
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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October 30, 2014

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DOCKETS

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242-14-BZ

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243-14-BZ

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244-14-BZ

22 West 32nd Street, 32nd Street between Fifth Avenue and Sixth Avenue, Block 833, Lot(s) 57, Borough of **Manhattan, Community Board: 5**. Special Permit (§73-36) to operate a physical culture establishment (PCE) within an existing building located within an C6-4 zoning district. C6-4 district.

245-14-BZ

133-31 39th Avenue, 37th Avenue, Prince Street, 39th Avenue and College Point Boulevard, Block 4972, Lot(s) 65, Borough of **Queens, Community Board: 7**. Variance (§72-21) to permit proposed construction of a mixed-use development contrary to bulk, parking and loading berth requirements; Special Permit (§73-66) to permit the penetration of the flight obstruction area of LaGuardia Airport contrary to §61-20 C4-2 district.

246-14-BZ

210 Joralemon Street, S/W/C formed by Joralemon Street and Court Street, Block 266, Lot(s) 7501, Borough of **Brooklyn, Community Board: 2**. Special Permit (§73-36) to operate a physical culture establishment (PCE) within an existing building located within C5-2A (DB), C5- zoning districts. C5-2A (DB), C5- district.

247-14-BZ

109 Eltingville boulevard, east side of Eltingville Road, approximately 450 ft. north of intersection with Wilson Avenue, Block 5507, Lot(s) 43, Borough of **Staten Island, Community Board: 3**. Variance (§72-21) to permit proposed alteration of existing on-family dwelling located on a through lot that does not provide an open area with a minimum depth of 60 feet midway between street lines, located in an R3A(SRD) zoning district. R3A(SRD) district.

248-14-BZ

1565 Forest Avenue, Forest Avenue Between Barrett and Decker Avenues, Block 1053, Lot(s) 130, 133 138 189 166, Borough of **Staten Island, Community Board: 1**. Special Permit (§73-36) to allow the operation of a new physical culture establishment in the existing building, located within an C4-1 zoning district. C4-1 district.

249-14-BZ

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250-14-A

5401 Grosvenor Avenue, Located on Grosvenor Avenue and Goodridge Avenue to the East of Iselin Avenue and West 250th Street., Block 5831, Lot(s) 50, Borough of **Bronx, Community Board: 8**. Extension of time to complete construction of eight (8) homes and obtain a Certificate of Occupancy under the common law and Vested Rights. (R1-2) zoning district. R1-2 district.

251-14-A

5031 Grosvenor Avenue, Located on Grosvenor Avenue and Goodridge Avenue to the East of Iselin Avenue and W. 250th Street, Block 5831, Lot(s) 60, Borough of **Bronx, Community Board: 8**. Extension of time to complete construction of eight (8) homes and obtain a certificate of Occupancy under the common law and vested rights, (R1-2) zoning district. R1-2 district.

DOCKETS

252-14-A

5021 Grosvenor Avenue, Located on Grosvenor Avenue and Goodridge Avenue to the East of Iselin Avenue and W 250th Street, Block 5831, Lot(s) 70, Borough of **Bronx, Community Board: 8**. Extension of time to complete construction of eight (8) homes and obtain a Certificate of Occupancy under the common law and vested rights.. (R1-2) zoning district. R1-2 district.

253-14-A

5310 Grosvenor Avenue, Located on Grosvenor Avenue and Goodridge Avenue to the East of Iselin Avenue, Block 5839, Lot(s) 4018, Borough of **Bronx, Community Board: 8**. Extension of time to complete construction of eight (8) homes and obtain a Certificate of Occupancy under the common law and vested rights. (R1-2) zoning district. R1-2 district.

254-14-A

5300 Grosvenor Avenue, Located on Grosvenor Avenue and Goodridge Avenue to the East of Iselin Avenue and W 250th Street, Block 5839, Lot(s) 4025, Borough of **Bronx, Community Board: 8**. Extension of time to complete construction of eight (8) homes and obtain a Certificate of Occupancy under the common law and vested rights. (R1-2) zoning district. R1-2 district.

255-14-A

5041 Goodridge Avenue, Located on Grosvenor Avenue and Goodridge Avenue to the East of Iselin Avenue and W 250th Street, Block 5830, Lot(s) 3940, Borough of **Bronx, Community Board: 8**. Extension of time to complete construction of eight (8) homes and obtain a certificate of Occupancy under the common law and vested rights.(R1-2) zoning district. R1-2 district.

256-14-A

5030 Goodridge Avenue, Located on Grosvenor Avenue and Goodridge Avenue to the East of Iselin Avenue and W 250th Street, Block 5829, Lot(s) 3630, Borough of **Bronx, Community Board: 8**. Extension of time to complete construction of eight (8) homes and obtain a Certificate of Occupancy under the common law and vested rights. (R1-2) zoning district. R1-2 district.

257-14-A

5040 Goodridge Avenue, Located on Grosvenor Avenue and Goodridge Avenue to the East of Iselin Avenue and W 250th Street, Block 5829, Lot(s) 3635, Borough of **Bronx, Community Board: 8**. Extension of time complete construction of eight (8) homes and obtain a Certificate of Occupancy under the common law and vested rights.(R1-2)

zoning district. R1-2 district.

258-14-BZ

112 Atlantic Avenue, Located on the southeast corner of the intersection formed by Atlantic Avenue and Henry street, Block 285, Lot(s) 6, Borough of **Brooklyn, Community Board: 6**. Variance (§72-21) to permit the construction of a 4-story mixed-use building of an existing with commercial use on the first floor in a (R6) zoning district. R6 district.

259-14-BZ

68-74 Trinity Place, Trinity Place and Greenwich Street, Block 51, Lot(s) 7, Borough of **Manhattan, Community Board: 1**. Variance (§72-21): to permit the proposed structure in height rear yard of the interior lot portion of the site contrary to (ZR 33-23 and ZR 33-26) of the zoning resolution. Located within an C5-5 SLMD) zoning district. C5-5(SLMD) district.

260-14-BZ

100 East End Avenue, , Block 1581, Lot(s) 23, Borough of **Manhattan, Community Board: 8**. Variance (§72-21): to permit the construction of a three-story enlargement to the existing school, contrary to floor area, rear yard, height and setback requirements. (R8B/R10A) zoning district. R8B/R10A district.

261-14-BZ

944 East 23rd Street, Block 7586, Lot(s) 64, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to allow the enlargement of an existing single family residence located in a residential district. (R2) zoning district. R2 district.

262-14-A

260 South Street, Between Rutgers Slip & Pike Place/Allen Street on South Street, Block 241, Lot(s) 10, Borough of **Manhattan, Community Board: 3**. Variance (G107-Appendix(G) seek to build within the flood plain. The building is part of the overall East River Esplanade and will provide needed uses, such as public restrooms and storage for the maintenance entity of the park. M1-4 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

NOVEMBER 18, 2014, 10:00 A.M.

APPEAL CALENDARS

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, November 18, 2014, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

833-52-BZ

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

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

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

COMMUNITY BOARD #18BK

164-04-BZ

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

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

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

COMMUNITY BOARD #10BX

265-14-A

APPLICANT – NYC Housing Preservation & Development, for Pasquale D'Angelis, owner.

SUBJECT – Application October 27, 2014 – Waiver of Section 36, Article 3 of the General City Law, for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties not fronting a mapped street, which are registered in the NYC Build it Back Program property. R3-1 Zoning District.

PREMISES AFFECTED – 3812 Atlantic Avenue, between Beach 38th and Beach 40th Streets, Block 7043, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #13BK

266-14-A

APPLICANT – NYC Housing Preservation & Development, for Jack Suben, owner.

SUBJECT – Application October 27, 2014 – Waiver of Section 36, Article 3 of the General City Law, for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties not fronting a mapped street, which are registered in the NYC Build it Back Program property. R3-1 Zoning District.

PREMISES AFFECTED – 3740 Atlantic Avenue, between Beach 38th and West 37th Streets, Block 7044, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #13BK

267-14-A

APPLICANT – NYC Housing Preservation & Development, for Theresa Liberi, owner.

SUBJECT – Application October 27, 2014 – Waiver of Section 36, Article 3 of the General City Law, for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties not fronting a mapped street, which are registered in the NYC Build it Back Program property. R3-1 Zoning District.

PREMISES AFFECTED – 3742 Atlantic Avenue, between Beach 38th and West 37th Streets, Block 7044, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #13BK

CALENDAR

NOVEMBER 18, 2014, 1:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, November 18, 2014, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

321-13-BZ

APPLICANT – Eric Palatnik, P.C., for Alejandro Finardo, owner.

SUBJECT – Application December 18, 2013 – Variance (§72-21) for the construction of a three family home on a vacant lot, contrary to side yard requirements (§23-462(a)) and the parking space requirements of (§25-32). R5 zoning district.

PREMISES AFFECTED – 37-19 104th Street, between 37th Avenue and 37th Road, Block 1771, Lot 42, Borough of Queens.

COMMUNITY BOARD #3Q

329-13-BZ

APPLICANT – Alexander Levkovich, for Sam Ravit, owner.

SUBJECT – Application December 31, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (23-141). R3-1 zoning district.

PREMISES AFFECTED – 145 Girard Street, east side of Girard Street, approximately 600' south of intersection with Hampton Avenue, Block 8750, Lot 386, Borough of Brooklyn.

COMMUNITY BOARD #15BK

94-14-BZ

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

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

PREMISES AFFECTED – 1150 East 22nd Street, west side of East 22nd Street, 140' north of Avenue "K", Block 7603, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #3BK

119-14-BZ

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

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

PREMISES AFFECTED – 1151 Third Avenue aka 201 East 67th Street, Block 1422, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

120-14-BZ

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

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

PREMISES AFFECTED – 1151 Third Avenue aka 201 East 67, north East corner of 3rd Avenue and East 67th Street, Block 1422, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

121-14-BZ

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

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

PREMISES AFFECTED – 1151 Third Avenue aka 201 East 67th Street, northeast corner of 3rd Avenue and East 67th Street, Block 1422, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #8M

151-14-BZ

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

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

PREMISES AFFECTED – 19 West 21st Street, northerly side of West 21st Street, 309' 10" westerly of Fifth Avenue, Block 823, Lot 24, Borough of Manhattan.

COMMUNITY BOARD #5M

MINUTES

**REGULAR MEETING
TUESDAY MORNING, OCTOBER 21, 2014
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

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 – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

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

WHEREAS, a public hearing was held on this application on September 9, 2013 after due notice by publication in *The City Record*, with a continued hearing on October 7, 2014, and then to decision on October 21, 2014; and

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

WHEREAS, the site is located on the southwest corner of Creston Avenue and East 191st Street, partially within an R8 zoning district and partially within a C4-4 zoning district; and

WHEREAS, on December 7, 1948, under BSA Cal. No. 861-48-BZ, the Board granted a variance to permit the site to be used for the parking of more than five motor vehicles, for a term of two years; and

WHEREAS, subsequently, the grant was amended and the term extended at various times, until its expiration on January 10, 1988; and

WHEREAS, on April 23, 2002, under the subject calendar number, the Board reestablished the expired variance pursuant to ZR § 11-411, to permit an accessory parking facility for commercial use at the site, for a term of

ten years, which expired on April 23, 2012; a condition of the grant was that a new certificate of occupancy be obtained by April 23, 2003; and

WHEREAS, on January 10, 2012, the Board granted a six month extension of time to obtain a certificate of occupancy, which expired on July 10, 2012; and

WHEREAS, on December 11, 2012, the Board granted a ten-year extension of term, to expire on April 23, 2022, and a one-year extension of time to obtain a certificate of occupancy, to expire on December 11, 2013; and

WHEREAS, the applicant states that a certificate of occupancy has not yet been obtained; and

WHEREAS, the applicant states that a certificate of occupancy has not been obtained due to delays at the Department of Buildings; and

WHEREAS, at hearing, the Board directed the applicant to replace the existing chain link fence at the site and to repair the concrete retaining wall on which the fence rests; and

WHEREAS, in response, the applicant agreed to replace the existing fence with a black aluminum fence; the applicant notes that the installation of the fence and the repair of the concrete retaining wall will take approximately four months; and

WHEREAS, based upon the above, the Board finds that the requested extension of term and extension of time are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated April 23, 2002, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy for one year from the date of this resolution, to expire on October 21, 2015; *on condition*:

THAT a new certificate of occupancy will be obtained by October 21, 2015;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 200683590)

Adopted by the Board of Standards and Appeals
October 21, 2014.

MINUTES

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 – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term for a physical culture establishment (“PCE”), which expired on January 1, 2013, and an extension of time to obtain a certificate of occupancy, which expired on February 5, 2009; and

WHEREAS, a public hearing was held on this application on July 22, 2014, after due notice by publication in *The City Record*, with a continued hearing on August 19, 2014, and then to decision on October 21, 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 10, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located at the southeast corner of the intersection of Fourth Avenue and 87th Street, within a C4-2A zoning district, within the Special Bay Ridge District; and

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

WHEREAS, the applicant represents that the PCE occupies 7,698 sq. ft. of floor area on the second story; and

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

WHEREAS, on February 5, 2008, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to legalize the operation of an existing PCE at the site, for a term of five years, to expire on January 1, 2013; a condition of the grant was that a certificate of occupancy would be obtained by February 5, 2009; and

WHEREAS, the applicant states that a certificate of occupancy has not yet been obtained for the PCE; and

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

WHEREAS, the applicant states that its acquisition of the certificate of occupancy was delayed due to financial hardships; and

WHEREAS, based upon its review of the record, the Board finds that requested extensions of term and time to obtain a certificate of occupancy are appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated February 5, 2008, so that as amended the resolution reads: “to grant an extension of the special permit for a term of ten years from the prior expiration, to expire on January 1, 2023, and to grant an extension of time to obtain a certificate of occupancy for one year from the date of this resolution, to expire on October 21, 2015; *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked ‘Received August 7, 2014’-(3) sheets; and *on further condition*:

THAT this grant will be limited to a term of ten years, to expire on January 1, 2023;

THAT a certificate of occupancy will be obtained by October 21, 2015;

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

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

THAT the hours of operation will be limited to Monday through Thursday, from 5:00 a.m. to 12:00 a.m., Friday from 5:00 a.m. to 10:00 p.m., and Saturday and Sunday, from 8:00 a.m. to 8:00 p.m.;

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

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

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

Adopted by the Board of Standards and Appeals, October 21, 2014.

724-56-BZ

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

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

MINUTES

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

COMMUNITY BOARD #11Q

THE VOTE TO CLOSE HEARING –

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

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

362-03-BZ

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

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

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

COMMUNITY BOARD #4M

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

327-06-BZ

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

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

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

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

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

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

APPEALS CALENDAR

57-09-A thru 112-09-A

129-09-A thru 152-09-A

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

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

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

COMMUNITY BOARD #3SI

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 certificates of occupancy for 80 homes within a large-scale residential development at the subject site; 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 21, 2014; and

WHEREAS, the subject site is 24.3 acre parcel located northwest of the intersection of Maguire Avenue and Bloomingdale Park, within an R3-1 zoning district, within the Special South Richmond Development District (“SSRDD”); and

WHEREAS, the applicant proposes to develop the site 176 semi-detached homes (350 dwelling units) and a community facility building (the “Development”); and

WHEREAS, because the Development was within the SSRDD, City Planning Commission (“CPC”) approval was required, and on December 22, 1999, CPC issued the following approvals, in relation to Development: (1) special permits pursuant to ZR §§ 107-76 and 107-77, to allow adjustments in the boundaries of designated open space and the construction of a community facility building in designated open space; (2) authorizations pursuant to ZR §§ 107-64 and 107-65 for the removal of trees and the modification of existing topography; and (3) certifications pursuant to ZR §§ 107-22, 107-221, 107-222, 107-323, and 107-50 to permit development within a site containing designated open space, active recreational facilities in designated open space, public pedestrian ways, and the substitution of plant material; and

WHEREAS, on that same date, the applicant also secured (1) a zoning text change to provide an adjustment of the designated open space boundaries on map 33a and 33b in Appendix A of the SSRD regulations; (2) an amendment to

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the City Map to eliminate the mapped but unbuilt streets at the site to facilitate the proposed development and to map a turnaround; and (3) a special permit pursuant to ZR § 74-732 to allow a sewer pumping station that would convey sewage from the site to a new sewer in order to avoid the need to install a sewer line across the designated open space and associated freshwater wetlands on the adjacent site; and

WHEREAS, on March 6, 2000, the Department of City Planning (“DCP”) sent a letter to the DOB Staten Island Borough Commissioner, advising DOB of the approved CPC actions and providing copies of the approved site plan; and

WHEREAS, on January 9, 2002, under Job No. 500384238, DOB issued a permit for site work related to the Development; and

WHEREAS, on February 8, 2002, under Job No. 500520206, DOB approved a Builder’s Pavement Plan for the Development; and

WHEREAS, on August 22, 2002, the proposed site plan was approved by the Fire Department for access and hydrant requirements; and

WHEREAS, on December 23, 2002, the Department of Environmental Protection (“DEP”) approved the proposed water main for the Development; and

WHEREAS, on March 12, 2003, DCP sent a letter to the Staten Island Borough Commissioner, confirming the renewal of the CPC actions related to the Development; and

WHEREAS, on June 23, 2003, the Department of Transportation issued permits for the construction of new sidewalks for the Development; and

WHEREAS, on July 17, 2003, DEP approved the construction of a private sanitary drain for the Development; and

WHEREAS, on May 10, 2004, the New York State Office of the Attorney General approved a “No Action Application” in connection with the March 2004 creation of the Maguire Avenue Homeowners’ Association; and

WHEREAS, on August 12, 2004 (the “Enactment Date”), CPC enacted the Lower Density Growth Management text amendment (the “LDGMA”), which rendered the Development non-complying in terms of minimum front yard depth (the requirement is now 18’-0”), minimum rear yard depth (the requirement is now 30’-0” with landscaped buffer with a minimum depth of 8’-0”), parking (three spaces are now required for a two-family home), and planting strips (a planting strip with a minimum depth of 8’-0” is now required between private roads and adjacent properties); and

WHEREAS, the Development complied with the prior zoning requirements, which permitted a front yard with a minimum depth of 5’-0”, a rear yard with a minimum depth of 15’-0”, one parking space, and a 3’-0” planting strip between private roads and adjacent properties; and

WHEREAS, prior to the Enactment Date, the developer installed all of the sewer infrastructure, water mains, and hydrants for the entire development, and excavated the roadways, cleared the land, performed landscaping, and installed fencing for the development; and

WHEREAS, additionally, construction commenced and

72 of the homes were constructed as of the Enactment Date and were issued certificates of occupancy by DOB; and

WHEREAS, based on the construction completed as of the Enactment Date, the developer filed applications under the subject calendar numbers seeking recognition of a vested right to complete the entire Development under the common law; and

WHEREAS, because permits for 102 of the homes had not been issued prior to the Enactment Date, the applicant requested that the Board consider the Development as a single integrated project subject to a separate line of cases that establish the Single Integrated Project Theory (“SIPT”), which allows a developer to vest uncompleted, even uninitiated, components of a larger development project where there has been plat or subdivision approval (see e.g. Telimar Homes v. Miller, 14 A.D.2d 586 (2nd Dep’t, 1961); Putnam Armonk Inc. v. Town of Southeast, 52 A.D.2d 10, (2nd Dep’t, 1976); and Cypress Estates, Inc. v. Moore, 273 N.Y.S.2d 509, (Sup. 1966)); and

WHEREAS, by resolution dated April 13, 2010, the Board recognized that the Development was within the SIPT doctrine and made the necessary findings to determine that the right to complete the Development without complying with the LDGMA vested; and

WHEREAS, accordingly, the Board authorized the issuance of all DOB permits related to the Development; a condition of the grant was that construction would be completed and certificate of occupancy would be obtained for all buildings within the Development by April 13, 2014; and

WHEREAS, however, as of April 13, 2014, construction had not been completed and certificates of occupancy had not been issued for all buildings within the Development; and

WHEREAS, therefore, the applicant now seeks an extension of time to complete construction and obtain a certificates of occupancy for the buildings within the Development under SIPT and the common law doctrine of vested rights; and

WHEREAS, a threshold matter for the typical vested rights analysis is an inquiry into whether a permit was lawfully issued prior to a change in law; however, as noted above, under the SIPT, it is acknowledged that not all permits for a project will have been issued prior to such change in law; and

WHEREAS, the Board notes that when work proceeds under a lawfully-issued permit, a common law vested right to continue construction after a change in zoning generally exists if: (1) the owner has undertaken substantial construction; (2) the owner has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, specifically, as held in Putnam Armonk, Inc. v. Town of Southeast, 52 A.D.2d 10 (2^d Dept. 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner’s rights under the prior ordinance are deemed vested “and will not be disturbed where enforcement [of new zoning requirements] would cause ‘serious loss’ to the owner,” and “where substantial construction had been

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undertaken and substantial expenditures made prior to the effective date of the ordinance”; and

WHEREAS, however, notwithstanding this general framework, as discussed by the court in *Kadin v. Bennett*, 163 A.D.2d 308 (2d Dept. 1990) “there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess ‘a vested right’. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action”; and

WHEREAS, as noted above, the Board has recognized that substantial construction was performed and substantial expenditures were made with respect to the Development prior to the Enactment Date; and

WHEREAS, the applicant notes that subsequent to the 2010 grant, 22 homes were completed and received certificates of occupancy; in addition, 28 DOB permits were issued and the homes are in various stages of construction and an additional 52 permits must be obtained to complete the Development; and

WHEREAS, as to expenditures, the applicant represents that the developer has expended \$9,900,000 in connection with the 22 completed homes (\$450,000 per home) and will expended an additional \$12,600,000 to complete the 28 homes presently in various stages of construction; finally, the applicant states that the final 52 homes will cost \$23,400,000 to complete; and

WHEREAS, as to serious loss, the Board examines not only whether certain improvements and expenditures could not be recouped under the new zoning, but also considerations such as the diminution in income that would occur if the new zoning were imposed and the reduction in value between the proposed building and the building permitted under the new zoning; and

WHEREAS, the applicant explains that compliance with the present LDGMA provisions would result in the loss of four of the proposed two-family homes and the conversion of 100 two-family homes to single-family homes; and

WHEREAS, the applicant contends that the reduced unit count and conversion to single-family homes would lead to a diminished profit over the entire development site, resulting in a loss of more than \$22,200,000; and

WHEREAS, the applicant notes that compliance with the LDGMA requirements would also result in the need for new surveys, lot subdivisions, street redesign, and new architectural plans; and

WHEREAS, the Board agrees that the non-recoupable expenditures related to the need to redesign the development, and the lost revenue arising from the reduced unit count and conversion of the homes, when viewed in the aggregate, constitute a serious economic loss, and that the supporting data submitted by the applicant supports this conclusion; and

WHEREAS, the Board has reviewed the evidence in the record and determined that the requested extension of time is warranted; and

WHEREAS, accordingly, the Board hereby grants the

owner of the site a four-year extension of time to complete construction and obtain a certificates of occupancy.

Therefore it is Resolved, that this application to renew DOB Permit Nos. 510067348, 510067357, 510067366, 510067375, 510067384, 510067437, 510067446, 510067455, 510067464, 510067473, 510067311, 510067482, 510067507, 510067516, 510067525, 510067543, 510067703, 510067712, 510067687, 510067785, 510067776, 510067641, 510067650, 510067767, 510065322, 510065340, 510065402, 510065411, 510065368, 510065395, 510065359, 510065331, 510065386, 510065377, 510065055, 510065064, 510065073, 510065082, 510064289, 510064270, 510064261, 510064298, 510064305, 510064314, 510062753, 510062799, 510062780, 510062575, 510062806, 510062815, 510062824, 510062833, 510062842, 510062851, 510062860, 510062879, 510067758, 510067696, 510067678, 510067669, 510067721, 510067730, 510065126, 510065135, 510065144, 510065091, 510065108, 510065117, 510064369, 510063226, as well as all related permits for various work types, either already issued or necessary to complete construction of the Development, is granted, and the Board hereby extends the time to complete construction and obtain a certificate of occupancy for four years from the date of this resolution, to expire on October 21, 2018.

Adopted by the Board of Standards and Appeals, October 21, 2014.

23-14-A

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

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

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

COMMUNITY BOARD #11Q

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 seeking a determination that the owner of the premises has obtained the right to complete construction of a two-story, two-family residential building under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on August 19, 2014, after due notice by publication in *The City Record*, with a continued hearing on September 23, 2014, and then to decision on October 21, 2014; and

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

WHEREAS, a member of the Auburndale Improvement Association submitted testimony in opposition to the application, citing concerns regarding: (1) whether the foundation was completed prior to the rezoning in the first instance; and (2) the absence of an explanation for the delay in completing construction; and

WHEREAS, the subject site is located on the north side of 51st Avenue, between Weeks Lane and 199th Street, within an R2A zoning district; and

WHEREAS, the site has 40 feet of frontage along 51st Avenue, a lot depth of 120 feet, and a lot area of 4,800 sq. ft.; and

WHEREAS, under construction at the site is a two-story, two-family dwelling (the "Building"); and

WHEREAS, the applicant represents that the Building complies with the use and bulk regulations of the former R3-2 zoning district; and

WHEREAS, on August 10, 2010, New Building Permit No. 420204754-01-NB (the "New Building Permit") was issued by the Department of Buildings ("DOB") permitting construction of the Building; and

WHEREAS, on October 27, 2010 (the "Rezoning Date"), the City Council voted to adopt the Auburndale Rezoning, which rezoned the site from an R3-2 zoning district to an R2A zoning district; and

WHEREAS, the Building is proposed to have 3,180 sq. ft. of floor area (0.6 FAR), a lot coverage of 34.78 percent, and a front yard depth of 15 feet; as such, the Building does not comply with the current zoning, which allows only single-family dwellings, a maximum of 2,400 sq. ft. of floor area, a maximum FAR of 0.5, a maximum lot coverage of 30 percent, and a minimum front yard depth of 20'-0"; and

WHEREAS, the applicant represents that although it completed for the Building prior to the Enactment Date and therefore, pursuant to ZR § 11-331, had until October 27, 2012 to complete construction and obtain a certificate of occupancy, as of that date, construction had not been completed and a certificate of occupancy had not been obtained; and

WHEREAS, in addition, the applicant states that the owner did not seek reinstatement of the New Building Permit pursuant to ZR § 11-332; and

WHEREAS, accordingly, the applicant now seeks recognition of a vested right to complete construction pursuant to the common law doctrine of vested rights; and

WHEREAS, a threshold matter for the vested rights analysis is that a permit be issued lawfully prior to the Enactment Date and that the work was performed pursuant to such lawful permit; and

WHEREAS, by letter dated March 6, 2014, DOB stated that the New Building Permit was lawfully issued, authorizing construction of the proposed Building prior to the Enactment Date; and

WHEREAS, the Board notes that when work proceeds under a lawfully-issued permit, a common law vested right to continue construction after a change in zoning generally exists if: (1) the owner has undertaken substantial construction; (2) the owner has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, specifically, as held in Putnam Armonk, Inc. v. Town of Southeast, 52 A.D.2d 10 (2d Dept. 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner's rights under the prior ordinance are deemed vested "and will not be disturbed where enforcement [of new zoning requirements] would cause 'serious loss' to the owner," and "where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance"; and

WHEREAS, however, notwithstanding this general framework, as discussed by the court in Kadin v. Bennett, 163 A.D.2d 308 (2d Dept. 1990) "there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess 'a vested right'. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action"; and

WHEREAS, as noted above, the applicant obtained a permit to construct the Building and performed certain work prior to the Enactment Date; and

WHEREAS, specifically, the applicant states that the work it performed constitutes substantial construction, in that, prior to the Enactment Date, it completed 100 percent of the foundation; in addition, the applicant notes that, subsequent to the Enactment Date, construction proceeded and is nearly complete; and

WHEREAS, in support of this statement, the applicant has submitted the following: a breakdown of the construction costs by line item; copies of cancelled checks; construction permits and inspection reports; contractor payment requests; photographs of the site; and an affidavit from the owner of the site attesting to the timing and nature of the work performed prior to the Enactment Date; and

WHEREAS, the Board has reviewed the representations as to the amount and type of work completed before the Enactment Date and the documentation submitted in support of these representations, and agrees that it establishes that substantial work was performed; and

WHEREAS, as to expenditure, the Board notes that unlike an application for relief under ZR § 11-30 et seq., soft costs and irrevocable financial commitments can be considered in an application under the common law and accordingly, these costs are appropriately included in the applicant's analysis; and

WHEREAS, the applicant represents that the total expenditure paid for construction of the Building is \$488,567, or approximately 89.4 percent, out of the 546,429 cost to complete; and

WHEREAS, as noted, the applicant has submitted a breakdown of costs and expenditures, copies of cancelled

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checks, and an affidavit in support of this representation; and

WHEREAS, the Board considers the amount of expenditures significant, both for a project of this size, and when compared with the development costs; and

WHEREAS, again, the Board's consideration is guided by the percentages of expenditure cited by New York courts considering how much expenditure is needed to vest rights under a prior zoning regime; and

WHEREAS, as to serious loss, the Board examines not only whether certain improvements and expenditures could not be recouped under the new zoning, but also considerations such as the diminution in income that would occur if the new zoning were imposed and the reduction in value between the proposed building and the building permitted under the new zoning; and

WHEREAS, the applicant states that the owner would incur a loss of approximately \$450,000 if the Building must be modified to comply with R2A regulations, because a complete redesign of the building would be required, including extensive demolition and structural work; additionally, an entire dwelling unit would be lost; and

WHEREAS, accordingly, the applicant represents that complying with the current zoning regulations would result in a serious loss to the owner; and

WHEREAS, the Board agrees that complying with the open space requirements of the R2A district regulations would result in a serious economic loss for the applicant; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed and the expenditures made before the Enactment Date, the representations regarding serious loss, and the supporting documentation for such representations, and agrees that the applicant has satisfactorily established that a vested right to complete construction of the Building has accrued to the owner of the premises.

Therefore it is Resolved, that this application made pursuant to the common law doctrine of vested rights requesting a reinstatement of Permit No. 420204754-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for one year from the date of this grant.

Adopted by the Board of Standards and Appeals, October 21, 2014.

166-12-A

APPLICANT – NYC Department of Buildings.
OWNER – Sky East LLC c/o Magnum Real Estate Group, owner.
SUBJECT – Application June 4, 2012 – Application to revoke the Certificate of Occupancy. R8B zoning district.
PREMISES AFFECTED – 638 East 11th Street, south side of East 11th Street, between Avenue B and Avenue C, Block 393, Lot 26, Borough of Manhattan.
COMMUNITY BOARD #3M

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

107-13-A

APPLICANT – Law Office of Marvin B. Mitzner LLC, for Sky East LLC, owner.
SUBJECT – Application April 18, 2013 – An appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior R7- 2 zoning district. R7B zoning district.
PREMISES AFFECTED – 638 East 11th Street, south side of East 11th Street, between Avenue B and Avenue C, Block 393, Lot 25, 26 & 27, Borough of Manhattan.
COMMUNITY BOARD #3M

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

11-14-A thru 14-14-A

APPLICANT – Sheldon Lobel, P.C., for Trimountain LLC, owner.
SUBJECT – Application January 22, 2014 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development under the prior R3-2 zoning district.
PREMISES AFFECTED – 47-04, 47-06, 47-08 198th Street, south side of 47th Avenue between 197th Street and 198th Street, Block 5617, Lot 34, 35, 36, Borough of Queens.
COMMUNITY BOARD #11Q

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

162-14-A

APPLICANT – Rampulla Associates Architects, for Lawrence O O’Friel, owner.
SUBJECT – Application July 9, 2014 – Appeal seeking waiver of Section G304.1.2 of the NYC Building Code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A zoning district.
PREMISES AFFECTED – 100 Giegerich Avenue, west side Giegerich Avenue 431.10’ to Minerva Avenue, Block 7796, Lot 11(tentative), Borough of Staten Island.
COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –
Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

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

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163-14-A thru 165-14-A

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

SUBJECT – Application July 10, 2014 – Appeal seeking waiver of Section G304.1.2 of the NYC Building Code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A zoning district. PREMISES AFFECTED – 502, 504, 506 Canal Street, Greenwich Street and Canal Street, Block 595, Lot 40, 39, 38, Borough of Manhattan.

COMMUNITY BOARD #1M

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

235-14-A

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

SUBJECT – Application September 30, 2014 – Section 36, Article 3 of the General City Law - NYC-HPD Build It Back in a private community known as Seagate which is a private unmapped street for a proposed single family home to replace the dwelling destroyed by Hurricane Sandy. R3-1 zoning district.

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

COMMUNITY BOARD #13BK

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

283-13-BZ

CEQR No. 14-BSA-053K

APPLICANT – Alexander Levkovich, for 100 Elmwood Realty Corp., owner.

SUBJECT – Application October 8, 2013 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*NYC Fitness Club*) on the first floor of a one story building. M1-1 zoning district.

PREMISES AFFECTED – 4930 20th Avenue, Dahill Road and 50th Street; Avenue 1 & Dahill Road, Block 5464, Lot 81, Borough of Brooklyn.

COMMUNITY BOARD #14BK

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 September 30, 2013, acting on DOB Application No. 320734577, reads, in pertinent part:

ZR 42-10 – Physical culture or health establishment is not permitted as of right in M1-1 district; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a M1-1 zoning district, the operation of a physical culture establishment (“PCE”) on the first story and mezzanine of a one-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on June 17, 2014, after due notice by publication in the *City Record*, with continued hearings on August 19, 2014 and September 23, 2014, and then to decision on October 21, 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 12, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is a triangular lot located at the northeast corner of the intersection of 20th Avenue and Dahill Road, within an M1-1 zoning district; and

WHEREAS, the site has approximately 150 feet of frontage along 20th Avenue, approximately 170 feet of frontage along Dahill Road, and 11,376 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story commercial building with 16,643 sq. ft. of floor area (1.46 FAR); and

WHEREAS, the proposed PCE will occupy the entire building and be operated as NYC Fight Club; and

WHEREAS, the hours of operation for the PCE will be seven days per week, from 6:00 a.m. to 11:30 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, at hearing, the Board directed the applicant to remove graffiti from the exterior of the building and to clarify the parking requirements of the site and anticipated parking needs of the PCE; and

WHEREAS, as to the graffiti, the applicant submitted photos depicting the removal of the graffiti; and

WHEREAS, as to parking, the applicant obtained a determination from DOB that parking is not required for the

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PCE; in addition, the applicant represents that: (1) only ten percent of the patrons regularly visiting the PCE will arrive by personal car and that 90 percent will walk or utilize a form of public transportation; (2) public transportation in the vicinity is adequate, in that the F train and the No. 11 bus are within 200 feet of the site and two other buses are within two avenues of 20th Avenue; and (3) on-street parking and local off-street parking facilities are more than adequate to handle the limited auto traffic anticipated; 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 an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 14-BSA-053K, dated September 30, 2013; and

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a M1-1 zoning district, the operation of a PCE on the first story and mezzanine of a one-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received April 10, 2014"-(10) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on October 21, 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 since there are no residential uses in the subject building and there are no adjacent residential uses, sound attenuation measures are not necessary;

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 21, 2014.

53-14-BZ

CEQR #14-BSA-134M

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

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

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

COMMUNITY BOARD #5M

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 5, 2014, acting on DOB Application No. 121094804, reads, in pertinent part:

Physical culture establishment is not permitted as of right in M1-6 zoning district and is contrary to ZR 42-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a M1-6 zoning district,

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within the Madison Square North Historic District, the legalization of a physical culture establishment (“PCE”) operating on the second story of an 18-story mixed residential and 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 21, 2014; and

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

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

WHEREAS, the subject site is located on the south side of West 27th Street, between Avenue of the Americas and Broadway, within the Madison Square North Historic District; and

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

WHEREAS, the site is occupied by a 18-story mixed residential and commercial building with approximately 85,076 sq. ft. of floor area (17.23 FAR); and

WHEREAS, the PCE occupies 4,714 sq. ft. of floor area on the second story and is operated as Evolution Muay Thai; and

WHEREAS, the hours of operation for the PCE are Monday through Friday, from 12:00 p.m. to 9:00 p.m., and Saturday, from 12:00 p.m. to 5:00 p.m., and Sunday, from 12:00 p.m. to 3:00 p.m.; and\

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

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

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

WHEREAS, the Landmarks Preservation Commission has approved the proposed alterations of the building by Certificate of No Effect, dated March 19, 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, at hearing, the Board noted that it had received complaint regarding odors emanating from the PCE; and

WHEREAS, in response, the applicant stated that it also received the complaint and has installed a new ventilation system; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit and to ensure that the continued operation of the PCE does not negatively impact the

building; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in the Environmental Assessment Statement, CEQR No. 14BSA134M dated July 8, 2014; and

WHEREAS, the EAS documents that the operation of the PCE 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 §§ 73-36 and 73-03, to permit, on a site within a M1-6 zoning district, within the Madison Square North Historic District, the legalization of a PCE operating on the second story of an 18-story mixed residential and commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received July 9, 2014”-(2) sheets; *on further condition*:

THAT the term of the PCE grant will expire on October 21, 2019;

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

THAT workout padding in the PCE space will be cleaned and sanitized on a regular basis;

THAT charcoal filters will be installed in the PCE space to ensure that odors from the PCE do not migrate into offices throughout the building;

THAT specific sound attenuation measures are not

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necessary since there are no residential uses above or adjacent to the PCE space. The floor of the PCE is eighteen inch concrete slab with 1½ inch foam on top of the slab which will act as a sound buffer;

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 21, 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 21, 2014.

105-14-BZ

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

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

COMMUNITY BOARD #14BK

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 New York City Department of Buildings (“DOB”), dated May 19, 2014, acting on DOB Application No. 320915266, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141(a) in that the proposed floor area ratio exceeds the permitted 50 percent;
2. Proposed plans are contrary to ZR 23-141(a) in that the proposed open space ratio is less than the required 150 percent;

3. Plans are contrary to ZR 23-461(a) in that the side yard is less than the required 5’-0”;
 4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than 30’-0”;
- and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, 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 21, 2014; and

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

WHEREAS, Community Board 14, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the west side of East 27th Street, between Avenue L and Avenue M, within an R2 zoning district; and

WHEREAS, the site has 25 feet of frontage along East 28th Street and 2,500 sq. ft. of lot area; and

WHEREAS, the site is occupied by a single-family home with 1,637 sq. ft. of floor area (0.65 FAR); and

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

WHEREAS, the applicant now seeks to convert the building to a single-family home and increase its floor area from 1,637 sq. ft. (0.65 FAR) to 2,187 sq. ft. (0.88 FAR); the maximum permitted floor area is 1,250 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to decrease the open space ratio from 68 percent to 55 percent; the minimum required open space ratio is 150 percent; and

WHEREAS, the applicant seeks to maintain an existing side yard widths of 3’-0” and 5’-8”;

the requirement is two side yards with a minimum total width of 13’-0” and a minimum width of 5’-0” each; and

WHEREAS, the applicant also seeks to decrease its rear yard depth from 37’-8” to 20’-0”;

a rear yard with a minimum depth of 30’-0” is required; and

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

WHEREAS, the applicant asserts that the proposed lot 0.88 FAR is consistent with the bulk in the surrounding area; in addition, the applicant states that the street wall location and building height are in keeping with the surrounding buildings and submitted a streetscape in support of this assertion; and

WHEREAS, at hearing, the Board directed the applicant to clarify the portion of the proposed attic that constitutes floor

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area and to provide further details regarding the adjacent sites; and

WHEREAS, in response, the applicant submitted amended plans, which depict the requested information; and

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received October 7, 2014"–(12) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 2,187 sq. ft. (0.88 FAR), a minimum open space ratio of 55 percent, side yards with minimum widths of 3'-0" and 5'-8", and a minimum rear yard depth of 20'-0", as illustrated on the BSA-approved plans;

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

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

THAT 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 21, 2016; 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 21, 2014.

65-13-BZ

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

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

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

COMMUNITY BOARD #3BK

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

155-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Cong Kozover Zichron Chaim Shloime, owners.

SUBJECT – Application May 15, 2013 – Variance (§72-21) to permit the enlargement of an existing synagogue (*Congregation Kozover Sichron Chaim Shloime*) and rabbi's residence (UG 4) and the legalization of a Mikvah, contrary to floor area (§24-11), lot coverage (§24-11), wall height and setbacks (§24-521), front yard (§24-34), side yard (§24-35), rear yard (§24-36), and parking (§25-18, 25-31) requirements. R3-2 zoning district.

PREMISES AFFECTED – 1782-1784 East 28th Street, west side of East 28th Street between Quentin road and Avenue R, Block 06810, Lots 40 & 41, Borough of Brooklyn.

COMMUNITY BOARD #15BK

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

225-13-BZ

APPLICANT – Eric Palatnik, P.C., for Yitta Neiman, owner.

SUBJECT – Application July 25, 2013 – Variance (§72-21) to permit the development of a three-family, four-story residential building, contrary to use regulations (§42-00). M1-2 zoning district

PREMISES AFFECTED – 810 Kent Avenue, east Side of Kent Avenue between Little Nassau Street and Park Avenue, Block 1883, Lot 35, 36, Borough of Brooklyn.

COMMUNITY BOARD #3BK

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

264-13-BZ

APPLICANT – Francis R. Angelino, Esq., for David Lowenfeld, owner; BB Fitness dba Brick Crossfit NYC, lessee.

SUBJECT – Application September 6, 2013 – Special Permit (§73-36) to legalize a physical culture establishment (*Brick CrossFit*) on the ground floor and cellar of an existing 10-story building. C6-2A zoning district.

PREMISES AFFECTED – 257 West 17th Street, north side,

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West 17th Street, between 7th & 8th Avenues, Block 767, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #4M

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

327-13-BZ

APPLICANT – Goldman Harris LLC, for JCWH Coney Island LLC, owner.

SUBJECT – Application December 23, 2014 – Special Permit (§73-44) to reduce the required number of accessory parking spaces from 346 to 272 spaces for a mixed use building containing UG4 health care and UG 6 office uses. C8-2, C2-3/R5 zoning district.

PREMISES AFFECTED – 1504 Coney Island Avenue, aka 1498, 1526, 1528, 1532-1538 Coney Island Avenue, property occupies the northwest corner of Coney Island Avenue and Avenue L. Block 6536, Lot(s) 28, 30, 34, 40, 41, 42, 43, Borough of Brooklyn.

COMMUNITY BOARD # 12BK

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

328-13-BZ

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

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

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

COMMUNITY BOARD #1BK

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

28-14-BZ

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

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

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

COMMUNITY BOARD #15BK

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

45-14-BZ

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

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

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

COMMUNITY BOARD #10BK

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

115-14-BZ

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

SUBJECT – Application May 30, 2014 – Special Permit (§73-36) to legalize for a physical culture establishment (*T.Kang Tae Kwon Do*) on the cellar and first floor in an existing building. C6-2A zoning district.

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

COMMUNITY BOARD #1M

THE VOTE TO CLOSE HEARING –

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

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

122-14-BZ

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

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

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

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to November 25, 2014, at 10:00 A.M., for continued hearing.

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*CORRECTION

This resolution adopted on October 22, 2013, under Calendar No. 139-92-BZ and printed in Volume 98, Bulletin Nos. 42-43, is hereby corrected to read as

139-92-BZ

APPLICANT – Samuel H. Valencia

SUBJECT – Application May 20, 2013 – Extension of term for a previously granted special permit (§73-244) for the continued operation of a UG12 eating and drinking establishment with dancing (*Deseos*) which expired on March 7, 2013; Waiver of the Rules. C2-2/R6 zoning district.

PREMISES AFFECTED – 52-15 Roosevelt Avenue, North side 125.53' east of 52nd Street, Block 1316, Lot 76, Borough of Queens.

COMMUNITY BOARD #2Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a re-opening, and an extension of term of a previously granted special permit for an eating and drinking establishment without restrictions on entertainment (UG 12A), which expired on March 7, 2013; and

WHEREAS, a public hearing was held on this application on August 20, 2013, after due notice by publication in *The City Record*, with a continued hearing on September 24, 2013, and then to decision on October 22, 2013; and

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

WHEREAS, Community Board 2, Queens, recommends disapproval of this application, citing concerns about alleged criminal activity at the site; and

WHEREAS, the subject site is located on the north side of Roosevelt Avenue, between 52nd Street and 53rd Street, within a C2-2 (R6) zoning district; and

WHEREAS, the site is occupied by an eating and drinking establishment with entertainment, operated as *Deseos*; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 7, 1995, when, under the subject calendar number, the Board granted a special permit under ZR § 73-244 to permit the operation of an eating and drinking establishment with dancing (Use Group 12) on the first floor of an existing three-story building, for a term of three years; and

WHEREAS, subsequently, the grant has been amended

and the term extended at various times; and

WHEREAS, most recently, on August 17, 2010, the Board granted an additional three-year term, which expired on March 7, 2013; and

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

WHEREAS, at hearing, the Board raised concerns about: (1) the lack of windows along the street frontage; (2) the excessive signage displayed near the establishment's entrance; and (3) whether the air conditioning unit in the rear yard was installed in accordance with the approved plans; and

WHEREAS, in response, the applicant stated that it removed the windows from the street frontage as a noise-attenuation measure; as such, it seeks to retain the frontage as previously approved; and

WHEREAS, as to the signage and the condition of the rear yard, the applicant submitted photographs showing the removal of the excessive signage and the installation of the air conditioning unit in accordance with the approved plans; and

WHEREAS, based upon the above, the Board finds the requested extension of term is appropriate, with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens*, and *amends* the resolution, as adopted on March 7, 1995, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: "to extend the term for a period of three years from March 7, 2013, to expire on March 7, 2016, *on condition*:

THAT the term of this grant will expire on March 7, 2016;

THAT the above condition will be listed on the certificate of occupancy;

THAT the signage will be in accordance with the BSA-approved plans;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect and shall be listed on the certificate of occupancy;

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

THAT 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." (DOB Application No. 420634326)

Adopted by the Board of Standards and Appeals, October 22, 2013.

***The Resolution has been corrected to amend the DOB Application No. which now reads: "DOB Application No. 420634326". Corrected in Bulletin Nos. 42-43, Vol. 98, dated October 30, 2014.**