
BULLETIN

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DIRECTORY

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DOCKETS

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137-15-BZ

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138-15-A

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

CALENDAR

JULY 21, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, July 21, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

340-41-BZ

APPLICANT – Nasir J. Khanzada, PE, for Paul Sinanis, owner; S & J Service Station, Incorporated, lessee.

SUBJECT – Application June 27, 2014 – Extension of Term (§11-411) of a previously approved variance permitting the operation of an Automotive Service Station (UG 16B), with accessory uses, which expired on May 1, 2012; Amendment to permit the enlargement of an existing canopy, the addition of a fuel dispenser and small convenience sales area; Waiver of the Rules. C1-2/R4 zoning district.

PREMISES AFFECTED – 72-09 Main Street, Block 06660, Lot 1, Borough of Queens.

COMMUNITY BOARD #4Q

110-99-BZ

APPLICANT – Law Office of Jay Goldstein, for Lessiz Realty, LLC., owner; 14-18 Fulton servicing, lessee.

SUBJECT – Application March 2, 2015 – Extension of Term of a previously approved Variance (§72-21) to permitted the legalization of an existing garage and automotive repair shop (Use Group 16B), which expired on June 27, 2010; Amendment to permit minor modifications to the interior layout; Waiver of the Rules. R6B zoning district.

PREMISES AFFECTED – 56-58 Kosciuszko Street, south side of Kosciuszko Street between Nostrand and Bedford Avenues, Block 01783, Lot 0034, Borough of Brooklyn.

COMMUNITY BOARD #3BK

JULY 21, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, July 21, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

213-14-BZ

APPLICANT – Law Office of Steven Simicich, for Wayne Bilotti, owner.

SUBJECT – Application August 29, 2014 – Variance (§72-21) for the construction of a single family detached home contrary to ZR 23-32 for minimum lot area. R2 zoning district.

PREMISES AFFECTED – 165 Wooley Avenue, Woolley Avenue between Lathrop and Garrison Avenues, Block 00419, Lot 13, Borough of Staten Island.

COMMUNITY BOARD #1SI

219-14-BZ

APPLICANT – Slater & Beckerman, P.C., for People 4 Parks LLC., owner.

SUBJECT – Application September 4, 2014 – Variance (§72-21) to permit the construction of a three-story, single-family residence with one parking space. M1-1 zoning district.

PREMISES AFFECTED – 64 DeGraw Street, south side of DeGraw Street between Columbia and Van Brunt Streets, Block 00329, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #6BK

220-14-BZ and 221-14-BZ

APPLICANT – Slater & Beckerman, P.C., for Post Industrial Thinking, LLC, owner.

SUBJECT – Application September 4, 2014 – Variance (§72-21) to permit the construction of two 3-story single family residences. M1-1 zoning district.

PREMISES AFFECTED – 8 & 10 Underhill Avenue, west side of Underhill Avenue between Atlantic avenue and Pacific Street, Block 01122, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #8K

CALENDAR

236-14-BZ

APPLICANT – Law Office of Stuart Klein, for The 5th Street Dorchester, Inc. c/o Brown Harris, owner; BLT Steak, LLC, lessee.

SUBJECT – Application October 1, 2014 – Special Permit (§73-241) to legalize the operation of an eating and drinking establishment (UG 6C) with entertainment, but not dancing, with a capacity of 200 persons or fewer. C5-3 (MID) zoning district.

PREMISES AFFECTED – 106 East 57th Street aka 104-114 East 57th Street, south side of East 57th Street, 90' from Park Avenue, Block 01311, Lot 0065, Borough of Manhattan.

COMMUNITY BOARD #5M

18-15-BZ

APPLICANT – Frances R. Angelino, Esq., for 90 Fifth Owner, LLC, owner; Peak Performance NYC. LLC, lessee.

SUBJECT – Application January 28, 2015 – Special Permit (§73-36) to permit a physical culture establishment (*Peak Performance*) on 10th & 11th floors of an 11- story commercial building. C6-4M zoning district.

PREMISES AFFECTED – 90 5th Avenue, northwest corner of West 14th Street and Fifth Avenue, Block 00816, Lot 37, Borough of Manhattan.

COMMUNITY BOARD #5M

61-15-BZ

APPLICANT – Deirdre A. Carson, Esq., for 540 W. 26th St. Property Investors II A, LLC., owner; Avenue World Holdings LLC., lessee.

SUBJECT – Application March 19, 2015 – Special Permit (§73-19) to permit the operation of a portion of a school known as Avenues (*The School*) Use Group 3A, located in a M1-5 zoning district.

PREMISES AFFECTED – 540 West 26th Street, an interior lot on the south side of West 26th Street, 100' east of intersection of 11th Avenue and West 26th Street, Block 0697, Lot 56, Borough of Manhattan.

COMMUNITY BOARD #4M

Ryan Singer, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JUNE 23, 2015
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

150-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Shun K. and Oi-Yee Fung, owners.

SUBJECT – Application May 2, 2014 – Amendment of a previously approved variance to permit the construction of a four-story building with retail space and one-car garage. C6-2G zoning district.

PREMISES AFFECTED – 129 Elizabeth Street, west side of Elizabeth Street between Broome and Grand Street, Block 470, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously-granted variance, and plans, which, pursuant to ZR § 72-21, authorized the construction of a four-story building, with a retail use on the first floor and residential use on the upper three floors, in a C6-2G zoning district, within the Special Little Italy District, contrary to ZR §§ 23-32 and 109-122; and

WHEREAS, the applicant seeks to amend the previous grant and plans to reflect a reduction in the size of the subject lot from 815 sq. ft. of lot area to 789 sq. ft. of lot area, as a result of the settlement of an adverse possession claim; and

WHEREAS, a public hearing was held on this application on March 24, 2015, after due notice by publication in the *City Record*, with a continued hearing on May 12, 2015, and then to decision on June 23, 2015; and

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

WHEREAS, Community Board 2, Manhattan, recommends denial of this application; and

WHEREAS, the subject site is a vacant 789 sq. ft. lot with approximately 34 feet of frontage along Elizabeth Street, between Broome Street and Grand Street, and a depth of approximately 23 feet; and

WHEREAS, on March 29, 2005, under the subject calendar number, the Board granted a variance to permit the construction of a four-story building at the site with a retail store and one-car garage on the ground floor and residential use on the upper three floors, contrary to minimum lot area and lot coverage regulations set forth at ZR §§ 23-32 and 109-122; and

WHEREAS, on May 14, 2013, also under the subject calendar number, the Board granted an extension of time to complete construction until May 14, 2017; and

WHEREAS, at the time of the initial grant, the site contained 815 sq. ft. of floor area, however, upon settlement of an adverse possession claim brought by the owner of an adjacent parcel, the size of the subject site was reduced by approximately 26 sq. ft., reflecting the loss of a small triangular section of the premises along its northern lot line; and

WHEREAS, the applicant now seeks to amend the plans to reflect the reduction in the size of the lot and the site's changed configuration and to modify certain building conditions to compensate for the unique hardship associated with the lot's small size; and

WHEREAS, specifically, the applicant asserts that the further reduction in the size of the lot impacts the marketability of the commercial and residential units in the building; and

WHEREAS, the applicant states that the need to revise the site plan led to its request for the following additional relief: (1) 116 sq. ft. of additional floor area (2,890 sq. ft. were granted, 3,106.29 sq. ft. are proposed); (2) an increased FAR (3.55 FAR was granted, 3.94 FAR is proposed); (3) increased building height (a height of 43'-6" was granted, a height of 51'-0" is proposed); and (4) the addition of a mezzanine above the first floor of the building to provide additional retail space; and

WHEREAS, in response to the Board's inquiry about the uniqueness of the site conditions, the applicant submitted a letter from a licensed real estate broker stating that the floor plate of the proposed building is the smallest new development in the Nolita neighborhood and that the two proposed residential units are significantly smaller than typical new construction in the neighborhood; and

WHEREAS, the aforesaid letter also stated that the reduction in the size of the building, and attendant reduction in the sellable square footage of the building, would adversely impact the sales price of units in the proposed building; and

WHEREAS, accordingly the applicant seeks a minor addition to the floor area to modify the height of the residential units and add a mezzanine to the ground floor retail use of the building; and

WHEREAS, the applicant states that the increase in the building height is necessary to accommodate the addition of the mezzanine space, the provision of which required that the height of the first floor ceiling be increased from 13'-0" to 18'-0", allowing for an aggregate increase in the commercial floor area from 411 sq. ft. to 641 sq. ft. (including the mezzanine); and

WHEREAS, the applicant further states that the height of the floors on the 2nd, 3rd and 4th floors of the proposed building have increased by 1'-0" to provide improved light and air, increased storage space and additional space for mechanical, electrical and plumbing between floors, intended as relief from the loss of floor area resulting from the settlement of the adverse possession claim; and

WHEREAS, the applicant asserts that none of the original findings the Board made are disturbed by the minor amendments to the plans, which were triggered by the need to revise the site plan due to the change in lot size; and

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WHEREAS, the applicant notes that the floor area, FAR, building height, and number of stories all comply with the underlying zoning regulations and are consistent with surrounding conditions and the Board's original finding pursuant to ZR § 72-21(c); and

WHEREAS, the applicant represents that the revised plans do not trigger any new zoning non-compliance; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may permit an amendment to an existing variance; and

WHEREAS, based upon its review of the evidence, the Board finds that the requested changes do not alter the Board's findings made for the original variance; and

WHEREAS, accordingly, the Board finds that the proposed variance, as amended, is appropriate, with certain conditions set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals reopens and amends the resolution, dated March 29, 2005, and extended by resolution dated May 14, 2013, to grant the noted modifications to the previous approval and the amendment of the plans submitted therewith; *on condition* that all work shall substantially conform to drawings filed with this application and marked 'Received June 22, 2015'- five (5) sheets; and *on further condition*:

THAT the revised building conditions include: a maximum of 3,106.29 sq. ft. of floor area (3.94 FAR) and a maximum building height of 51'-0";

THAT all conditions from prior resolutions 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; 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. 103299048)

Adopted by the Board of Standards and Appeals, June 23, 2015.

51-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Rivoli Realty Corp., owner; American Dance & Drama, lessee.

SUBJECT – Application July 10, 2014 – Amendment of a variance (§72-21) which permitted a Physical Culture Establishment and a dance studio (Use Group 9), contrary to use regulations. The amendment seeks to enlarge the floor area utilized by the dance studio on the first floor of the existing one-story and cellar building. C1-2/R2A zoning district.

PREMISES AFFECTED – 188-02 Union Turnpike aka 22 Union Turnpike, south side of Union Turnpike between 188th Street and 189th Street, Block 7266, Lot 1, Borough of Queens.

COMMUNITY BOARD #8Q

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 Board's Rules of Practice and Procedure, a reopening, the amendment of a previously granted variance to allow for the addition of approximately 1,056 square feet of floor area to an existing Use Group 9 dance studio (the "Dance Studio") located on the first floor of a one-story and cellar building, and an extension to time to obtain a certificate of occupancy, which expired on August 14, 2013; and

WHEREAS, a public hearing was held on this application on March 24, 2015, after due notice by publication in *The City Record*, with a continued hearing on June 2, 2015, and then to decision on June 23, 2015; and

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

WHEREAS, Community Board 8, Queens, recommends approval of this application; and

WHEREAS, the subject site is located is located on the south side of Union Turnpike, between 188th Street and 189th Street, within an R2A (C1-2) zoning district; and

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

WHEREAS, the Board has exercised jurisdiction over the subject site since December 12, 2006 when, under the subject calendar number, the Board granted a variance, which will expire on December 12, 2016, to permit, subject to conditions, the operation of a PCE and the legalization of the Dance Studio; and

WHEREAS, on February 10, 2009, also under the subject calendar number, the Board granted an extension of time to obtain a certificate of occupancy for the building to May 10, 2010; and

WHEREAS, on August 14, 2012, also under the subject calendar number, the Board waived its Rules of Practice and Procedure and reopened and amended the resolution dated December 12, 2006 to grant an extension of time to obtain a certificate of occupancy to August 14, 2013, and to permit a 2,332 sq. ft. expansion of the PCE on the first floor; and

WHEREAS, the applicant seeks to further amend the December 12, 2006 grant to permit an expansion of the Dance Studio, which, the applicant states, currently occupies approximately 1,198 sq. ft. of floor area on the first floor of the subject building, as well as 3,473 sq. ft. of floor space at the cellar level of the building; and

WHEREAS, specifically, the applicant requests seeks to expand the first-floor portion of the Dance Studio by 1,056 sq. ft. into a vacant retail space, so that the total first-floor floor area of the Dance Studio will be 2,254 sq. ft.; and

WHEREAS, the applicant notes that the request is made to accommodate the American Street Dance Theatre Company, Inc. ("American Dance"), which has been recognized by the

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Jamaica Arts Center for its contribution to the local community and which has operated at the premises for forty years; and

WHEREAS, the applicant states that the expansion of American Dance is necessary to keep the long-term tenant at the premises, and further states that the vacant retail space is narrow and small and, therefore, that it has been difficult to market; and

WHEREAS, the applicant notes that no changes to the cellar, building envelope or façade are requested; and

WHEREAS, the applicant states that the proposed amendment will not have any adverse effect on the neighborhood and is consistent with the character of the surrounding area, and notes that the request merely allows for the expansion of an existing Use Group 9 dance space into existing retail space; and

WHEREAS, the applicant notes that it has complied with the conditions imposed pursuant to the initial variance dated December 12, 2006, save that which required the applicant to obtain a Certificate of Occupancy by August 14, 2013; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may permit an amendment to an existing variance; and

WHEREAS, the applicant states that a Certificate of Occupancy has not yet been obtained for the PCE, that its time to obtain the Certificate of Occupancy expired on August 14, 2013 and that it has not filed an application to extend that period within 30 days of August 14, 2013; and

WHEREAS, accordingly, the applicant now seeks a further extension of time to obtain a certificate of occupancy, as well as a waiver of §1-07.3(d)(2) of the Board's Rules of Practice and Procedure, which requires that an extension of time in which an applicant may submit an application to obtain a Certificate of Occupancy be filed within thirty (30) days of the expiration of the BSA-mandated period to obtain the Certificate of Occupancy; and

WHEREAS, the applicant states that its acquisition of the certificate of occupancy was delayed due to an existing violation which was not cured by the owner of the building, but that the applicant and the building owner are working expeditiously to cure the violation; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment, waiver and extension of time to obtain a Certificate of Occupancy are appropriate, with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated December 12, 2006, so that as amended the resolution read: "to grant an extension of time to obtain a certificate of occupancy to June 23, 2016, and to permit a 1,056 sq. ft. expansion of the Use Group 9 dance studio on the first floor; *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 'June 12, 2015'-(11) sheets; and *on further condition*:

THAT signage on the site shall comply with C1 district regulations;

THAT the applicant shall obtain a Public Assembly Permit for the PCE located on the first floor and cellar of the building prior to obtaining the Certificate of Occupancy;

THAT the above condition shall be listed on the Certificate of Occupancy;

THAT the Department of Buildings must ensure compliance with all accessibility requirements;

THAT a certificate of occupancy shall be obtained by June 23, 2016;

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

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

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

THAT 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. 402279495)

Adopted by the Board of Standards and Appeals, June 23, 2015.

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

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 July 28, 2015, at 10 A.M., for decision, hearing closed.

131-93-BZ

APPLICANT – Eric Palatnik, P.C., for Paul Memi, owner.

SUBJECT – Application April 25, 2014 – Extension of Term (§11-411) of a previously approved variance which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses which expires on November 22, 2014. C2-2/R5 zoning district.

PREMISES AFFECTED – 3743-3761 Nostrand Avenue, north of the intersection of Avenue "Y", Block 7422, Lot 53, Borough of Brooklyn.

COMMUNITY BOARD #15BK

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

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APPEALS CALENDAR

174-04-BZ

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

SUBJECT – Application October 31, 2014 – Amendment: to amend and the approval of the conveyance of unused development rights appurtenant to the subject site. The variance previously granted by the Board located within and 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

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 July 28, 2015, at 10 A.M., for decision, hearing closed.

318-06-BZ

APPLICANT – Eric Palatnik, LLP for Sun Company Inc. (R&M), owner.

SUBJECT – Application August 9, 2013 – Extension of Term (§11-411) of a previously approved variance which permitted the operation of an automotive service station (UG 16B), which expired on May 22, 2013; Extension of Time to Obtain a Certificate of Occupancy which expired on November 22, 2007; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 49-05 Astoria Boulevard, Noreast corner of Astoria Boulevard and 49th Street. Block 1000, Lot 35, Borough of Queens.

COMMUNITY BOARD #1Q

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

42-08-BZ

APPLICANT – Eric Palatnik, P.C., for David Nikechemny, owner.

SUBJECT – Application July 22, 2014 – Extension of Time to Complete Construction of a previously granted Special Permit (73-622) for the enlargement of an existing two family home to be converted into a single family home which expired on January 27, 2013; Waiver of the Rules. R3-1 zoning district.

PREMISES AFFECTED – 182 Girard Street, between Oriental Boulevard and Hampton Street, Block 8749, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to August 18, 2015, at 10 A.M., for continued hearing.

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 August 25, 2015, at 10 A.M., for continued hearing.

320-14-A

APPLICANT – Dean Heitner, Esq., for PWV owner LLC c/o The Chevrolet Group, owner.

SUBJECT – Application December 8, 2014 – Interpretative Appeals for an open space requirements on a zoning lot for a proposed nursing facility to be constructed by Jewish Home Life Care on West 97th Street. R7-2/C1-8 zoning district. PREMISES AFFECTED – 125 West 97th Street, between Amsterdam Avenue and Columbus Avenue, Block 1852, Lot 5, 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.

ZONING CALENDAR

155-13-BZ

CEQR #13-BSA-133K

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 – Application granted on condition.

THE VOTE TO GRANT –

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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 April 19, 2013, acting on DOB Application No. 320588565 reads, in pertinent part:

1. Proposed floor area is contrary to Z.R. Section 24-11
2. Proposed lot coverage is contrary to Z.R. Section 24-11
3. Proposed wall height is contrary to Z.R. Section 24-521
4. Proposed front yard is contrary to Z.R. Section 24-34
5. Proposed side yards are contrary to Z.R. Section 24-35
6. Proposed rear yard is contrary to Z.R. Section 24-36
7. Proposed building encroaches into the required setbacks contrary to Z.R. Section 24-521
8. Proposed number of parking spaces is contrary to Z.R. Sections 25-18 and 25-31; and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21 to enlarge and legalize a synagogue and mikvah, and to convert three existing first floor residences to two Rabbi’s residences on a site within an R3-2 zoning district, contrary to zoning regulations for floor area, lot coverage, height, front yards, side yards, rear yards, required setbacks and parking, contrary to ZR §§ 24-11, 24-521, 24-34, 24-35, 24-36, 24-521, 25-18 and 25-31; and

WHEREAS, a public hearing was held on this application on May 13, 2014 after due notice by publication in *The City Record*, with continued hearings on August 19, 2014, October 21, 2014, April 14, 2015 and May 19, 2015, and then to decision on June 23, 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 15, Brooklyn, recommends disapproval of this application; and

WHEREAS, the Board notes that New York City Council Member Chaim Deutsch and New York State Assemblywoman Helene E. Weinstein submitted letters in support of the application and the applicant’s efforts to correct any unlawful conditions at the subject site; and

WHEREAS, this application is being brought on behalf of Congregation Kozover Zichron Chaim Shloime (the “Synagogue”); and

WHEREAS, the subject site is located on the west side of East 28th Street, between Quentin Road and Avenue R, within an R3-2 zoning district, in Brooklyn; and

WHEREAS, the site consists of three adjacent lots with approximately 83 feet of frontage along East 28th Street, and a depth of approximately 100 feet, with a lot area of approximately 8,300 sq. ft.; and

WHEREAS, the site is currently occupied by three one-

story basement and cellar buildings containing a total of 8,623 sq. ft. of floor area (1.04 FAR) into a single one-story basement and cellar building with 10,677 sq. ft. of floor area (1.29 FAR) (the maximum floor area permitted at the site is 8,300 sq. ft. (1.0 FAR)); and

WHEREAS, the proposed development also contains the following non-complying conditions: lot coverage (83-percent is proposed, a maximum lot coverage of 55-percent is permitted); front yard (a front yard of 10’-31/2” is proposed, a front yard of 15’-0” is required); side yards (a single side yard of 5’-0” is proposed, two side yards with a minimum width of 8’-0” are required); rear yard (the proposed development contains no rear yard, a rear yard of 30’-0” is required); and parking (zero (0) parking spaces are proposed, 36 parking spaces are required); and

WHEREAS, the proposal provides for the following uses: (1) at the cellar level, a mikvah, with bathrooms, wash rooms and storage; (2) at the basement level, a men’s synagogue, a women’s synagogue, a men’s entrance, a women’s entrance, a rabbi’s study, a kitchen, a coffee room, bathrooms, and coat rooms; (3) at the first floor, two (2) Use Group 4 Rabbi’s Residences

WHEREAS, the applicant states that the following are the primary programmatic needs of the Synagogue which necessitate the requested variances: (1) to accommodate a congregation with a desire to expand and currently consists of approximately 200 families; (2) to provide separate worship and study spaces for male and female congregants; (3) to accommodate the necessary space for lectures; (4) to provide space for the Synagogue’s mikvah group; (5) to provide housing for the Synagogue’s Rabbis; and (6) to satisfy the religious requirement that members of the congregation be within walking distance of the residences of the congregants; and

WHEREAS, the Synagogue also seeks to provide community and religious lectures, use the facility for Bris and Shalom Zachar festivities and accommodate the congregation during the high holidays; and

WHEREAS, the applicant states that the Synagogue’s existing facilities cannot accommodate its existing congregation and forces congregants to worship in cramped and uncomfortable conditions; and

WHEREAS, as to the need for a floor area waiver, the applicant notes that the existing buildings do not accommodate the congregation and that, at full capacity, the existing facility can only accommodate 164 men in the main sanctuary, 90 women in the women’s sanctuary and 110 people in the accessory sanctuary, or 1.82 people per family; and

WHEREAS, as to the need for waivers to the front and side yards, and lot coverage, the applicant states that the requested waivers are the minimum necessary to provide floor plates that can accommodate a sanctuary that can meet the programmatic needs of the Synagogue; and

WHEREAS, the applicant states that the parking waiver is necessary because providing the required 36 parking spaces would render the site wholly inadequate to support the proposed building and such parking spaces are not necessary because congregants must live within walking distance of their

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synagogue and must walk to the synagogue on the Sabbath and on high holidays; and

WHEREAS, the applicant states that 93-percent of the congregation lives within a three-quarter-mile radius of the site, which is consistent with ZR § 25-35 which provides for a parking waiver for locally oriented houses of worship from the City Planning Commission upon a showing that more than 75-percent of congregants live within a three-quarter-mile radius of the subject house of worship; and

WHEREAS, the applicant states that the requested waivers enable the Synagogue to construct a building that can accommodate its growing congregation as well as provide a separate worship space for men and women, as required by religious doctrine, housing for the Synagogue's rabbis and space for studying and meeting, and other lecture space; and

WHEREAS, the Board acknowledges that the Synagogue, as a religious 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 *Westchester Reform Temple v. Brown*, 22 NY2d 488 (1968), a religious 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 Synagogue create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since the Synagogue is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; and

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

WHEREAS, the applicant states that the proposed use is permitted in the subject R3-2 zoning district; and

WHEREAS, as to bulk, the applicant represents that the proposed building will be similar in height to other buildings in the immediate vicinity (and significantly shorter than that which is permitted in the district) and that the majority of the buildings on the subject block are, like the proposed building, semi-attached; and

WHEREAS, the applicant notes that the proposed development does not reduce the existing non-complying front yard, which is consistent with the remainder of the block, and that the addition to the structure is set back to the required front yard; and

WHEREAS, the applicant maintains that the extension into the rear yard of the site will abut garages on four of the adjacent properties; and

WHEREAS, the applicant states the proposed

expansion will not create a parking issue because the orthodox practice of the congregation permits only pedestrian traffic on the Sabbath and on the majority of holidays when the proposed building will have the most significant number of visitors; and

WHEREAS, accordingly, the Board finds that this action will neither 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 finds the requested waivers to be the minimum necessary to meet the Synagogue's programmatic needs, thus the Board also finds that this proposal is the minimum necessary to afford the owner relief, in accordance with ZR § 72-21(e); and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 13-BSA-133K, dated March 26, 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 a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to enlarge and legalize a synagogue and mikvah, and to convert three existing first floor residences to two Rabbi's residences on a site within an R3-2 zoning district, contrary to zoning regulations for floor area, lot coverage, height, front yards, side yards, rear yards, required setbacks and parking, contrary to ZR §§ 24-11, 24-521, 24-34, 24-35, 24-36,

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24-521, 25-18 and 25-31; *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 June 8, 2015" – Twelve (12) sheets; and *on further condition*:

THAT the building parameters will be: 10,677 sq. ft. of floor area (1.29 FAR), 83-percent lot coverage, a front yard of 10'-31/2"; a single side yard of 5'-0", no rear yard, zero (0) parking spaces as illustrated on the BSA-approved plans;

THAT any change in control or ownership of the building will require the prior approval of the Board;

THAT the above conditions will 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;

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

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

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

Adopted by the Board of Standards and Appeals, June 23, 2015.

127-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Sean Banayan, owner.

SUBJECT – Application June 5, 2014 – Variance (§72-21) to permit construction of a cellar and two-story, two-family dwelling on a vacant lot that does not provide two required side yards, and does not provide two off street parking spaces. R4 zoning district.

PREMISES AFFECTED – 32-41 101st Street, east side of 101st, 180' north of intersection with Northern Boulevard, Block 1696, Lot 48, Borough of Queens.

COMMUNITY BOARD #3Q

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 Department of Buildings ("DOB") objection, dated May 7, 2014, and acting on DOB Application No. 420926449 reads, in pertinent part:

Side yard is not in compliance with Zoning Section.

The required side yard as per ZR 23-461 is 5 feet.

Proposed side yard is 3 feet;

Parking is not in compliance with Zoning Section.

Required number of parking space as per ZR 25-20

is two (2) Proposed number of spaces is none (0);

and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R4 zoning district, the construction of a two-story, with cellar, two-family detached home does not provide the required side yards or parking, contrary to ZR §§ 23-461 and 25-22; and

WHEREAS, a public hearing was held on this application on March 3, 2015 after due notice by publication in *The City Record*, with a continued hearing on April 14, 2015 and then to decision on June 23, 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 3, Queens, recommends approval of this application on the condition that the proposed cellar-level bathroom be eliminated from the plan; and

WHEREAS, the subject site is located on the east side of 101st Street between 32nd Avenue and Northern Boulevard, within an R4 zoning district, in Queens; and

WHEREAS, the site has approximately 20 feet of frontage along 101st Street and a depth of approximately 100 feet, with a lot area of approximately 2,000 sq. ft.; and

WHEREAS, the site is vacant and has been vacant and the applicant represents that the site has been vacant since at least 1914, based on Sanborn map depictions; and

WHEREAS, the applicant proposes to develop a two-story, with cellar, two-family detached home on the site with a complying floor area of 1,680 sq. ft. (.84 FAR) but, contrary to side yard and parking requirements; and

WHEREAS, specifically, the applicant proposes two 3'-0" side yards (two side yards of no less than five feet each and 13 feet total, with a minimum distance of eight feet between buildings is required, per ZR § 23-461) and zero accessory parking (two parking spaces are required as per ZR § 25-22); the applicant notes that the proposed enlargement complies in all other respects with the applicable bulk regulations; and

WHEREAS, because the proposed enlargement does not comply with the applicable R4 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; and (2) that fact that the site is vacant; and

WHEREAS, the applicant states that because the lot was in common ownership with the adjacent Lot 46 on December 15, 1961, it does not qualify for treatment as a pre-existing undersized lot, but notes that Lot 46 was sold, independently, on June 1, 1971 and that lots 46 and 48 were never part of a common DOB filing and that indeed no structure has ever been erected on Lot 48; and

WHEREAS, the applicant also states that the subject site, Lot 48, was acquired by the City of New York in 1970 as part of a multi-family foreclosure and subsequently sold at auction, without restriction; and

WHEREAS, the applicant submits that there are only four vacant sites within the vicinity of the subject site that are

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similarly narrow to the subject site, but that each of those four sites have distinguishing characteristics as follows: (1) the site located at Block 1695, Lot 4 has a width of 20 feet but is used solely for parking and ingress/egress in connection with the four-family dwelling on the adjacent Lot 5, with which Lot 4 is in common ownership; (2) the site located at Block 1696, Lot 13 has a width of 20 feet and is currently used for parking in conjunction with adjacent Lot 12, with which Lot 13 is in common ownership; (3) the site located at Block 1697, Lot 52 has a width of 20 feet but is the subject of a New York City lien for failure to pay property taxes; and (4) the site located at Block 1697, Lot 53 has a width of 20 feet, but is the subject of a New York City lien for failure to pay property taxes; and

WHEREAS, the applicant concludes that for the foregoing reasons, the site is unique in that it is the only vacant site with a width of 20 feet which is impacted by the side yard and parking requirements applicable to buildings within an R4 zoning district within an area of approximately 400 feet; and

WHEREAS, based upon the above, the Board finds that the site's narrow width, small size, and vacant status, 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 Board directed the applicant to prepare an alternate plan in which a single parking space is provided at the ground floor of the proposed building (the "Alternate Plan"); and

WHEREAS, the applicant provided the Board with the Alternate Plan and states that including parking on the ground floor of the building would reduce the size of the ground floor dwelling by approximately 150 feet and would result in the elimination of one existing on-street parking space; and

WHEREAS, the Board agrees that it is not feasible to provide parking on the site; 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 states that the narrow width of the subject zoning lot prohibits the construction of a reasonable dwelling absent the waiver of the side yard and parking regulations in that a side-yard compliant structure provides for a dwelling with a width of only ten feet, exclusive of parking and that providing the required parking on site further reduces the width of any dwelling unit that could be constructed thereupon or, alternatively, eliminates a significant portion of the first floor unit; 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 notes that other

than the absence of parking and the insufficient side yards, the proposal complies with all other applicable zoning regulations, including floor area and yard dimensions, including the front yard, as discussed below; and

WHEREAS, at hearing, the Board directed the applicant to prepare a street montage depicting the proposed building in relation to adjacent buildings, which the applicant submitted to the Board; and

WHEREAS, the street montage reflects that the proposed building is consistent with the adjacent buildings, and other buildings on the street; 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, at hearing, the Board inquired as to the compliance of the front yard of the proposed building; and

WHEREAS, the applicant stated that, as per DOB Technical Memorandum BB 2014-1, required front yards may be mapped from a tax lot line, as opposed to a street line, provided that the privately owned portion of the mapped street is unimproved and is not required to be improved, and that the applicant obtain a letter from the Department of Transportation ("DOT") stating that the portion of the mapped street is not in the City's Capital Plan; and

WHEREAS, thus, the applicant is required to obtain a letter from DOT stating that the portion of 101st Street onto which the proposed building fronts is not in the City's Capital Plan so that the proposed front yard may be mapped from the subject tax lot line, and not the street line; and

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

WHEREAS, the project is classified as 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

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

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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 R4 zoning district, the construction of a two-story, with cellar, two-family detached home does not provide the required side yards or parking, contrary to ZR §§ 23-461 and 25-22; *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 June 5, 2015”– nine (9) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: 1,680 sq. ft. of floor area (.84 FAR); 42 percent lot coverage; a height of 24’-7”, a front yard with a depth of 10’-0”, two side yards with widths of 3’-0”, a rear yard with a depth of 30’-0” and a maximum of two (2) dwelling units, as reflected on the BSA-approved drawings;

THAT prior to filing any application for development of the site, the applicant must obtain a letter from DOT establishing that the portion of 101st Street onto which the proposed building fronts is not in the City’s Capital Plan;

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 June 23, 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, June 23, 2015.

238-14-BZ

CEQR #15-BSA-076M

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for DDG 100 Franklin, LLC., owner.

SUBJECT – Application October 1, 2014 – Variance (§72-21) to permit the construction of two mixed residential and commercial buildings on a single zoning lot contrary to §§35-21 & 23-145 (Lot Coverage), 35-24c (Height and setback), 35-52 and 33-23 (minimum width of open area along a side lot line and permitted obstruction regulations), 35-24b (Street wall location). C6-2A Zoning District, Historic District.

PREMISES AFFECTED – 98-100 Franklin Street, Bounded by Avenue of the Americas, Franklin and White Streets, West Broadway, Block 00178, Lot 0029, Borough of Manhattan.

COMMUNITY BOARD #1M

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 3, 2014, acting on Department of Buildings Application Nos. 121185993 & 121185975, reads in pertinent part:

1. ZR 23-145 – Proposed building in the portion of the zoning lot (at the intersection of White Street and Sixth Avenue) exceeds the maximum lot coverage contrary to ZR 23-145;
2. ZR 35-24(c)(1) – Proposed building in the portion of the zoning lot (at the intersection of White Street and Sixth Avenue) does not provide the required setback above the maximum base height contrary to ZR 35-24(c)(1);
3. ZR 35-52 – Proposed building in the portion of the zoning lot (at the intersection of White Street and Sixth Avenue) does not provide the minimum required side yard contrary to ZR 35-52;
4. ZR 35-24(b)(2) – Proposed building in the portion of the zoning lot (at the intersection of White Street and Sixth Avenue) does not comply with street wall location requirement contrary to ZR 35-24(b)(2);
5. ZR 23-145 – Proposed building in the portion of the zoning lot (at the intersection of Franklin Street and Sixth Avenue) exceeds the maximum lot coverage contrary to ZR 23-145;
6. ZR 35-24(b)(2) – Proposed building in the portion of the zoning lot (at the intersection of Franklin Street and Sixth Avenue) does not comply with street wall location requirement contrary to ZR 35-24(b)(2); and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within a C6-2A zoning district, within the Tribeca East Historic District, the development of two mixed residential and commercial use buildings on a single zoning lot the first of which does not comply with zoning regulations for lot coverage, setback above the maximum base height, side yards or street wall location and the second of which does not comply with zoning regulations for lot coverage and street wall location, contrary to ZR §§ 23-145, 25-24(c)(1), 35-52, 35-24(b)(2); and

WHEREAS, a public hearing was held on this application February 10, 2015, after due notice by publication in the *City Record*, with continued hearings on April 28, 2015 and June 16, 2015, and then to decision on June 23, 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, Manhattan, recommended disapproval of the application; and

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WHEREAS, certain members of the surrounding community submitted testimony in opposition to the application (the "Opposition," certain of whom were represented by counsel), citing the following concerns: (1) that the subject site is not unique as required by ZR § 72-21(a) and, as such, the application should be denied; (2) that the applicant's analysis of its potential return on the development of the site is flawed in that it uses incorrect and outdated data so as to understate that the value of an as-of-right development; (3) that the proposed development will negatively impact the character of the neighborhood; (4) that the proposed development will negatively impact neighbors' access to light and air; (5) that the proposed development will impair development of adjacent property; (6) that the applicant has not sought the minimum variance necessary to alleviate its hardship; and

WHEREAS, Councilmember Margaret S. Chin submitted testimony noting her interest in the application; and

WHEREAS, the subject site is a small, irregular, bowtie-shaped lot consisting of two triangular portions, bounded by Avenue of the Americas, to the east, Franklin Street, to the south, White Street, to the north, and West Broadway, to the west; and

WHEREAS, the site is located within a C6-2A zoning district, within the Tribeca East Historic District zoning district and has 218.42 feet of frontage along Avenue of the Americas (effectively divided into two portions), 32.71 feet of frontage along Franklin Street and .45 feet of frontage along White Street, with a lot area of 4,129 sq. ft.; and

WHEREAS, while the site consists of a single tax lot, its two triangular portions, of which has frontage along Avenue of the Americas, are connected by a portion of land that measures, at its narrowest point, .004 feet in width; and

WHEREAS, the applicant notes that, as stated in the Tribeca East Historic District, the eastern boundary of the site, and its two triangular portions, resulted from the extension of then Sixth Avenue (now Avenue of the Americas) in 1930; and

WHEREAS, the applicant represents that the site has been a single tax lot since at least 1949, and that it has been used as a parking lot since that time; and

WHEREAS, the applicant proposes to construct two separate triangular buildings with a total floor area of 24,854.74 sq. ft. (6.02 FAR) (consisting of 2,049 sq. ft. of commercial floor area and 22,805.74 sq. ft. of residential floor area), a non-complying lot coverage of 89-percent, a non-complying side yard, a non-complying wall height and a non-complying setback; and

WHEREAS, the proposed buildings include, at the southern portion of the site, a six story plus cellar building with a height of approximately 75'-8", plus mechanical bulkhead and parapet, and, at the northern portion of the site, an eight story plus cellar building with a height of approximately 95'-11", plus mechanical bulkhead and parapet; and

WHEREAS, in order to construct the building as proposed, applicant seeks the following waivers: (1) lot coverage (a maximum residential lot coverage of 78.8-percent

is permitted as per ZR § 23-1451, a lot coverage of 89-percent is proposed); (2) height and setback (a minimum base height of 60'-0" is required, with a 10'-0" setback and a maximum base height of 85'-0" with a maximum building height of 120'-0"); street wall (ZR § 35-24(b) requires that the street wall be located on the street line and extend along the entire street frontage up to at least the minimum base height); side yard (no side yards are required, however, because the proposed development includes an open area along a side lot line, ZR § 35-52 mandates that such open area be at least 8'-0" in width); and

WHEREAS, the applicant states that, in accordance with ZR § 72-21(a), the following are unique physical conditions which create an unnecessary hardship in developing the site in compliance with applicable regulations: (1) the site's small size and irregular shape; (2) the amount of perimeter and street frontage relative to lot area; the encumbrance of the Eighth Avenue Subway; and

WHEREAS, the applicant states that the site's irregular "bowtie" shape requires that it be developed with two distinct buildings with separate building systems which necessitates multiple tie-ins to public utilities at a cost estimated to be \$350,000; and

WHEREAS, the applicant states that the irregular shape of the site also precludes the use of on-site drilling rigs and requires, because piles will be installed from sidewalk grade prior to excavation, longer piles to be cut after they are installed, at a premium of \$60,000; and

WHEREAS, the applicant states that its close proximity to the Eighth Avenue subway tunnel, which is located approximately 10 feet below the top of the curb and between 0 and 5 feet away from the property line, coupled with the site's greater than typical frontage along the tunnel, require the applicant to incur substantial and atypical costs associated with deep foundations, tunnel monitoring and acoustical considerations; and

WHEREAS, specifically, the applicant represents that (1) the proposed development must be structurally isolated from the tunnel, which requires deep foundations extending to bedrock (at an estimated cost of \$1,000,000) rather than shallow foundations which might impact the tunnel (at an estimated cost of \$100,000); (2) because of the proximity of the proposed development to the tunnel, the MTA requires extensive monitoring at an estimated cost of \$200,000; (3) the proposed development requires acoustical study and vibration isolation at a combined cost estimated to be \$525,000; (4) required MTA inspections associated with the proposed development's proximity to the tunnel will cost an estimated \$150,000; and

WHEREAS, the applicant states that of the 29 lots fronting on the Eighth Avenue subway tunnel from Canal

1 ZR § 23-145 proves that the maximum lot coverage for a residential building in an R8A equivalent district is 80-percent on a corner lot and 70-percent on an interior lot. The subject site consists of both corner lot and interior lot portions, such that the adjustable allowable lot coverage is 78.8-percent.

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Street to Reade Street, none, other than the subject site, are “bowtie” shaped and only one lot has a lower ratio of lot size to feet of tunnel frontage (that lot, containing approximately 680 sq. ft. of lot area, being too small to develop for residential development as per the New York City Department of Finance); and

WHEREAS, the applicant submitted the statement of an independent consultant to establish that the foregoing subgrade conditions will result in a total premium construction cost estimated to be \$2,185,000; and

WHEREAS, the applicant also states that, because the site’s unique “bowtie” configuration requires the construction of two separate and distinct buildings, the proposed development (1) requires the construction of an additional structural building core (stair and elevator) where only one core would be required for a typical corner lot of this size; (2) requires an additional elevator as opposed to the single elevator that would be needed for a typical corner lot; and (3) has, due to an excess of street frontage as compared to a typical corner lot, an atypically large exterior facade relative to other building components; and

WHEREAS, specifically, the applicant states that the proposed buildings’ combined 251 linear feet of exterior façade will result in a premium construction cost of \$984,880, the additional building core will result in a premium construction cost of \$463,400 and the additional elevator will result in a premium construction cost of \$261,660, for a combined above-grade premium construction cost resulting from the site’s unique “bowtie” configuration estimated to be \$1,709,880; and

WHEREAS, the applicant submitted the statement of an independent cost estimator to establish that the costs associated with the foregoing above-grade construction costs

WHEREAS, thus, the applicant represents that the total premium construction costs associated with the site’s unique shape and excessive frontage along the Eight Avenue subway tunnel are approximately \$3,900,000 in excess of the cost to develop on a more typical site, and further represents that it will cost approximately \$4,678,000 more to develop the subject site than a typical site when both construction premiums and associated soft premium costs are accounted for; and

WHEREAS, based upon the above, the Board finds that the aggregate impact of the site’s irregular “bowtie” shape and its adjacency to and extended frontage upon the Eighth Avenue subway tunnel, the combination of which mandate an irregular building design and excessive construction costs, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

WHEREAS, as explained above, the applicant represents that the site’s unique conditions create premium construction costs in excess of \$3,900,000; and

WHEREAS, the applicant provided the Board with an analysis of two development scenarios for the site, the proposed development as well as a complying development (the “Zoning Compliant Development”), which assessed the projected residential sales value of the two scenarios as well as

the capitalization of income with respect to the retail components of both scenarios; and

WHEREAS, the applicant represents that the total value of the Zoning Compliant Development is \$33,416,691, reflecting a capitalized value for the retail space of \$3,277,829 and a value of the residential condominium sales of \$30,138,862; and

WHEREAS, the applicant further represents that the total estimated development cost for the Zoning Compliant Development is \$36,667,319; and

WHEREAS, thus, the applicant concludes that the Zoning Compliant Development would result in a loss of \$3,250,628, rendering the Zoning Compliant infeasible and an unacceptable investment opportunity; and

WHEREAS, the applicant represents that the total value of the proposed development is \$43,024,229, reflecting a capitalized value for the retail space of \$2,704,146 and a value of the residential condominium sales of \$40,320,083; and

WHEREAS, the applicant further represents that the total estimated development cost for the proposed development is \$35,957,343; and

WHEREAS, thus, the applicant concludes that the proposed development would result in a projected profit of \$7,066,886, representing an acceptable investment opportunity; and

WHEREAS, based upon its review of the applicant’s submissions, the Board has determined that because of the site’s unique physical conditions there is no reasonable possibility of development of the site in strict compliance with the Zoning Resolution; 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, the applicant notes that the uses of the proposed development will be consistent with, and will enhance those of the surrounding neighborhood in that the ground floor retail use will be similar to that of most building along Avenue of the Americas and the surrounding area and that the upper-floor residential use of the proposed buildings will be consistent with the neighborhood’s trend toward new residential development; and

WHEREAS, the applicant represents that the proposed buildings, constructed to six and eight stories, are built on a scale consistent with the surrounding buildings and that the proposed buildings are consistent with the dominant built form within the Tribeca East Historic District; and

WHEREAS, LPC issued Certificate of Appropriateness No. 15-3120 for the proposed development, dated January 14, 2014 (the “C of A”); and

WHEREAS, as stated by the LPC in the C of A, the construction of the proposed buildings will “restore the continuity of the street walls and anchor the end of the block fronting three street, thereby strengthening the streetscape around this prominent site”; and

WHEREAS, as further stated in the C of A, the proposed

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buildings “are consistent with that of historic buildings found in the [Tribeca East Historic District]...”; and

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

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is due to the peculiarities of the site, including the site’s small size, irregular shape and excessive amount of perimeter and street frontage; and

WHEREAS, with respect to ZR § 72-21(e), the Board notes that the proposed development does not involve a modification of the floor area permitted at the site and that the proposed bulk waivers are modest in that they are the minimum required to maximize the floor plates of the proposed buildings so as to increase efficiency and create more saleable units; and

WHEREAS, the Board notes further that the requested height and setback modification does not seek modification of the maximum building height, but seeks an encroachment within the required setback at one floor within the proposed northern building, thereby affecting only the front ten feet of the proposed northern buildings above a height of 85 feet; and

WHEREAS, the Board also notes that alternative massing of the building, as contemplated by the applicant, would not result in a lesser variance and that while an alternative site plan considered by the applicant would require no side yard waiver, it would require a greater waiver of streetwall regulations; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 15-BSA-076M, dated September 25, 2014; and

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

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

WHEREAS, the New York City Department of Environmental Protection’s (“DEP”) Bureau of Environmental Planning and Analysis reviewed the project for potential

hazardous materials, air quality and noise impacts; and

WHEREAS, DEP reviewed and accepted the November 2014 Remedial Action Plan and the November 2014 site-specific Construction Health and Safety Plan; and

WHEREAS, DEP requested that a P.E.-certified Remedial Closure Report be submitted to DEP for review and approval upon completion of the proposed project; and

WHEREAS, DEP reviewed the applicant’s stationary source air quality screening analysis and determined that the potential impact from the proposed boilers would not result in significant air quality impacts; and

WHEREAS, based on the projected noise levels, DEP concurred with the consultant that their proposed design measures would provide sufficient attenuation to satisfy CEQR requirements; and

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type I Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 to permit, on a site within a C6-2A zoning district, within the Tribeca East Historic District, the development of two mixed residential and commercial use buildings on a single zoning lot the first of which does not comply with zoning regulations for lot coverage, setback above the maximum base height, side yards or street wall location and the second of which does not comply with zoning regulations for lot coverage and street wall location, contrary to ZR §§ 23-145, 25-24(c)(1), 35-52, 35-24(b)(2); *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 June 11, 2015”– fourteen (14) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: at the southern portion of the site, a 6-story plus cellar building with a height of 75’-8”, and at the northern portion of the site, an 8-story plus cellar building with a height of 95’-11”, with no setback, with a combined floor area of 24,855 sq. ft. (6.02 FAR), total lot coverage of 89-percent, a 5’-5” side yard, and a 97.4-percent streetwall to extend along street frontage of zoning lot as reflected on the BSA-approved plans;

THAT the buildings shall achieve a composite window/wall attenuation of 28 dBA for eastern and southern façades and 23 dBA for retail uses, alternative means of ventilation shall be incorporated into building design and construction, as reflected on BSA-approved plans;

THAT natural gas-fired hot water boilers shall emit no more than 30 ppm of NOx, as reflected on BSA-approved plans;

THAT all construction shall be in conformance with the LPC Certificate of Appropriateness No. 15-3120, dated

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January 14, 2014;

THAT DOB will not issue a Certificate of Occupancy until the applicant has provided it with DEP's approval of the Remedial Closure Report; and

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

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

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

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, June 23, 2015.

335-14-BZ

CEQR #15-BSA-137M

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Trizc Hahn, owner; Soul Cycle Bryant Park LLC, lessee.

SUBJECT – Application December 31, 2014 – Special Permit (§73-36) to allow for a physical culture establishment (*Soulcycle*) within portions of an existing commercial building. C5-3(MID)(T) zoning district.

PREMISES AFFECTED – 1065 Avenue of the Americas aka 5 Bryant Park, 101 West 40th Street, northwest corner of Avenue of the Americas and West 40th Street, Block 00993, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated December 23, 2014, acting on DOB Application No. 121184164, reads, in pertinent part:

ZR §§ 32-10, 73-36: Proposed Physical Culture or Health Establishment not permitted as-of-right in C5-3 districts...; and

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

WHEREAS, a public hearing was held on this application on June 2, 2015, after due notice by publication in the *City Record*, and then to decision on June 23, 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 5, Manhattan,

recommends approval of this application; and

WHEREAS, the subject site is an L-shaped lot located on the west side of Sixth Avenue between West 40th Street and West 41st Street, within a C5-3 zoning district, within the Special Midtown District; and

WHEREAS, the site has 200 feet of frontage along West 40th Street, 98.75 feet of frontage along Sixth Avenue, 75 feet of frontage along West 41st Street, and 27,152.5 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 35-story commercial building; and

WHEREAS, the proposed PCE will occupy 3,377 sq. ft. of floor area on the first floor of the building; and

WHEREAS, the PCE will be operated as SoulCycle; and

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

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

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

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

WHEREAS, the proposed PCE use is consistent with ZR §81-00, which is applicable to the Special Midtown District; and

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

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

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

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

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15-BSA-137M, dated December 31, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-3 zoning district, within the Special Midtown District, a physical culture establishment on the first floor of a thirty-five story commercial

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building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to drawings filed with this application marked "December 31, 2014"- Four (4) sheets; *on further condition*:

THAT the term of the PCE grant will expire on June 23, 2025;

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

THAT all signage displayed at the site by the applicant shall conform to applicable regulations;

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

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

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by June 23, 2019;

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

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

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

Adopted by the Board of Standards and Appeals, June 23, 2015.

153-11-BZ

APPLICANT – Eric Palatnik, P.C., for Theodoros Parais, owner.

SUBJECT – Application September 21, 2011 – Reinstatement (§§11-411 & 11-412) to permit the continued operation of an automotive repair use (UG 16B); amendment to enlarge the existing one story building; Waiver of the Board's Rules. C1-3 zoning district.

PREMISES AFFECTED – 27-11 30th Avenue, between 27th Street and 39th Street. Block 575, Lot 23. Borough of Brooklyn.

COMMUNITY BOARD #4BK

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

343-12-BZ

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

SUBJECT – Application December 19, 2012 – Variance (§72-21) to permit the construction of a Use Group 3 school (*Brooklyn School for Medically Frail Children*) with dormitory facilities in a split zoning lot, contrary to lot

coverage(§24-11), yard requirements (§24-382, §24-393, §24-33) and use regulations (§22-13). R1-2/R7A zoning district.

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

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to July 28, 2015, at 10 A.M., for continued hearing.

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 July 28, 2015, at 10 A.M., for continued hearing.

182-14-BZ

APPLICANT – Eric Palatnik, PC, for Izhak Lati, owner.

SUBJECT – Application August 5, 2014 – Special Permit (§73-622) for the enlargement of an existing single family, two story dwelling contrary to floor area (ZR 23-141(b)); side yards (ZR 23-461) and less than the minimum rear yard (ZR 23-47). R5 zoning district.

PREMISES AFFECTED – 1977 Homecrest Avenue, between Avenue "S" and Avenue "T", Block 7291, Lot 136, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to July 21, 2015, at 10 A.M., for adjourned hearing.

204-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Wythe Berry LLC, owner.

SUBJECT – Application August 25, 2014 – Special Permit (§73-44) for reduction of required off-street parking spaces for proposed ambulatory diagnostic or treatment health care facilities (UG 4A) and commercial office use (UG 6B listed in Use Group 4 and PRC-B1. M1-2 Zoning District.

PREMISES AFFECTED – 55 Wythe Avenue, between North 12th Street and North 13th Street, Block 2283, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

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

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237-14-BZ

APPLICANT – Jeffrey A. Chester/GSHLLP, for 162nd Street Realty, LLC, owner; SPE Jamaica Avenue, LLC, lessee.

SUBJECT – Application October 1, 2014 – Special Permit (§73-36) to allow for the operation of a physical culture establishment (*Lucille Roberts*). C6-3 zoning district.

PREMISES AFFECTED – 162-01 Jamaica Avenue, corner of Jamaica Avenue and 162nd Street, Block 09761, Lot 0001, Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Off-Calendar.

258-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Henry Atlantic Partners LLC, owner.

SUBJECT – Application October 16, 2014 – 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 located in Cobble Hill Historic District.

PREMISES AFFECTED – 112 Atlantic Avenue, southeast corner of the intersection formed by Atlantic Avenue and Henry Street, Block 285, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Laid over to August 18, 2015, at 10 A.M., for continued hearing.

264-14-BZ

APPLICANT – Eric Palatnik, P.C., for GS 149 LLC, owner; Crunch LLC, lessee.

SUBJECT – Application October 24, 2014 – Special Permit (§73-36) to permit a physical culture establishment (*Crunch Fitness*) within portions of the existing commercial building. C4-4 zoning district.

PREMISES AFFECTED – 436 East 149th Street, south side of East 149th Street, approximately 215' west of intersection with Brook Avenue, Block 02293, Lot 46, Borough of Bronx.

COMMUNITY BOARD #1BX

ACTION OF THE BOARD – Laid over to July 21, 2015, at 10 A.M., for continued hearing.

270-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Carnegie Park land Holding LLC c/o Related Cos., owner; Equinox-East 92nd LLC, lessee.

SUBJECT – Application November 3, 2014 – Special Permit 73-36 to allow the physical culture establishment (*Equinox*) within portions of a new mixed use building, located within an C4-6 zoning district.

PREMISES AFFECTED – 203 East 92nd Street, north side of East 92nd Street, 80 ft. east of intersection with 3rd Avenue, Block 01538, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #8M

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 July 14, 2015, at 10 A.M., for decision, hearing closed.

324-14-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for Kulwanty Pittam, owner.

SUBJECT – Application December 15, 2014 – Reinstatement (§11-411) for an automotive repair facility (UG 16B) granted under Cal. No. 909-52-BZ, expiring January 29, 2000; Amendment to permit the sale of used cars; Waiver of the Rules. C2-2/R5 zoning district.

PREMISES AFFECTED – 198-30 Jamaica Avenue, Southwest corner of Jamaica Avenue. Block 10829, Lot 56. Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Laid over to August 18, 2015, at 10 A.M., for continued hearing.

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**REGULAR MEETING
TUESDAY AFTERNOON, JUNE 23, 2015
1:00 P.M.**

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

ZONING CALENDAR

101-14-BZ

APPLICANT – Moshe M. Friedman PE, for Bais Yaakov D.
Chassidei Gur, owner.

SUBJECT – Application May 8, 2015 – Variance (§72-21)
to permit the vertical extension of an existing not for profit
religious school. R5 zoning district.

PREMISES AFFECTED – 1975 51st Street, northwest
corner of 20th Avenue and 51st Street, Block 05462, Lot 45,
Borough of Brooklyn.

COMMUNITY BOARD #12BK

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

316-14-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for
United Talmudical Academy, owner.

SUBJECT – Application November 25, 2014 – Variance
(§72-21) to permit the enlargement of an existing Yeshiva
building (Talmudical Academy) for lot coverage (§24-11)
and rear yard (§24-36. R6 zoning district.

PREMISES AFFECTED – 115 Heyward Street, northern
side of Heyward Street between Lee Avenue and Bedford
Avenue, Block 02225, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Laid over to
September 1, 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

ACTION OF THE BOARD – Laid over to July 28,
2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director

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*CORRECTION

This resolution adopted on May 19, 2015, under Calendar No. 303-14-BZ and printed in Volume 100, Bulletin No. 22, is hereby corrected to read as follows:

309-13-BZ

APPLICANT – Law office of Lyra J. Altman, for Miriam Josefovic and Mark Josefovic, owners.

SUBJECT – Application November 22, 2013 – Special Permit (73-622) for the enlargement of an existing single family home, contrary to floor area and open space (23-141); side yards (23-461) and less than the required rear yard (23-47). R2 zoning district.

PREMISES AFFECTED – 965 East 24th Street, east side of East 24th Street between Avenue I and Avenue J, Block 7588, Lot 17, 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 October 23, 2013, acting on DOB Application No. 320551568, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141 in that the proposed floor area ratio exceeds the maximum permitted;
2. Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required;
3. Proposed plans are contrary to ZR 23-461 in that the proposed side yard is less than the minimum required;
4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required; 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, and side and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on February 3, 2015, after due notice by publication in *The City Record*, with continued hearings on March 3, 2015, March 24, 2015, and April 28, 2015, and then to decision on May 19, 2015; and

WHEREAS, Commissioner Montanez performed an inspection of the site and premises, as well as the surrounding neighborhood; and

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

WHEREAS, the subject site is located on the east side of East 24th Street, between Avenue I and Avenue J, within an R2 zoning district; and

WHEREAS, the site has 40 feet of frontage along East 24th Street and approximately 4,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story (with attic), single-family home with approximately 2,193 sq. ft. of floor area (0.55 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 enlarge the building, resulting in an increase in the non-complying floor area from 2,193 sq. ft. (0.55 FAR) to 4,013 sq. ft. (1.0 FAR); the maximum permitted floor area is 2,000 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to reduce the non-complying open space ratio of the site from 128 percent to 60 percent; the minimum open space ratio is 150 percent; and

WHEREAS, the applicant seeks to maintain and extend its non-complying side yard and reduce the width of its complying side yard so that the existing widths of 4’-0” and 11’-0” respectively shall be reduced to 4’-0” and 9’-0”; 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 seeks to reduce its non-complying rear yard from 25’-0” to 23’-0”; the requirement is a minimum depth of 30’-0”; 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 contends that the proposed FAR and rear yard are consistent with the neighborhood and submitted a land use study, photographic streetscapes and rear yard study in support of that contention; 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, and side and rear yards, 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

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marked “May 7, 2015”– (11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,013 sq. ft. (1.0 FAR), a minimum open space ratio of 60 percent, side yards with minimum widths of 4’-0” and 9’-0”, and a rear yard with a minimum depth of 23’-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 DOB/other jurisdiction objections(s);

THAT the approved plans shall 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 May 19, 2019; 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, May 19, 2015.

*The resolution has been amended. **Corrected in Bulletin No. 27, Vol. 100, dated July 1, 2015.**