
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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DOCKETS

New Case Filed Up to July 28, 2015

161-15-BZ

621 East 216th Street, located on the corner of the intersection formed by Bronx Boulevard and East 216th Street, Block 04649, Lot(s) 0001, Borough of **Bronx, Community Board: 12**. Variance (§72-21) to permit the enlargement of an existing house of worship (UG 4) contrary to lot coverage and rear yard requirements. R6A/R5A zoning district R6A/R5A district.

162-15-A

139-48 88th Road, premises is located on the south side of 88th Road between 80th Street and 85th Street, Block 09683, Lot(s) 0013, Borough of **Queens, Community Board: 13**. Application seeks a determination that the applicant has vested rights in the continued development of the proposed residential building at the premises. R5 zoning district R5 district.

163-15-A

88-30 144th Street, premises is located on the south side of 88th Road between 80th Street and 85th Street, Block 09683, Lot(s) 0014, Borough of **Queens, Community Board: 13**. Application seeks a determination that the applicant has vested rights in the continued development of the proposed residential building at the premises. R5 zoning district R5 district.

164-15-A

88-34 144th Street, premises is located on the south side of 88th Road between 80th Street and 85th Street, Block 09683, Lot(s) 0114, Borough of **Queens, Community Board: 13**. Application seeks a determination that the applicant has vested rights in the continued development of the proposed residential building at the premises. R5 zoning district R5 district.

165-15-A

88-36 144th Street, premises is located on the south side of 88th Road between 80th Street and 85th Street, Block 09683, Lot(s) 0015, Borough of **Queens, Community Board: 13**. Application seeks a determination that the applicant has vested rights in the continued development of the proposed residential building at the premises. R5 zoning district R5 district.

166-15-A

88-35 144th Street, premises is located on the south side of 88th Road between 80th Street and 85th Street, Block 09683, Lot(s) 0016, Borough of **Queens, Community Board: 13**. Application seeks a determination that the applicant has vested rights in the continued development of the proposed residential building at the premises. R5 zoning district R5 district.

167-15-A

137 West 86th Street, north side of West 86th Street between Columbus and Amsterdam Avenues, Block 01217, Lot(s) 0017, Borough of **Manhattan, Community Board: 7**. Application filed pursuant to Section 310 of the Multiple Dwelling Law ("MDL") requesting to vary MDL 171(2)(a) to permit a partial one story vertical enlargement of an existing building. R10A zoning district R10A district.

168-15-BZ

58 Grattan Street, south side of Grattan Street between Knickerbocker Avenue and Vandervoort Place, Block 03008, Lot(s) 0015, Borough of **Brooklyn, Community Board: 1**. Variance (§72-21) to permit the development of a four-story commercial building contrary to height, setback and parking requirements. M1-1 zoning district. M1-1 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

AUGUST 25, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, August 25, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

182-95-BZ

APPLICANT – Rothkrug & Spector LLP, for 2465 Broadway Associates LLC., owner.

SUBJECT – Application October 14, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a PCE (*Equinox Fitness Club*) which expires on November 1, 2015; Amendment to expand the PCE into the cellar and the full third floor; Waiver of the Rules. C4-6A/R8 zoning district.

PREMISES AFFECTED – 2465 Broadway, West side of Broadway, 50' south of southwest corner of intersection of Broadway and West 92nd Street, Block 01239, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #7M

183-95-BZ

APPLICANT – Rothkrug & Spector LLP, for Haymes Broadway LLC, owner.

SUBJECT – Application October 14, 2014 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a PCE (*Equinox Fitness Club*) which expires on November 1, 2015; Amendment to expand the PCE into the cellar and the full third floor; Waiver of the Rules. C4-6A/R8 zoning district.

PREMISES AFFECTED – 2473 Broadway, southwest corner of intersection of Broadway and West 92nd Street, Block 01239, Lot 55, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEALS CALENDAR

297-12-A

APPLICANT – Law Office of Fredrick A. Becker, for 28-20 Astoria Blvd LLC., owner.

SUBJECT – Application April 6, 2015 – Extension of Time to complete construction in connection with a previously approved common law vested rights application. R6-A (C1-1) zoning district.

PREMISES AFFECTED – 28-18/20 Astoria Boulevard, south side of Astoria Boulevard, approx. 53.87' west of 29th Street, Block 00596, Lot 0045, Borough of Queens.

COMMUNITY BOARD #1Q

91-15-A

APPLICANT – Edward Lauria, for Gerard Petri, owner.

SUBJECT – Application April 23, 2015 – Proposed construction of building that does not front on a legally mapped street, pursuant Article 3 Section 36 of the General city Law. M1-1 zoning district.

PREMISES AFFECTED – 55 Englewood Avenue, 593.35' east of Arthur Kill Road, Block 07380, Lot 0029, Borough of Staten Island

COMMUNITY BOARD #3SI

AUGUST 25, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, August 25, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

19-15-BZ

APPLICANT – Herrick, Feinstein LLP, for Andon Investment LP, owner; Retro Fitness of NY LLC, lessee.

SUBJECT – Application January 29, 2015 – Special Permit (73-36) to permit a physical culture establishment (*Retro Fitness*) to be located at second-story level (plus entrance at ground-floor level) of a new two-story building. R7-1/C2-2 zoning district.

PREMISES AFFECTED – 92-77 Queens Boulevard, Through-block site with frontage on Queens Boulevard and 93 Street, between 62 Avenue and Harding Expressway, Block 02075, Lot 39, Borough of Queens.

COMMUNITY BOARD #6Q

29-15-BZ

APPLICANT – Law Office of Stuart Klein, for 3rd and 60th Associates, LP, owner; Flywheel Sport, Inc., lessee.

SUBJECT – Application February 18, 2015 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Flywheel Sports*) at the cellar level of an existing building. C6-4 zoning district.

PREMISES AFFECTED – 200-204 East 61st Street aka 1011-102 3rd Avenue, east side of 3rd Avenue between East 60th and East 61st Street, Block 01415, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #8M

Ryan Singer, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, JULY 14, 2015
10:00 A.M.**

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

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

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown and Commissioner Montanez.....3

Absent: Vice-Chair Hinkson.....1

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a reinstatement of a prior variance authorizing a gasoline service station (Use Group 16) contrary to use regulations and an amendment to BSA-approved plans to reflect existing curb cuts at the site; and

WHEREAS, a public hearing was held on this application on October 28, 2014, after due notice by publication in *The City Record*, with continued hearings on February 3, 2015, April 14, 2015, and June 23, 2015, and then to decision on July 28, 2015; 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 11, Bronx, recommends approval of this application, subject to certain conditions; and

WHEREAS, the subject site is located on the southeast corner of the intersection of Williamsbridge Road and Neill Avenue, within an R5D (C2-4) zoning district, in the Bronx; and

WHEREAS, the site has 100 feet of frontage along Williamsbridge Road and 100 feet of frontage along Neill Avenue, and approximately 10,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story building with approximately 1,800 sq. ft. of floor area (0.18 FAR); the building is occupied by a gasoline service station (Use Group 16);

WHEREAS, the Board has exercised jurisdiction over the site since October 29, 1957, when, under the subject calendar number, it granted a variance authorizing the operation of a gasoline service station, with accessory uses, contrary to the use regulations of the 1916 Zoning Resolution, for a term of 15 years, to expire on October 29, 1972; this grant was amended and the term of the variance was extended at various times; the term of the subject variance last expired on August 6, 2012; and

WHEREAS, pursuant to 2 RCNY § 1-07.3(b)(3)(i), the Board may reinstate a use variance granted under the 1916 Zoning Resolution, provided that: (i) the use has been continuous since the expiration of term; (ii) substantial prejudice would result without such reinstatement; and

WHEREAS, the applicant states that the use has been continuous at the site since the expiration of the term in 2012; in support of this statement, the applicant provided various records from Consolidated Edison, the New York Department of Environmental Protection, the New York State Department of State Division of Corporations, and New York City Department of Consumer Affairs; and

WHEREAS, the applicant asserts that substantial prejudice would result without the requested reinstatement of the variance, in that absent such reinstatement, the owner of the site will not be able to obtain a certificate of occupancy (“CO”) for the gasoline service station from the Department of Buildings; if the owner does not obtain a CO, it may be subject to violations from DOB and it may encounter difficulties in financing, leasing, or selling the site; and

WHEREAS, the applicant contends that the subject gasoline service station is compatible with the surrounding neighborhood and does not substantially impair the appropriate use and development of adjacent properties; and

WHEREAS, additionally, the applicant submitted a vehicle circulation plan, which demonstrates that the operation of the site will not negatively impact traffic in the neighborhood, and agreed to direct all lighting at the site downward and away from adjacent residential uses; and

WHEREAS, based on the applicant’s representations, the Board accepts the proposed application as a request for a reinstatement of a pre-1961 use variance; and

WHEREAS, at hearing, the Board directed the applicant to: (1) install landscaping at the site, including a planter at the gas station pole; and (2) remove all excessive signage from the site; and

WHEREAS, in response, the applicant provided photos showing the installation landscaping, including the required planters; and

WHEREAS, the subject site has four curb cuts, two on Neill Avenue and two on Williamsbridge Road; the BSA-approved plans for the site show that all four curb cuts are 30’-0” wide but the applicant represents that the easterly curb cut on Neill Avenue is 28’-0” wide and the northerly curb cut is 39’-0” wide, a non-compliance with the aforesaid plans; and

WHEREAS, the applicant provided the Board with a traffic assessment study which demonstrates that the non-

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complying 39'-0" curb cut does not have a negative impact on traffic or pedestrians on Williamsbridge Road; and

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

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, and, pursuant to ZR § 11-411, *reinstates* a previously-granted variance to permit, on a site located within an R5D (C2-4) zoning district, the operation of a gasoline service station (Use Group 16), contrary to use regulations; *on condition* that all work will substantially conform to plans, filed with this application marked 'Received July 9, 2015' - (5) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years, to expire on July 28, 2025;

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

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

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

THAT the above conditions shall be noted in the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by July 28, 2016;

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

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

Adopted by the Board of Standards and Appeals, July 28, 2015.

174-04-BZ

APPLICANT – Kramer Levin Naftalis & Franked LLP, for 124 West 24th Street Condominium, owner.

SUBJECT – Application October 31, 2014 – Amendment to approve conveyance of unused development rights appurtenant to the subject site previously granted by the Board. M1-5 zoning district.

PREMISES AFFECTED – 124 West 24th Street, location on the south side of West 24th Street, between Sixth and Seventh Avenues. Block 799, Lots 1001, 1026. Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown and Commissioner Montanez.....3

Absent: Vice-Chair Hinkson.....1

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application to reopen and amend the variance granted by the Board under BSA Cal. No. 174-04-BZ (the "Variance"), which permitted the conversion, from commercial to residential use, of the second through sixth floors of the building known as and located at 124 West 24th Street, in Manhattan (the "Building"); and

WHEREAS, the purpose of this application is to facilitate the transfer of unused development rights appurtenant to the subject site (Block 799, Lots 1001-1026) by the owner of the site, 124 West 24th Street Condominium (the "Condominium") to the owner of a development site (the "Development Site") within a zoning lot to be created upon the merger of the subject site with contiguous parcels located on Block 799 (the "Proposed Zoning Lot Merger"); and

WHEREAS, a public hearing was held on this application on March 10, 2015, after due notice by publication in *The City Record*, with a continued hearing on June 23, 2015, and then to decision on July 28, 2015; and

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

WHEREAS, Community Board 4, Manhattan, recommends that the Board deny this application; and

WHEREAS, the application is brought on behalf of the Condominium, which owns the subject site and wishes to enter into the Proposed Zoning Lot Merger, for which it seeks the Board's authorization; and

WHEREAS, the subject site is an interior lot located on the south side of West 24th Street, between Avenue of the Americas and Seventh Avenue, in Manhattan, within an M1-6 zoning district; and

WHEREAS, the subject site has a lot area of approximately 6,606 sq. ft. and the Building contains approximately 32,027 sq. ft. of floor area (4.83 FAR); and

WHEREAS, the Board notes that the Variance limited the FAR of the Building to a maximum of 4.81 FAR, a ratio believed to reflect the then-existing amount of FAR in the Building; the maximum permitted FAR was amended by Letter of Substantial Compliance dated February 24, 2006, to reflect the actual as-built condition of the Building; and

WHEREAS, the Building contains retail use on the ground floor and, as authorized by the Variance, residential uses on the second through sixth floors; and

WHEREAS, the Board notes that the Variance involved the change of use of certain floors within the existing Building with no impact on bulk; and

WHEREAS, the Condominium represents that there are not any changes to the Building associated with the Proposed Zoning Lot Merger and development rights transfer; and

WHEREAS, in addition, the applicant contends that the proposed transfer of development rights is consistent with the Court's decision in *Bella Vista v. Bennett*, 89 N.Y. 2d 565 (1997), setting forth the parameters of Board review

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of requests for the transfer of development rights from sites for which a variance has been granted; and

WHEREAS, the applicant asserts that a transfer of the unused development rights from the subject site is not in conflict with the Variance; and

WHEREAS, the applicant notes that the economic feasibility analysis submitted in support of the Variance incorporated the value of the subject site's unused development rights, thus the Board considered the value of such rights when it determined that a conforming use of the Building could not generate a reasonable return; and

WHEREAS, the applicant asserts that the valuation of the unused floor area at the subject site at the time of the Variance, \$45 per square foot, reflected the fact that unused floor area could be utilized at the site, but that such utilization was constrained by the presence of the Building, as well as the fact that the market for a transfer of the site's unused floor area was, at the time of the Variance, limited; and

WHEREAS, the applicant notes that, in considering the underlying Variance, the Board articulated its concern that the \$45 per square foot value was too high, but concluded that a conforming development would not yield a reasonable rate of return at the site; and

WHEREAS, thus, the applicant states that an amendment of the Variance to facilitate the transfer of the unused development rights from the subject site to the Development Site does not undermine the integrity of the Board's earlier findings concerning ZR §§ 72-21(b) or 72-21(e) because the facts of the instant application are readily distinguishable from those underlying the Court's holding in *Bella Vista*; and

WHEREAS, the applicant concludes that the use of the development rights as a result of the Proposed Zoning Lot Merger is therefore not inconsistent with the Variance; and

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

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

WHEREAS, the Board notes that, unlike in *Bella Vista*, the subject site and the Development Site have been under separate, unrelated ownership since the Board's grants; therefore, the Condominium lacked control over the timing and nature of the development of the Development Site; and

WHEREAS, the Board also notes that a brief period of time elapsed between the issuance of the variance

underlying the *Bella Vista* decision and the date of the permit application in which the owner proposed to use floor area transferred from the variance site, further distinguishing that case from the instant application and the Proposed Zoning Lot Merger; and

WHEREAS, the Board notes that in *Bella Vista*, the permit application proposing to use floor area transferred from the variance site was filed only three years after the Board grant, while the subject Variance was issued in 2005 (approximately ten years before the filing of the instant application); and

WHEREAS, the Board agrees that the differences in timing and in the health of the respective real estate markets distinguish the *Bella Vista* case from the instant case and supports the conclusion that the use of the subject site's unused development rights was not foreseeable by the owner of the Development Site or the Board; and

WHEREAS, the Board finds that the proposed transfer of development rights does not implicate or affect the basis for its findings in general, and specifically the (b) and (e) finding, at the time that they were made; and

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

WHEREAS, based upon its review of the record, the Board does not object to the Proposed Zoning Lot Merger or transfer of unused development rights from the subject site, but notes that any further changes to the subject site that are inconsistent with prior approvals are subject to the Board's review and approval; and

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolutions, having been adopted on June 14, 2005, so that as amended this portion of the resolutions shall read: "to permit the merger of the subject site with contiguous parcels located on Block 799, Manhattan, and the associated modifications to the BSA-approved site plan; and *on condition*:"

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

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

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

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

Adopted by the Board of Standards and Appeals, July 28, 2015.

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705-81-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Fraydun Enterprises, LLC, owner; Fraydun Enterprises, LLC, lessee.

SUBJECT – Application November 10, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the operation of a physical culture establishment which expired on May 10, 2013; Extension of Time to obtain a Certificate of Occupancy; Waiver of the Rules. R10 zoning district.

PREMISES AFFECTED – 1433 York Avenue, northeast corner of intersection of York Avenue and East 76th Street, Block 01471, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

35-10-BZ

APPLICANT –Sheldon Lobel, P.C., for Torath Haim Ohel Sara, owner.

SUBJECT – Application September 24, 2014 – Extension of Time to Obtain a Certificate of Occupancy of a previously approved Variance (§72-21) which permitted the legalization of an existing synagogue (Congregation Torath Haim Ohel Sara), contrary to front yard (§24-34), side yard (§24-35) and rear yard (§24-36), which expired on March 8, 2012; Amendment to permit minor changes to the construction; Waiver of the rules. R4 zoning district.

PREMISES AFFECTED – 144-11 77th Avenue, between Main Street and 147th Street, Block 6667, Lot 45, Borough of Queens.

COMMUNITY BOARD #8Q

ACTION OF THE BOARD – Off-Calendar.

301-03-BZ

APPLICANT – Law Office of Lyra J. Altman, for 1103 East 22nd LLC., owner.

SUBJECT – Application April 29, 2014 – Extension of Time to Complete Construction and Waiver of the rules for a single family home enlargement under 73-622 approved on January 13, 2004. R2 Zoning district.

PREMISES AFFECTED – 1103 East 22nd Street, east side of East 22nd Street between Avenue J and Avenue K, Block 07604, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to August 25, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

90-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP
SUBJECT – Application April 23, 2015 – Proposed construction of a building located partially within the bed of mapped unbuild street, pursuant Article 3 Section 35 of the General City Law. M3-1 (SRD) zoning district.

PREMISES AFFECTED –54 Industrial Loop, east side of Industrial Loop, approx. 483 ft. north of intersection with Arthur Kill Road, Block 07206, Lot 01191, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown and Commissioner Montanez.....3

Absent: Vice-Chair Hinkson.....1

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated March 30, 2015, acting on DOB Application No. 520216686 reads, in pertinent part:

The street giving access to the proposed building is not duly placed on the official map of the City of New York, therefore:

A) No certificate of occupancy can be issued pursuant to Article 3, Section 36 of the General City Law.

B) Proposed construction does not have at least 8% of the total perimeter of building fronting directly upon a legally mapped street or frontage space contrary to sec 502.1 of the 2008 NYC Building Code; and

WHEREAS, this is an application, filed pursuant to General City Law §36, to allow the proposed construction not fronting on a mapped street; and

WHEREAS, a public hearing was held on this application on July 28, 2015, after due notice by publication in *The City Record*, and then to decision on the same date; and

WHEREAS, Community Board 3, Staten Island, recommends approval of this application; and

WHEREAS, the site, which does not front on a mapped street, is located on the west side of the eastern portion of Industrial Loop, approximately 424 feet north of the intersection of eastern intersection of Industrial Loop and Arthur Kill Road within an M3-1 zoning district and also within the Special South Richmond Development District, in Staten Island; and

WHEREAS, the applicant seeks to construct a one-story warehouse on the site with 11,063 sq. ft. of floor area (0.59 FAR), 14 accessory parking spaces and a loading berth, all of which complies with or exceeds applicable zoning regulations; and

WHEREAS, the applicant states that Industrial Loop (a private road) is a one-way road not placed on the official New York City Map, and can be accessed by the New York City

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Fire Department via Arthur Kill Road, approximately 424 feet from the site; and

WHEREAS, the applicant notes that, in compliance with section 503.2.10, the proposed warehouse will be fully sprinklered; and

WHEREAS, by letter dated July 23, 2015, the FDNY stated that it has no objections or recommendations related to the instant application; and

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

Therefore it is Resolved, that the decision of the Department of Buildings (“DOB”), dated March 30, 2015, acting on DOB Application No. 520216686, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction will substantially conform to the drawings filed with the application marked “June 28, 2015” - (1) sheet; and *on further condition*

THAT the proposal will comply with all applicable zoning district requirements and all other applicable laws, rules, and regulations;

THAT the proposed buildings shall be fully sprinklered in accordance with BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals on July 28, 2015.

ZONING CALENDAR

343-12-BZ

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

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

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

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown and Commissioner Montanez.....3

Absent: Vice-Chair Hinkson.....1

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated July 16, 2015, acting on Department of Buildings Application No. 320581438, reads in pertinent part:

1. ZR 24-35 Proposed School (Use Group 3) does not provide the required side yards and requires a variance from the Board of Standards and Appeals pursuant to ZR 72-21;
2. ZR 24-382 Proposed School (Use Group 3) does not provide the required rear yard equivalent and requires a variance from the Board of Standards and Appeals pursuant to ZR 72-21;
3. ZR 24-393 Proposed School (Use Group 3) does not provide the required rear yard and requires a variance from the Board of Standards and Appeals pursuant to ZR 72-21;
4. ZR 24-11 Proposed School (Use Group 3) exceeds maximum lot coverage and requires a variance from the Board of Standards and Appeals pursuant to ZR 72-21;
5. ZR 22-13 Proposed School Dormitory (Use Group 3) is not permitted in R1-2 district per ZR 22-13 and requires a variance from the Board of Standards and Appeals pursuant to ZR 72-21;
6. ZR 24-33 Proposed School (Use Group 3) does not comply with permitted obstructions in required yards per ZR 24-33 and requires a variance from the Board of Standards and Appeals pursuant to ZR 72-21; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R1-2 zoning district, and also within an R7A zoning district, comprised of three separate tax lots, the construction of a Use Group 3 school that does not comply with the zoning requirements for side yards, rear yard equivalent, rear yards, lot coverage, dormitory use and permitted obstructions in required yards, contrary to ZR §§ 24-35, 24-382, 24-393, 24-11, 22-13, and 24-33; and

WHEREAS, the application is brought on behalf of the Brooklyn School for Medically Frail Children (the “School”), a non-profit educational institution chartered by the Board of Regents of the State of New York; and

WHEREAS, a public hearing was held on this application on September 9, 2014, after due notice by publication in the *City Record*, with continued hearings on October 28, 2014, December 16, 2014, February 24, 2015, May 19, 2015, June 23, 2015 and then to decision on July 28, 2015; and

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

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and

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

WHEREAS, certain neighbors testified in opposition to the application, including residents of adjacent buildings who were represented by counsel, as well as the Ditmas Park East Association; and

WHEREAS, those in opposition to the project are referred to collectively herein as the "Opposition"; and

WHEREAS, the Opposition's primary concerns are that: (1) the Site is not burdened by unique physical conditions; (2) that the waivers sought herein will alter the essential character of the surrounding neighborhood; (3) that the School created the subject hardship upon purchasing the Site because the Site is partially within an R1-2 zoning district; (4) that the proposed building is not going to be used as a school but as a nursing facility; and (5) that because the proposed building is not a school but a nursing facility, the applicant must obtain a Certificate of Need from New York State before commencing the development contemplated herein; and

WHEREAS, the School represents that it is constructing a school, and not a nursing facility, and that DOB has determined that the proposed development constitutes a school under the Zoning Resolution; and

WHEREAS, in support of its position, the School notes that it is chartered by the New York State Board of Regents as a New York not-for-profit education corporation comprised of a day and residential program with a projected enrollment of 50 students, 20 of whom are projected as residential students; and

WHEREAS, the School notes that it will enroll students consistent with the New York Education Law and regulations promulgated by the New York State Commissioner of Education, and that only students who are referred to the School by Committees on Special Education (established pursuant to Article 89 of the New York Education Law) or Committees on Preschool Education may be enrolled at the School; and

WHEREAS, the School represents that it will operate on a 12-month school year (five days per week, at least six hours per day) in order to accommodate the needs of its students who, owing to their disabilities, require year-round intensive and individualized special education services to prevent a regression of skills and knowledge during a traditional summer recess; and

WHEREAS, the Board notes that no Certificate of Need is required where, as here, the proposed development is a school and not a health care facility or nursing home, and notes further that while the School need not obtain a Certificate of Need the nursing services provider with which it will contract may do so without prejudice to the School's status as a New York not-for-profit education corporation; and

WHEREAS, the site consists of three tax lots (lots 39, 62 and 66) located on Block 5814 in Brooklyn (the "Site");

Block 5814, Lot 39 is a 5,000 sq. ft. lot with 50 feet of frontage along East 21st Street, between Dorchester Road and Ditmas Avenue, located within an R7A zoning district; Block 5814, Lots 62 and 66 are adjacent 5,500 sq. ft. lot lots each with 50 feet of frontage along Ocean Avenue, between Dorchester Road and Ditmas Avenue, located within an R1-2 zoning district, thus the Site has an area of 16,000 sq. ft. and is located partially within an R1-2 zoning district and partially within an R7A zoning district; and

WHEREAS, Block 5814, Lots 9 and 62 are each occupied by a single-family residence; Block 5814, Lot 66 is vacant; and

WHEREAS, the School proposes to construct, at the Site, a private residential and day school for medically frail students who require breathing ventilation and/or respiratory care during all our part of the school day; and

WHEREAS, the School proposes to construct the proposed building to accommodate its programmatic needs; and

WHEREAS, the proposed building will have a total floor area of 22,897 sq. ft. (1.46 FAR); a height of 35'-0"; side yards of 5'-0" and 8'-7 1/2" (two side yards of 8'-7 1/2" each are required in the R1-2 portion of the Site, pursuant to ZR § 24-35); lot coverage of 67-percent in the R1-2 zoning district (lots 62 and 66) (a maximum lot coverage of 55-percent is permitted in the R1-2 zoning district) and 100-percent in the R7A zoning district (lot 39) (a maximum lot coverage of 65-percent is permitted); an obstruction in the rear yard which is not permitted under ZR § 24-33; a 10'-0" rear yard (a 30'-0" rear yard is required pursuant to ZR § 24-393); 13 Use Group 3 dormitory rooms (containing a total of 21 nursing home beds) for non-ambulatory students and students who are not able to travel safely (which are not permitted as-of-right within the R1-2 portion of the Site pursuant to ZR § 22-13); and will not provide a rear yard equivalent (a 60'-0" rear yard equivalent is required on the subject lots which collectively constitute a through lot is required pursuant to ZR § 24-382); and

WHEREAS, because the proposed enlargement does not comply with the applicable bulk and use regulations in the subject zoning districts, the School seeks the requested variance; and

WHEREAS, the School states that the variance sought herein is necessary to meet its programmatic need, and mission, to provide high quality, individualized education to students who are ventilated and too medically frail to be educated in traditional school environments; and

WHEREAS, the School notes that in order to meets its programmatic needs, the proposed building has been designed as per NYC Codes, American with Disabilities Act Standards, Department of Education regulations and the Facilities Guidelines Institute 2010 Guidelines for Design and Construction of Health Care Facilities (the "FGI Guidelines") and will include, *inter alia*, 13 Use Group 3 dormitory rooms (containing a total of 21 nursing home beds) for non-ambulatory students and students who are not able to travel safely, which are not permitted as-of-right within the R1-2

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portion of the Site; and

WHEREAS, the School notes further that in addition to the foregoing regulations and guidelines, instructional and clinical services specific to medically frail students requires a non-traditional approach to classroom design and configuration, including “learning centers” which have been incorporated into the proposed building in order to provide both group and individualized instruction and which are proposed to be staffed by up to one teacher, one paraprofessional and two aides per center; and

WHEREAS, the School also notes that its programmatic needs also include the provision of speech, occupational and physical training within the learning centers, as well as adaptive physical education and occupational and physical therapy, which requires specialized equipment; and

WHEREAS, lastly, the School notes that the design of the proposed building allows for interior flexibility such that the School will be able to cater certain services to individual student needs; and

WHEREAS, the School asserts that an as-of-right development would not satisfy the School’s programmatic needs; and

WHEREAS, specifically, the School states that the as-of-right development precludes the maintenance of a continuous horizontal plan for the building, which is integral to the School’s mission to serve medically frail school-age children who require special breathing equipment; and

WHEREAS, the School notes that all of the bulk waivers requested herein are sought in order to achieve a continuous horizontal plan for the proposed building, which will enable the School to provide the safest and most rational handicap accessible learning environment for its students; absent a horizontal plan, students would have to be moved in their hospital beds and/or respirators, thereby interfering with the School’s programmatic need to provide high quality individualized and group education to ventilated and medically frail students; and

WHEREAS, thus, an as-of-right development is inadequate to meet the School’s programmatic need of provide a learning environment that is tailored to its medically frail students; and

WHEREAS, the School notes that, in addition to the foregoing, an as-of-right development would, by virtue of a vertical separation of services, be more costly to construct and maintain and would require additional staff dedicated solely to the movement of students throughout the School buildings; and

WHEREAS, thus, the School contends that the requested waivers are both modest and essential to its ability to meet its 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 NY2d 583 (1986), an educational institution’s application is to be permitted unless it can be shown to have an

adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

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

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

WHEREAS, the School represents that, pursuant to ZR § 72-21(c), 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 School states that with the exception of the proposed student dormitories, the use of the proposed building is permitted as-of-right in the subject zoning districts; and

WHEREAS, the School states that proposed building has been designed to be contextual with the surrounding neighborhood to the extent possible in light of the School’s programmatic requirements, and notes that, in an attempt to minimize impact on the surrounding neighborhood, (1) there will not be any pedestrian or vehicular ingress at the Ocean Avenue frontage of the proposed building; (2) side yards are being provided along the lot line within the R1-2 zoning district; and (3) the primary ingress and egress for the building, including the entrance to the subsurface parking located on the Site, will be located at the East 21st Street frontage and located within the R7 zoning district; and

WHEREAS, accordingly, the School asserts that the proposal will have no negative impacts on the surrounding neighborhood; and

WHEREAS, the Board agrees with the School that the proposal 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 School states that, per ZR § 72-21(d), the hardship was not self-created; and

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

WHEREAS, the School represents that, consistent with ZR § 72-21(e), the requested waivers are the minimum necessary to accommodate its current and projected programmatic needs; 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

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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 CEQR No. 13-BSA-071K, dated June 2, 2015; 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.

Therefore it is Resolved, that the Board of Standards and Appeals issues 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 § 72-21 and grants a variance to permit, on a site within an R1-2 zoning district, and also within an R7A zoning district, the construction of a Use Group 3 school that does not comply with the zoning requirements for side yards, rear yard equivalent, rear yards, lot coverage, dormitory use and permitted obstructions in required yards, contrary to ZR §§ 24-35, 24-382, 24-393, 24-11, 22-13, and 24-33, *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 June 2, 2015”– sixteen (16) sheets; and *on further condition*:

THAT the site shall be limited to a maximum floor area of 22,897 sq. ft. (1.46 FAR) and the total height of the building shall be limited to 35’-0”, exclusive of permitted obstructions, as illustrated on the BSA-approved plans, side yards of 5’-0” (north) and 8’-7 ½” (south); lot coverage of 67-percent in the R1-2 zoning district (lots 62 and 66) and 100-percent in the R7A zoning district (lot 39); an obstruction in the rear yard which is not permitted under ZR § 24-33; a 10’-0” rear yard; no rear yard equivalent; and 13 Use Group 3 dormitory rooms (containing a total of 21 nursing home beds);

THAT any change in the use, occupancy, or operator of the School shall require the Board’s approval;

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 July 28, 2019;

THAT this approval is limited to the relief granted by the Board in response to specifically cited 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 DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, July 28, 2015.

172-14-BZ

APPLICANT – Law Office of Steven Simicich, for Dxngrnt2, LLC, owner.

SUBJECT – Application July 22, 2014 – Variance (§72-21) to allow for the reduction in the required front yard fronting from 10’ to 4’. R3A zoning district.

PREMISES AFFECTED – 235 Dixon Avenue, corner of Dixon and Granite Avenue, Block 1172, Lot 244, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Commissioner Ottley-Brown and Commissioner Montanez.....3

Absent: Vice-Chair Hinkson.....1

Negative:.....0

THE RESOLUTION –

WHEREAS, the Department of Buildings (“DOB”) objection, dated July 14, 2015, and acting on DOB Application No. 520197885 reads, in pertinent part:

Proposed new building has non-compliant front yard on Granite Avenue, contrary to ZR 23-45;

Proposed new building has non-compliant side yard, contrary to ZR 23-461; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R3A zoning district, the construction of a two-story, with cellar, single-family detached home which does not provide the required front or side yards, contrary to ZR §§ 23-45 and 23-461; and

WHEREAS, a public hearing was held on this application on March 31, 2015 after due notice by publication in *The City Record*, with continued hearings on April 21, 2015, June 2, 2015, and July 14, 2015, and then to decision on July 28, 2015; and

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

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

WHEREAS, the subject site is a vacant, narrow, corner lot with located at the northwest intersection of Dixon Avenue and Granite Avenue, within an R3A zoning district, in Staten Island; and

WHEREAS, the site has approximately 25 feet of

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frontage along Dixon Avenue and approximately 130 feet of frontage along Granite Avenue, with a lot area of approximately 3,247 sq. ft.; and

WHEREAS, the applicant proposes to develop a two-story, with cellar, single-family detached home with a complying floor area of 1,726.9 sq. ft. (.53 FAR), but non-complying front and side yards;

WHEREAS, specifically, the applicant proposes a single front yard of 32'-0" on Dixon Avenue (two front yards are required; a 15'-0" front yard on Dixon Avenue and 10'-0" front yard on Granite Avenue, as per ZR § 23-45) and side yards of 2'-0" and 45'-0" (two side yards 5'-0" and 20'-0" are required, as per ZR § 23-461); the applicant notes that the proposed development complies in all other respects with the applicable bulk and parking regulations; and

WHEREAS, because the proposed development does not comply with the applicable R3A zoning regulations, a variance is requested; and

WHEREAS, the applicant states that, in accordance with ZR § 72-21(a), the following are unique physical conditions that create practical difficulties and unnecessary hardships in developing the site in compliance with applicable regulations: (1) the narrow width of the site; (2) the existence of a widening area on the site; (3) that fact that the site is a corner lot and, therefore, must have two front yards; and (4) the fact that the site is vacant; and

WHEREAS, the applicant states that there are only two vacant corner lots within the vicinity of the subject site, both of which are significantly larger than the subject site and are used in conjunction with sports fields; and

WHEREAS, the applicant states that of the 40 corner lots within the study area, only 12 lots have a width of 30'-0" or less, and all of those lots are occupied by buildings which were constructed under the prior R3-2 zoning; and

WHEREAS, the applicant states further that of the 12 lots built under the prior R3-2 zoning, 11 were built with semi-detached or attached buildings, obviating the requirement for a side yard requiring only one front yard of 10'-0", and notes that semi-detached and attached buildings are not permitted under the current zoning and that there is no building abutting the side lot line to which the proposed building might connect; and

WHEREAS, the applicant states further that the only corner lot within the study area which was constructed under the current zoning has a width of 35'-0" and, therefore, was able to comply with the requirements relating to front yards; and

WHEREAS, the applicant concludes that for the foregoing reasons, the site is unique in that it is the only site in the study area which is a vacant, narrow, corner lot burdened by a widening area and required to provide two front yards; and

WHEREAS, based upon the above, the Board finds that the fact that the site is a vacant, narrow, corner lot burdened by a widening area and subject to the requirement that it maintain two front yards, in the aggregate, constitute unique physical conditions that create unnecessary hardships in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant contends that, per ZR § 72-

21(b), there is no reasonable possibility of development of the site in compliance with the Zoning Resolution; and

WHEREAS, specifically, the applicant provided the Board with an as-of-right development scheme and states that an as-of-right development which complied with the front yard requirement along Granite Avenue would result in a residence with a width of 3.55 feet; and

WHEREAS, based upon its review of the submitted material, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in compliance with applicable zoning requirements would provide a reasonable return; and

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

WHEREAS, specifically, the applicant states that the neighborhood and surrounding area features an array of residences, including detached single-family homes like that which the applicant proposes to construct, and notes that the proposed detached home is permitted under the current zoning and will not be out of place among the neighboring structures; and

WHEREAS, the applicant further states that the proposed elimination of the front yard on Granite Avenue will not impact adjacent homes on Granite Avenue, which are located approximately 70 feet further down Granite Avenue; and

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

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is due to the peculiarities of the site; and

WHEREAS, the Board also finds that this proposal is the minimum necessary to afford the owner relief, in accordance with ZR § 72-21(e); and

WHEREAS, thus, 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 II action pursuant to 6 NYCRR, Part 617.4; 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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 to permit, on a site within an R3A zoning district, the construction of a two-story, with cellar, single-family detached home which does not provide the required front or side yards, contrary to ZR §§ 23-45 and 23-461; *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received May 14, 2015”– (11) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: 1,726.9 sq. ft. of floor area (.53 FAR); a single front yard with a depth of 32’-0”, two side yards with widths of 2’-0” and 45’-0”, as reflected on the BSA-approved drawings;

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 July 28, 2019;

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, July 28, 2015.

5-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Israel Ashkenazi & Racquel Ashkenazi, owner.

SUBJECT – Application January 9, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141); side yards (§23-461) and rear yard (§23-47) regulations. R3-2 zoning district.

PREMISES AFFECTED – 1807 East 22nd Street, east side of East 22nd Street between Quentin Road and Avenue R, Block 6805, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

29-14-BZ

APPLICANT – Lewis Garfinkel for Leon Goldenberg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-14a); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1255 East 27th Street, East side of East 27th Street, 325 feet from the North corner of Avenue M. Block 7645, Lot 25. Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

30-14-BZ

APPLICANT – Eli Katz of Binyan Expediting, for Cong. Machine Chaim, owner; Yeshiva Bais Sorah, lessee.

SUBJECT – Application February 11, 2014 – Variance (§72-21) proposed enlargement to an existing school (Use Group 3) is contrary to §§42-00 & 43-43. M1-1 zoning district.

PREMISES AFFECTED – 6101 16th Avenue aka 1602 61st Street aka 1601 62nd Street, north east corner of 62nd Street and south east side of 16th Avenue, Block 5524, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #11BK

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for adjourned hearing.

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

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 20, 2015, at 10 A.M., for decision, hearing closed.

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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 September 22, 2015, at 10 A.M., for adjourned hearing.

244-14-BZ

APPLICANT – Eric Palatnik, PC, for Chong Duk Chung, owner.

SUBJECT – Application October 9, 2014 – Special Permit (§73-36) to operate a physical culture establishment (*K-Town Sauna*) within an existing building. C6-4 zoning district.

PREMISES AFFECTED – 22 West 32nd Street, 32nd Street between Fifth and Sixth Avenues, Block 00833, Lot 57, 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 August 25, 2015, at 10 A.M., for decision, hearing closed.

319-14-BZ

APPLICANT – Eric Palatnik, P.C., for Shore Plaza LLC, owner; Staten Island MMA1, Inc., lessee.

SUBJECT – Application December 5, 2014 – Special Permit (§73-36) to permit the legalization of a physical culture establishment (*UFC Gym*). C43 zoning district.

PREMISES AFFECTED – 1781 South Avenue, within West Shore Plaza 1745-1801 South Avenue, Block 02800, Lot 37, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to September 22, 2015, at 10 A.M., for continued hearing.

9-15-BZ

APPLICANT – Francis R. Angelino, Esq., for West 62nd Street LLC, owner; Bod Fitness NYC LLC, lessee.

SUBJECT – Application January 15, 2015 – Special Permit (§73-36) to allow for a physical culture establishment (*Bod Fitness*) at the building on a portion of the ground floor and cellar of a new 54-story mixed use residential building. C4-7 Special Lincoln Square District.

PREMISES AFFECTED – 55 Amsterdam Avenue,

southeast corner of Amsterdam Avenue and West 62nd Street, Block 1132, Lot 35, Borough of Manhattan.

COMMUNITY BOARD #7M

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 August 18, 2015, at 10 A.M., for decision, hearing closed.

REGULAR MEETING TUESDAY AFTERNOON, JULY 14, 2015 1:00 P.M.

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

ZONING CALENDAR

102-14-BZ

APPLICANT – Moshe M Friedman, P.E., for Cong. Tiferes Avraham D'Zidichov, owner.

SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the extension of house of worship (UG4) (*Congregation Tiferes Avraham D'Zidichov*) in an existing building on the lot of a three story brick building located within an R3-2zoning district.

PREMISES AFFECTED – 4017 Avenue P, northerly side of Avenue P 40' westerly from the corner of the Northerly side of Avenue and the Westerly side of Coleman Street, Block 07859, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to November 17, 2015, at 10 A.M., for continued hearing.

202-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Rochelle Beyda and Jack Yadid, owners.

SUBJECT – Application August 22, 2014 – Special Permit (§73-622) for the enlargement and existing two family home to be converted to a single family home contrary to floor area, lot coverage and open space (ZR 23-141); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R4 (OP) zoning district.

PREMISES AFFECTED – 2268 West 1st Street, west side of West 1st Street between Village Road South and Avenue West, Block 07151, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to October 20, 2015, at 10 A.M., for continued hearing.

MINUTES

55-15-BZ

APPLICANT – Elise Wagner, Kramer Levin Naftalis & Frankel LLP, for Alvin Alley Dance Foundation, lessee.

SUBJECT – Application March 13, 2015 – Variance (§72-21) to allow for the enlargement of a Alvin Alley Dance foundation's existing building to provide additional dance studios, classrooms, and offices, located within an R8/C!-5, C6-2 Clinton Preservation Area zoning district.

PREMISES AFFECTED – 405 West 55th Street, located on the northwest corner of Ninth Avenue and West 55th Street. Block 01065, Lot 29. Borough of Manhattan.

COMMUNITY BOARD #4M

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 August 25, 2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director