughout the building, completed rough carpentry on metal studs on all stories, installation of first story granite, installation of trash chutes on all stories and installation of sheetrock from second story to bulkhead; and

WHEREAS, the applicant states that it has expended a total of \$3,719,567 to date, which represents 78 percent of the total costs to complete the Building; and

WHEREAS, at hearing, the Board directed the applicant to: (1) provide an updated commitment letter for the construction loan; and (2) provide a status update on Department of Environmental Protection (“DEP”) approval for the backflow preventer ; and

WHEREAS, in response, the applicant states that it will not be able to obtain a commitment letter until after the requested extension of time is granted; and

WHEREAS, as to DEP approval for the backflow preventer, the applicant states that approval is imminent; and

WHEREAS, the Board has reviewed the evidence in the

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record and determined that the requested extension of time is warranted; and

WHEREAS, accordingly, the Board hereby grants the owner of the site a two-year extension of time to complete construction and obtain a certificate of occupancy.

Therefore it is Resolved, that this application to renew Alteration Permit No. 402232534-01-AL, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete construction and obtain a certificate of occupancy for two years from the date of this resolution, to expire on October 7, 2016, subject to the following condition:

THAT DEP approval for the backflow preventer is obtained prior to DOB's issuance of the Alteration Permit;

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

Adopted by the Board of Standards and Appeals, October 7, 2014.

106-14-A

APPLICANT – Greenberg Traurig, LLP., for 84 William Street Property Owner LLC.

SUBJECT – Application May 22, 2014 – Appeals filed pursuant to MDL Section 310(2) (c) for variance of court requirements under MDL Sections 26 (7) & 30 for the construction of residential apartments to an existing building. C5-5 (LM) zoning district.

PREMISES AFFECTED – 84 William Street, northeast corner of the intersection of William Street and Maiden Lane, Block 68, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #10M

THE VOTE TO CLOSE HEARING –

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

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

142-14-A

APPLICANT – Goldman Harris LLC., for 92 Henry Fulton LLC., owner.

SUBJECT – Application June 17, 2014 – Proposed construction of a mixed-use development to be located partially within the bed of a mapped but unbuilt portion of Fulton Street, contrary to General City law Section 35 and the bulk regulations pursuant to §72-01-(g). C6-4 zoning district.

PREMISES AFFECTED –92 Fulton Street, south side of Fulton Street, between William Street to the West and Gold Street to the east, Block 77, Lot 22, Borough of Manhattan.

COMMUNITY BOARD #1M

THE VOTE TO CLOSE HEARING –

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

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

ZONING CALENDAR

300-12-BZ

CEQR #13-BSA-049M

APPLICANT – Davidoff Hutcher & Citron LLP, for Columbia Grammar & Preparatory School, owner.

SUBJECT – Application October 19, 2012 – Variance (§72-21) to permit an enlargement of an existing school building (*Columbia Grammar and Preparatory*), contrary to lot coverage (§24-11), permitted obstruction (§24-33), rear yard equivalent (§24-332), initial setback distance (§24-522), height (§23-692), and side yard (§24-35(b)) regulations. R7-2 zoning district.

PREMISES AFFECTED – 36 West 93rd Street aka 33 West 92nd Street, between Central Park West and Columbus Avenue, Block 1206, Lot 50, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

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

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

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WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R7-2 zoning district within the Upper West Side/Central Park West Historic District, the enlargement of an existing school building, which does not comply with zoning regulations for lot coverage, permitted obstruction, rear yard equivalent, encroachment into the required initial setback distance, width and height of street wall, and side yard, contrary to ZR §§ 24-11, 24-382, 24-33, 24-522, 23-692, and 24-35; and

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

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

WHEREAS, Community Board 7, Manhattan, recommends disapproval of the application; and

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

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

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

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

WHEREAS, the site is currently occupied by a five-story building with a sub-cellar and cellar constructed in 1996;

the building includes 13 classrooms and ancillary facilities for students in grades 5 and 6, 12 high school classrooms, and several shared spaces, including two dining areas and four art studios/technology classrooms; and

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

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

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

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

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

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

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

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

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

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

WHEREAS, the applicant states that the proposed floor area to be added to the existing building is required to fulfill

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the School's longstanding goal of having a self-contained middle division consisting of grades five through seven; and

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, the applicant notes that the required sky exposure plane would be encroached into by 7'-7" along the West 93rd Street façade at the fifth and sixth floors due to the inclusion of a middle school library at the fifth floor and two new classrooms at the sixth floor; and

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

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

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

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

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

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

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

WHEREAS, specifically, as held in Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the School along with the existing constraints of the site create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the School is a non-profit institution and the variance is needed to further its non-profit mission,

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the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

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

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

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

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

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

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

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

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

Central Park West with 12 stories; and

WHEREAS, in response to concerns raised by the Community Board regarding the potential impact on the light and air to the immediately adjacent buildings along West 92nd Street, the proposed fourth floor (which contains mechanical equipment) has been reduced in depth to be located closer to West 92nd Street, and the proposed third floor roof has been sloped along the sides to allow additional light and air to the adjacent neighbors; and

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

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

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

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

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

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

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credible, based on the respective circumstances; and

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

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

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

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

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

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

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

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

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R7-2 zoning district within the Upper West

Side/Central Park West Historic District, the enlargement of an existing school building, which does not comply with zoning regulations for lot coverage, permitted obstruction, rear yard equivalent, encroachment into the required initial setback distance, width and height of street wall, and side yard, contrary to ZR §§ 24-11, 24-382, 24-33, 24-522, 23-692, and 24-35, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 3, 2014" – fourteen (14) sheets; and *on further condition*:

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

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

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

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

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, October 7, 2014.

50-14-BZ CEQR #14-BSA-131K

APPLICANT – Eric Palatnik, P.C., for Brooklyn Rainbow Associates LLC, owner; Crunch Greenpoint LLC, lessee.

SUBJECT – Application April 1, 2014 – Re-adoption of September 16, 2014 approval with required LPC approval. Special Permit (§73-36) to allow a physical culture establishment (*Crunch Fitness*) within an existing cellar and one-story commercial building. C4-3A zoning district.

PREMISES AFFECTED – 825 Manhattan Avenue aka 181

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Calyer Street, north side of Calyer Street, 25' west of Manhattan Avenue, Block 2573, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated March 27, 2014, acting on DOB Application No. 320903572, reads, in pertinent part:

Proposed physical culture or health establishment is not a use permitted as of right; contrary to ZR 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-3A zoning district, within the Greenpoint Historic District, the operation of a physical culture establishment (“PCE”) in the cellar and first story of a one-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on August 19, 2014, after due notice by publication in the *City Record*, and then to decision on October 7, 2014; and

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

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

WHEREAS, the subject site is a flag lot with 25 feet of frontage along Manhattan Avenue and 79 feet of frontage along Calyer Street; and

WHEREAS, the site has 10,400 sq. ft. of lot area and is located within a C4-3A zoning district, within the Greenpoint Historic District; and

WHEREAS, the site is occupied by a one-story commercial building with 10,400 sq. ft. of floor area (1.0 FAR); and

WHEREAS, the proposed PCE will occupy the entire building, including 10,400 sq. ft. of floor space in the cellar, for a total PCE size of 20,800 sq. ft.; and

WHEREAS, the PCE will be operated as Crunch; and

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

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

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

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

WHEREAS, the Landmarks Preservation Commission has approved the proposed alterations of the building by Certificate of No Effect, dated September 24, 2014; and

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

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

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

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

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 14BSA131K dated April 1, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C4-3A zoning district, within the Greenpoint Historic District, the operation of a PCE in the cellar and first story of a one-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received June 16, 2014” (4) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on October 7, 2024;

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

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

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

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

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 7, 2015;

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

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only for the portions related to the specific relief granted; and

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

Adopted by the Board of Standards and Appeals, October 7, 2014.

130-14-BZ

CEQR #14-BSA-172M

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

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

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

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 20, 2014, acting on DOB Application No. 121983185, reads, in pertinent part:

ZR 32-10 – Proposed physical culture establishment in C5-3 is not permitted as-of-right; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-3 zoning district, within the Special Midtown District, the operation of a physical culture establishment (“PCE”) on the fifth story of an existing six-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on September 23, 2014, after due notice by publication in the *City Record*, and then to decision on October 7, 2014; and

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

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

WHEREAS, the subject site is located on the east side of Fifth Avenue, between West 48th Street and West 49th Street, within a C5-3 zoning district, within the Special Midtown District; and

WHEREAS, the site has approximately 25 feet of

frontage along Fifth Avenue and 2,500 sq. ft. of lot area; and
WHEREAS, the site is occupied by a six-story commercial building with approximately 13,750 sq. ft. of floor area (3.6 FAR); and

WHEREAS, the proposed PCE will occupy 1,996 sq. ft. of floor area on the fifth story of the building; and

WHEREAS, the PCE will be operated as Chiva-Som Spa; and

WHEREAS, the hours of operation for the PCE will be Monday through Saturday, from 10:00 a.m. to 8:00 p.m. and Sunday, from 11:00 a.m. to 6:00 p.m.; and

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

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

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

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

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

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

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

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 14-BSA-172M, dated August 4, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-3 zoning district, within the Special Midtown District, the operation of a PCE on the fifth story of an existing six-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received August 4, 2014”- two (2) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on October 7, 2024;

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

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

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

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

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 7, 2015;

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

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

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

Adopted by the Board of Standards and Appeals, October 7, 2014.

144-14-BZ

CEQR #15-BSA-013M

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

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

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

COMMUNITY BOARD #11M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated June 13, 2014, acting on DOB Application No. 104138443, reads in pertinent part:

Proposed Use Group 3 school is not permitted in an M1-4 zoning district pursuant to ZR Section 42-10; and

WHEREAS, this is an application under ZR §§ 73-19 and 73-03 to permit, on a site in an M1-4 zoning district, the conversion of the second story of an existing four-story mixed

community facility and commercial building to a Use Group 3 daycare, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on September 9, 2014, after due notice by publication in the *City Record*, and reopened on September 23, 2014, and then to decision on October 7, 2014, 2014; and

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

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

WHEREAS, this application is brought on behalf of the Children’s Learning Center (the “School”), which operates a pre-school program for children with certain disabilities, including disorders on the autism spectrum; and

WHEREAS, the subject site is located on the northeast corner of the intersection of Park Avenue and 121st Street, within an M1-4 zoning district; and

WHEREAS, the site is a single zoning lot comprising Tax Lots 1, 2, 4, 72, and 101; it has 9,512 sq. ft. of lot area, 127 feet of frontage along Park Avenue, and 75 feet of frontage along 121st Street; and

WHEREAS, the site is occupied by a four-story mixed community facility and commercial building with 38,050 sq. ft. of floor area (4.0 FAR); the applicant represents that a bakery occupies the cellar and first story of the building and a non-profit institution without sleeping accommodations occupies the third and fourth stories; the second story is vacant; and

WHEREAS, the applicant proposes to renovate the second story of the building (approximately 7,649 sq. ft. of floor area (0.8 FAR)) to accommodate the School, which is classified as Use Group 3 daycare; and

WHEREAS, the applicant states that, under the proposal, the second story will serve an estimated 90 children ranging in age from three to five years and approximately 50 employees, and provide related sanitary facilities and administrative offices; and

WHEREAS, in particular, the applicant proposes a total of ten classrooms, a sensory gymnasium, two therapy rooms (speech and occupational), three administrative offices, two small group rooms, and restrooms; and

WHEREAS, the applicant represents that the School seeks to relocate from its current location at 310 West 103rd Street, which is inadequate; and

WHEREAS, the applicant states that the majority of its students live in Manhattan and the Bronx; and

WHEREAS, the applicant notes that the site is subject to a City Planning Commission special permit pursuant to ZR § 74-291, which authorizes occupancy of the third and fourth stories of the building by the Bailey House, a non-profit institution without sleeping accommodations (Use Group 4A); the Bailey House provides certain social services to men, women, and children living with HIV/AIDS, including health care, counseling, support groups, substance abuse treatment, education, job training, and employment assistance; and

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WHEREAS, the applicant represents that the proposal meets the requirements of the special permit under ZR § 73-19 to permit a school in an M1-4 zoning district; and

WHEREAS, ZR § 73-19 (a) requires an applicant to demonstrate the inability to obtain a site for the development of a school within the neighborhood to be served and with a size sufficient to meet the programmatic needs of the school within a district where the school is permitted as-of-right; and

WHEREAS, the applicant represents that it conducted a search of nearby residence and commercial districts with the following site criteria: (1) space within an existing building to minimize development costs; (2) a landlord with a willingness to renovate the space; (3) a space with access and lighting sufficient to meet the daycare licensing standards; and (4) proximity to recreation (parks and playgrounds) and public transportation; and

WHEREAS, the applicant states that during its search, it evaluated the feasibility of five buildings within the area and on sites where Use Group 3 is permitted as-of-right: 3560 Broadway; 51-55 East 125th Street; 461 West 126th Street; 4280-4298 Broadway, 2 Bennett Avenue; and 5030 Broadway; and

WHEREAS, the applicant represents that each building was unsuitable for the School, either because the rent was too expensive, the space could not be configured to comply with daycare licensing standards, and/or the landlord would not renovate the space; and

WHEREAS, the applicant maintains that the site search establishes that there is no practical possibility of obtaining a site of adequate size in a nearby zoning district where a school would be permitted as-of-right; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (a) are met; and

WHEREAS, ZR § 73-19 (b) requires an applicant to demonstrate that the proposed school is located no more than 400 feet from the boundary of a district in which such a school is permitted as-of-right; and

WHEREAS, the applicant states that the site is adjacent to an R8 zoning district, where the proposed use would be permitted as-of-right; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (b) are met; and

WHEREAS, ZR § 73-19 (c) requires an applicant to demonstrate how it will achieve adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district; and

WHEREAS, the applicant states that an ambient noise survey was initially conducted at the site in connection with the Bailey House special permit application discussed above; the survey indicated that the predominant noise sources in the area would be vehicular and train traffic and that, at the time of monitoring, interior noise levels were well in excess of what would be considered acceptable; however, the survey was conducted before the interior finishes of the Bailey House were installed; thus, certain assumptions were made about the anticipated attenuation of

the finished space and it was determined that noise levels for the Bailey House would be acceptable; and

WHEREAS, the applicant states that the School's proposed space on the second story is in the midst of renovation – interior walls and partitions are in place and a drop ceiling has been partially installed but the floor remains a bare concrete slab; under these conditions, on September 18, 2014, a noise survey was conducted; the survey reflected interior noise levels at 45.9 dB(A); and

WHEREAS, the applicant notes that although 45.9 dB(A) is nearly one dB(A) above the 45 dB(A) that is considered acceptable according to the CEQR Technical Manual, its consultant represents that the installation of flooring, carpeting, and furniture will bring the noise levels within 45 dB(A); and

WHEREAS, in addition, the applicant states that the Department of Environmental Protection ("DEP") reviewed the noise consultant's analyses and determined that noise levels would be acceptable within the School; and

WHEREAS, at hearing, the Board expressed concerns regarding the proposed lobby of the building, which was proposed to be shared by the School and the Bailey House; and

WHEREAS, in response, the applicant revised the proposal to provide a separate building entrance and a dedicated elevator for the School; the applicant also provided detailed egress and occupant load calculations to demonstrate that both the School and the Bailey House will have compliant means of egress from their respective spaces; and

WHEREAS, the Board finds that the conditions surrounding the site and the building's use will adequately separate the proposed school from noise, traffic and other adverse effects of any of the uses within the surrounding M1-4 zoning district; thus, the Board finds that the requirements of ZR § 73-19 (c) are met; and

WHEREAS, ZR § 73-19 (d) requires an applicant to demonstrate how the movement of traffic through the street on which the school will be located can be controlled so as to protect children traveling to and from the school; and

WHEREAS, the applicant notes that section of Park Avenue fronting the site has two-way, single lane traffic separated by the elevated tracks of the Metro North Railroad line; and

WHEREAS, the applicant states that during the morning drop-off period (8:00 a.m. to 9:00 a.m.), an average of 259 vehicles per hour traverse Park Avenue and that during the afternoon pick-up, an average of 429 vehicles per hour traverse Park Avenue; thus, the applicant asserts that the vehicular traffic is moderate; and

WHEREAS, the applicant represents that the School's students will arrive by private mini-buses, with capacities of 15 students-per-bus, necessitating between five and six bus trips on a typical morning or afternoon (depending on how many students enroll in the full- or half-day programs); teachers and staff will accompany the students from the buses directly into the lobby of the building; and

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WHEREAS, the applicant notes that the mini-buses will not be able to simultaneously queue in front of the site along Park Avenue to load and offload students; accordingly, buses will load and unload one at-a-time and queue on neighboring side streets; and

WHEREAS, the applicant states that it will apply to the Department of Transportation (“DOT”) for a change in curbside parking regulations in front of the site along Park Avenue to establish a School No Standing Zone for Monday through Friday, from 8:00 a.m. to 4:00 p.m.; and

WHEREAS, thus, the applicant states that, based on its assessment of existing traffic conditions in the vicinity, the School can operate safely without significant impacts; and

WHEREAS, the Board finds that the above-mentioned measures will control traffic so as to protect children going to and from the proposed school; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (d) are met; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-19; and

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

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

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-03; and

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

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement (“EAS”) CEQR No. 15-BSA-013M, dated June 18, 2014; and

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

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

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

1977, as amended, and makes each and every one of the required findings under ZR §§ 73-19 and 73-03 and grants a special permit, to allow, on a site in an M1-4 zoning district, the conversion of the second story of an existing four-story mixed community facility and commercial building to a Use Group 3 daycare, contrary to ZR § 42-10; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received October 6, 2014” – twelve (12) sheets; and *on further condition*:

THAT a dedicated entrance and a dedicated elevator will be maintained for the School at all times;

THAT DOB will review and approve the egress and occupant load calculations for the School;

THAT any change in the operator of the school requires review and approval by the Board;

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;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 7, 2015;

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, October 7, 2014.

206-14-BZ

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application August 29, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program. R3-2 zoning district.

PREMISES AFFECTED – 910 Lanark Road, clustered in the Broad Channel neighborhoods, Edgemere/Somerville and Rockaway Park neighborhoods of Community District 14. Block 15500, Lot 602, Borough of Queens.

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-2

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zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear yards, contrary to ZR § 23-47; and

WHEREAS, a public hearing was held on this application on September 23, 2014, after due notice by publication in *The City Record*, and then to decision on October 7, 2014; and

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

WHEREAS, Community Board 14, Queens, recommends approval of this application; and

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

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

WHEREAS, the subject site is located on the east side of Lanark Road, approximately 200 feet south of East Ninth Road, within an R3-2 zoning district; and

WHEREAS, the site has 37 feet of frontage along Lanark Road and 2,775 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged two-story, single-family home with 450 sq. ft. of floor area (0.16 FAR); and

WHEREAS, the applicant proposes to demolish the existing home and construct a two-story, single-family home with 868 sq. ft. of floor area (0.31 FAR); and

WHEREAS, the applicant states that the proposed building complies in all respects with the bulk regulations of the subject R3-2 district except that a rear yard depth of 21’-7” is proposed (a minimum rear yard depth of 30’-0” is required, per ZR § 23-47); and

WHEREAS, accordingly, the applicant seeks a special permit to allow the proposed rear yard; and

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

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

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the

permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood’s potential development in accordance with flood-resistant construction standards; and

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

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

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

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

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

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

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

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, a wider side yards, and a deeper front yard than the existing building; therefore, the proposal will provide significantly more open space on the site than is currently provided; and

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

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement

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satisfies all of the relevant requirements of ZR § 64-92; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-2 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear yards, contrary to ZR § 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 September 26, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 868 sq. ft. of floor area (0.31 FAR) and a minimum rear yard depth of 21'-7", as illustration 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 this approval is limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 7, 2015;

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 the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 7, 2014.

207-14-BZ

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application August 29, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program. R3-2 zoning district.

PREMISES AFFECTED – 41 West 12th Road, clustered in the Broad Channel neighborhoods, Edgemere/Somerville, and Rockaway Park Neighborhoods of Community District 14. Block 15316, Lot 64. Borough of Queens.

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson,

Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-2 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for a vertical extension of non-complying side yards, contrary to ZR §§ 23-461, 54-313 and 54-41; and

WHEREAS, a public hearing was held on this application on September 23, 2014, after due notice by publication in *The City Record*, and then to decision on October 7, 2014; and

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

WHEREAS, Community Board 14, Queens, recommends approval of this application; and

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

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

WHEREAS, the subject site is located on the north side of West 12th Road, between Cross Bay Boulevard and Jamaica Bay, within an R3-2 zoning district; and

WHEREAS, the site has 24.5 feet of frontage along West 12th Road and 2,450 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged one-story, single-family home with 700 sq. ft. of floor area (0.29 FAR); the existing home has the following non-compliances: a front yard depth of 8'-0" (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); and side yards with widths of 3'-3" (western side yard) and 0'-6" (eastern side yard) (the requirement is two side yards with a minimum total width of 13'-0" and a minimum width of 5'-0" each, per ZR § 23-461; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 868 sq. ft. of floor area (0.36 FAR); the new building will provide a front yard depth of 20'-0", a rear yard depth of 49'-0", a western side yard width of 5'-2½", and eastern side yard width of 4'-6"; and

WHEREAS, the applicant represents that the buildings directly east and west of the proposed building are built to the sites' common side lot lines; as such, the building directly east of the site will be located 4'-6" from the proposed building and the building directly west of the site will be located 5'-2½" from the proposed building; and

WHEREAS, the applicant notes that pursuant to ZR §§

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54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8'-0" is maintained between the non-complying side yards and the building on the adjoining zoning lot; and

WHEREAS, thus, the applicant the applicant seeks a special permit to allow construction of the new building with a distance of less than 8'-0" from the buildings directly west and east of the site; and

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

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

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

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

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

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

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

WHEREAS, the applicant notes and the Board finds

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

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

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

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, a rear yard depth of 49'-0" where a depth of only 30'-0" is required, and increase in front yard depth from a non-complying 8'-0" to a complying 20'-0"; in addition, it increases one side yard width by 1'-11" and increases the other side yard width by 4'-0"; and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R3-2 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for vertical extension of non-complying side yards, contrary to ZR §§ 23-461, 54-313 and 54-41; *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 September 26, 2014"- four (4) sheet; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 868 sq. ft. of floor area (0.36 FAR) and side yards with minimum widths of 5'-2½" and 4'-6", 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 this approval is limited to the Build it Back program;

THAT all DOB and related agency application(s) filed

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in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 7, 2015;

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

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

Adopted by the Board of Standards and Appeals, October 7, 2014.

209-14-BZ

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application August 29, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program. R4-1 zoning district.

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

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R4-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-47 and 23-461; and

WHEREAS, a public hearing was held on this application on September 23, 2014, after due notice by publication in *The City Record*, and then to decision on October 7, 2014; and

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

WHEREAS, Community Board 14, Queens, recommends approval of this application; and

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

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

WHEREAS, the subject site is located on the east side of Beach 43rd Street, between Delmore Court and an inlet of Jamaica Bay, within an R4-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Beach 43rd Street and 1,900 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged one-story, single-family home with 1,504 sq. ft. of floor area (0.75 FAR); the existing home has the following non-compliances: a front yard depth of 8’-6” (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); one side yard with width of 3’-9” along the northern boundary of the site (the requirement is two side yards with minimum widths of 4’-0”, per ZR § 23-461; however, non-complying side yards may be reconstructed, per ZR § 54-41); and a rear yard depth of 8’-0” (a minimum rear yard depth of 30’-0” is required, per ZR § 23-47); and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,400 sq. ft. of floor area (0.70 FAR); the new building will provide a front yard depth of 18’-9”, a northern side yard width of 3’-0”, a southern side yard width of 3’-0”, and a rear yard depth of 26’-3”; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with rear yard depth of 26’-3” and a northern side yard width of 3’-0”; and

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

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

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

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

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the rear

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and side yard requirements, in accordance with ZR § 64-92(a); and

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

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

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

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

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

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint and a complying front yard depth; in addition, it increases the southern side yard by 3'-0" and increases the rear yard depth by 18'-3"; and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R4-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-47 and 23-461; *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 September 26, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,400 sq. ft. of floor area (0.70 FAR), side yards with minimum widths of 3'-0", and a rear yard depth of 26'-3", 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 this approval is limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 7, 2015;

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

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

Adopted by the Board of Standards and Appeals, October 7, 2014.

210-14-BZ

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application August 29, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.R4A zoning district.

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

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R4A zoning district, the construction of a single-family home, which does not comply with the zoning requirements for vertical extension of non-complying side yards, contrary to ZR §§ 23-461, 54-313 and 54-41; and

WHEREAS, a public hearing was held on this application on September 23, 2014, after due notice by publication in *The City Record*, and then to decision on October 7, 2014; and

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

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Montanez; and

WHEREAS, Community Board 14, Queens, recommends approval of this application; and

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

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

WHEREAS, the subject site is located on the northeast corner of the intersection of Beach 72nd Street and Thursby Avenue, within an R4A zoning district; and

WHEREAS, the site has 100 feet of frontage along Beach 72nd Street, 22.5 feet of frontage along Thursby Avenue, and 2,250 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged one-story, single-family home with 867 sq. ft. of floor area (0.39 FAR); the existing home has the following non-compliances: a front yard depth of 5’-10” along Thursby Avenue (a minimum front yard depth of 18’-0” is required along Thursby Avenue, per ZR § 23-45); a front yard depth of 4’-0” along Beach 72nd Street (a minimum front yard depth of 10’-0” is required along Beach 72nd Street, per ZR § 23-45) and no side yard (the requirement is one side yard with a minimum width of 2’-0”, per ZR § 23-461 and non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 868 sq. ft. of floor area (0.39 FAR); the new building will provide a front yard depth of 18’-9” along Thursby Avenue, a front yard depth of 4’-3” along Beach 72nd Street, a rear yard depth of 45’-7”, and one side yard width of 4’-3”; and

WHEREAS, the applicant represents that the building directly east of the proposed building is built to the sites’ common side lot line; as such, the building directly east of the site will be located 4’-3” from the proposed building; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8’-0” is maintained between the non-complying side yards and the building on the adjoining zoning lot; and

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

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the

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

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

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

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

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

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

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

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

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

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

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WHEREAS, the applicant also contends that the proposal reflects a smaller footprint and a rear yard depth of 45'-7" where a depth of only 20'-0" is required; in addition, the proposal reflects increases in front yard depth from 4'-0" to 4'-3" and 5'-10" to 18'-9" and an increase in side yard depth from 0'-0" to 4'-3"; and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R4A zoning district, the construction of a single-family home, which does not comply with the zoning requirements for vertical extension of non-complying side yards, contrary to ZR §§ 23-461, 54-313 and 54-41; *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 September 26, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 868 sq. ft. of floor area (0.39 FAR), front yards with minimum depths of 4'-3" and 18'-9", a minimum rear depth of 45'-7", and one side yard with a minimum width of 4'-3", 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 this approval is limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 7, 2015;

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

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

Adopted by the Board of Standards and Appeals, October 7, 2014.

211-14-BZ

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application August 29, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program. R4-1 zoning district.

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

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R4-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for a vertical extension of non-complying side yards, contrary to ZR §§ 23-461, 54-313 and 54-41; and

WHEREAS, a public hearing was held on this application on September 23, 2014, after due notice by publication in *The City Record*, and then to decision on October 7, 2014; and

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

WHEREAS, Community Board 14, Queens, recommends approval of this application; and

WHEREAS, the owner of the adjacent site testified in opposition to application, citing concerns regarding the proposed height and front yard depth of the building; and

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

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

WHEREAS, the subject site is located on the west side of Beach 87th Street between Dormans Court and the Rockaway Freeway, within an R4-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Beach 87th Street and 2,268 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two flood-damaged, one-story, single-family homes with a combined 1,800 sq. ft. of floor area (0.79 FAR); the existing site has the following yard non-compliances: a front yard depth of 6'-4" (a minimum front yard depth of 10'-0" is required, per ZR § 23-45); and side yards with widths of 3'-0" (northern

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side yard) and 1'-2" (southern side yard) (the requirement is two side yards with minimum widths of 4'-0", per ZR § 23-461; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,400 sq. ft. of floor area (0.62 FAR); the new building will provide a front yard depth of 10'-0", a rear yard depth of 43'-9", a northern side yard width of 3'-0", and southern side yard width of 3'-0"; and

WHEREAS, the Board notes that, initially, the applicant proposed a front yard depth of 18'-0"; however, in response to concerns raised by the owner of the adjacent site, the proposal was amended to reflect a front yard depth of 10'-0"; and

WHEREAS, the applicant represents that the building directly north of the site is located 1'-6" from the sites' common side lot line and that the building directly south of the site is located 1'-10" from the sites' common side lot line; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8'-0" is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR § 23-461, side yards must have a minimum width of 4'-0"; and

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, a rear yard depth of 43'-9" where a depth of 30'-0" is required, and increase in front yard depth from a non-complying 6'-4" to a complying 10'-0"; in addition, it increases the width of one side yard by 1'-10"; and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part

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617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R4-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for a vertical extension of non-complying side yards, contrary to ZR §§ 23-461, 54-313 and 54-41; *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 September 26, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,400 sq. ft. of floor area (0.62 FAR) and side yards with minimum widths of 3'-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 this approval is limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 7, 2015;

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

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

Adopted by the Board of Standards and Appeals, October 7, 2014.

212-14-BZ

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application August 29, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program. R5D zoning district.

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

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit,

pursuant to ZR § 64-92, to permit, on a site within an R5D (C1-3) zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front and rear yards, contrary to ZR §§ 23-45 and 23-47; and

WHEREAS, a public hearing was held on this application on September 23, 2014, after due notice by publication in *The City Record*, and then to decision on October 7, 2014; and

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

WHEREAS, Community Board 14, Queens, recommends approval of this application; and

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

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

WHEREAS, the subject site is located on the west side of Beach 100th Street between the Rockaway Freeway and Rockaway Beach Boulevard, within an R5D (C1-3) zoning district; and

WHEREAS, the site has 52 feet of frontage along Beach 100th Street and 1,048 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged one-story, single-family home with 429 sq. ft. of floor area (0.41 FAR); the existing site has the following yard non-compliances: a front yard depth of 2'-6" (a minimum front yard depth of 5'-0" is required, per ZR § 23-45); side yards with widths of 1'-0" (southern side yard) and 16'-8" (northern side yard) (the requirement is one side yard with a minimum width of 8'-0", per ZR § 23-461; however, non-complying side yards may be reconstructed, per ZR § 54-41); and a rear yard depth of 5'-8" (a minimum rear yard depth of 10'-0" is required); and

WHEREAS, the applicant proposes to demolish the existing home and construct a two-story, single-family home with 868 sq. ft. of floor area (0.83 FAR), a front yard with a depth of 3'-0", side yards with widths of 3'-0" (southern side yard) and 16'-8" (northern side yard), and a rear yard with a depth of 3'-11½"; and

WHEREAS, accordingly, the applicant seeks a special permit to allow the proposed front and rear yards; and

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

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

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

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

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

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

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

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

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

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

WHEREAS, the applicant also contends that the proposal reflects a lot coverage of 41 percent, which is identical to the existing home at the site and 20 percent less than is permitted as-of-right in the subject R5D (C1-3)

district; in addition, the front yard depth is increased by 0'-6", and the southern side yard is increase by 2'-0"; and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92, to permit, on a site within an R5D (C1-3) zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front and rear yards, contrary to ZR §§ 23-45 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 September 26, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 868 sq. ft. of floor area (0.83 FAR), a maximum lot coverage of 41 percent, a minimum front yard depth of 3'-0", and a minimum rear yard depth of 3'-11½", 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 this approval is limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by October 7, 2015;

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 the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, October 7, 2014.

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350-12-BZ

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

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

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

COMMUNITY BOARD #7BK

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

174-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for 58-66 East Fordham Road, owner; LRHC Fordham Road LLC., lessee.

SUBJECT – Application June 13, 2014 – Special Permit (§73-36) to allow the reestablishment of an expired physical culture establishment (*Lucille Roberts*) on the second floor, contrary to (§32-31). C4-4 zoning district.

PREMISES AFFECTED – 2449 Morris Avenue a/k/a 58-66 East Fordham Road, Block 3184, Lot 45, Borough of Bronx.

COMMUNITY BOARD #7BX

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

185-13-BZ

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

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

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

COMMUNITY BOARD #3BK

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

193-13-BZ

APPLICANT – Eric Palatnik, Esq., for Centers FC Realty LLC, owner.

SUBJECT – Application July 2, 2013 – Special Permit (§73-44) for the reduction in parking from 190 to 95 spaces to facilitate the conversion of an existing building to UG 6 office and retail use. C2-2/R6A & R-5 zoning districts.

PREMISES AFFECTED – 4770 White Plains Road, White Plains Road between Penfield Street and East 242nd Street, Block 5114, Lot 14, Borough of Bronx.

COMMUNITY BOARD #12BX

ACTION OF THE BOARD – Laid over to

November 18, 2014, at 10 A.M., for adjourned hearing.

271-13-BZ

APPLICANT – Eric Palatnik, P.C., for Viktoriya Midyany, owner.

SUBJECT – Application September 17, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and lot coverage (§23-141); side yard (§23-461) and rear yard (§23-47) regulations. R3-1 zoning district.

PREMISES AFFECTED – 129 Norfolk Street, Norfolk Street, between Shore Boulevard and Oriental Boulevard, Block 8757, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #15BK

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

38-14-BZ

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

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

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

COMMUNITY BOARD #15BK

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

59-14-BZ

APPLICANT – Caroline G. Harris, for School Settlement Association Ink., owner.

SUBJECT – Application April 10, 2014 – Variance (§72-21) to permit the construction of a four-story plus penthouse community facility (UG 4), contrary to (24-11). R6B zoning district.

PREMISES AFFECTED – 114-122 Jackson Street, located on the SW corner of the Intersection of Jackson Street and Manhattan Avenue. Block 2748, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #1BK

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

104-14-BZ

APPLICANT – Warshaw Burnstein, LLP., for Sam Spikes, LLC, owner; 287 Broadway Fitness Group, LLC., lessee.

SUBJECT – Application May 15, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) on a portion of the ground

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and second floors of a new building, contrary to (§32-31). C4-3 zoning district.

PREMISES AFFECTED – 282 South 5th Street aka 287 Broadway, between Broadway and West of Marcy Avenue, Block 2460, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #1BK

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

117-14-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Trinity Episcopal School Corporation, owner; Trinity Housing Comp. Inc., lessee.

SUBJECT – Application June 3, 2014 – Variance (§72-21) to permit the enlargement of a school (*Trinity School*), including construction of a 2-story building addition with rooftop turf field, contrary to required rear yard equivalents, lot coverage, height and setback, and minimum distances between buildings. Split zoning lot within R7-2 and C1-9 zoning districts.

PREMISES AFFECTED – 101 W 91st Street, 121 & 139 W 91st St and 114-124 W 92nd St, bounded by West 91st and 92nd street and Amsterdam and Columbus Avenues, Block 1222, Lot(s) 17, 29, 40, 9029, Borough of Manhattan.

COMMUNITY BOARD # 7M

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

141-14-BZ

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

SUBJECT – Application June 23, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*SoulCycle*) on the first floor of an existing commercial building, contrary to (§32-31). C4-6A zoning district.

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

COMMUNITY BOARD #7M

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

208-14-BZ

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application August 29, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program. R3-2 zoning district.

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

COMMUNITY BOARD #14Q

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