

# BULLETIN

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

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December 2, 2015

### DIRECTORY

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# DOCKETS

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New Case Filed Up to November 24, 2015

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**257-15-A**

1221 Forest Hill Road, East side of Forest Hill Road, approx. 288 ft. north of intersection with Rockland Avenue, Block 1965, Lot(s) 0059, Borough of **Staten Island, Community Board: 2**. GCL 35 proposed construction within the bed of a mapped street is contrary to Article 3 Section 35 of the General City Law R3-2(NA-1) district.

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**258-15-BZ**

2619 East 16th Street, East 16th Street between Sheepshead Bay Road and Avenue Z, Block 7460, Lot(s) 0096, Borough of **Brooklyn, Community Board: 15**. Special Permit (73-44) to reduce the number of required accessory off street parking spaces from thirty(30) to fifteen (15) at the existing building, located within an C4-2 zoning district. C4-2 district.

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**259-15-A**

8 Cornell Lane, Western side of Cornell Lane north of Northern Boulevard, Block 8129, Lot(s) 156, Borough of **Queens, Community Board: 11**. GCL36 to permit the enlargement of the subject building, which will comply with at zoning and building regulations other than the requirement that the site front an illegally mapped street, contrary to Article 3 Section 36 of the General City Law. R2A district.

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**260-15-A**

122 Bard Avenue, Bard Avenue between Linden Street and Livingston Court, Block 0138, Lot(s) 0108, Borough of **Staten Island, Community Board: 1**. GCL36 to permit two, two family homes that do not have frontage on a legally mapped street, contrary to Article 3, Section 36 of the NYS General City Law. RA3X district.

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**261-15-A**

130 Bard Avenue, Bard Avenue between Linden Street and Livingston Court, Block 0111, Lot(s) 001, Borough of **Staten Island, Community Board: 1**. GCL 36 to permit two, two family homes that do not have frontage on a legally mapped street, Article 3, Section 36 of the General City Law. R3X district.

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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.**

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# CALENDAR

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## REGULAR MEETING DECEMBER 15, 2015, 10:00 A.M.

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, December 15, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

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**SPECIAL ORDER CALENDAR**

### 10-11-BZ & 11-11-BZ

APPLICANT – Phillip L. Rampulla, for Charles Cannizaro, owner.

SUBJECT – Application September 2, 2015 – Extension of Time to Complete Construction and Amendment (72-21) Extension of time to complete construction for two one family detached residence in which the front and rear yards were modified Amendment to revise the first floor elevation, located within an R3-1 zoning district.

PREMISES AFFECTED – 115 & 121 Finley Avenue, Block 4050, Lot(s) 49, 52, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

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## APPEALS CALENDAR

### 182-06-BZ thru 211-06-A

APPLICANT – Law Office of Lyra J. Altman, for JDS Seagirt LLC, owner.

SUBJECT – Application July 23, 2015 – Extension of time to complete construction and obtain a Certificate of Occupancy for a previously granted Common Law Vesting which expires on November 15, 2015. R4A zoning district.

PREMISES AFFECTED – 146, 148, 150 Beach 5th Street, Block 15608, Lot(s) 1, 40, 42. Borough of Queens.

**COMMUNITY BOARD #14Q**

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### 136-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for BIRB Realty, Inc., owner.

SUBJECT – Application June 10, 2015 – Proposed construction of a building not fronting on a legally mapped street contrary to Section 36 Article 3 of the General City Law.

PREMISES AFFECTED – 521 Durant Avenue, Block 05120, Lot 0062, Borough of Staten Island.

**COMMUNITY BOARD #3SI**

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## REGULAR MEETING DECEMBER 15, 2015, 1:00 P.M.

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, December 15, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

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**ZONING CALENDAR**

### 63-15-BZ

APPLICANT – Sheldon Lobel, P.C., for Sutton Owners Corporation, Inc., owner; Harriet Harkavy, Esq., lessee.

SUBJECT – Application March 23, 2015 – Variance (§72-21) to legalize the three existing enclosures of portions of the terrace of Unit PHC located on the penthouse floor of the premises. R10 zoning district.

PREMISES AFFECTED – 35 Sutton Place, corner through-lot with frontage on 59th Street between Sutton Place and Riverview Terrace, Block 01372, Lot 73, Borough of Manhattan.

**COMMUNITY BOARD #6M**

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### 98-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for East 54th Street Partnership LLC, owner; SoulCycle East 54th Street, LLC, lessee.

SUBJECT – Application May 5, 2015 – Special Permit (§73-36) to allow a physical culture establishment (*SoulCycle*) within the existing building for a one family, three-story residence for accessory parking spaces. C1-9 zoning district.

PREMISES AFFECTED – 240 East 54th Street, south side of East 54th Street, 100 feet west of intersection of East 54th Street and Second Avenue, Block 01327, Lot 029, Borough of Manhattan.

**COMMUNITY BOARD #6M**

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### 99-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for East 54th Street Partnership LLC, owner; Blink East 54th Street, Inc., lessee.

SUBJECT – Application May 5, 2015 – Special Permit (§73-36) to allow for a physical culture establishment (*Blink*) in an existing commercial building. C1-9 zoning district.

PREMISES AFFECTED – 240 East 54th Street, south side of East 54th Street, 100' west of intersection of East 54th Street, and 2nd Avenue, Block 01327, Lot 029, Borough of Manhattan.

**COMMUNITY BOARD #6M**

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*Ryan Singer, Executive Director*

# MINUTES

## REGULAR MEETING TUESDAY MORNING, NOVEMBER 24, 2015 10:00 A.M.

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

### SPECIAL ORDER CALENDAR

#### 128-10-BZ

APPLICANT – Eric Palatnik, P.C., for Merhay Yagudayev, owner; Jewish Center of Kew Gardens, lessee.

SUBJECT – Application June 15, 2015 – Extension of time to complete Construction and obtain a Certificate of Occupancy for a Use Group 4 three-story synagogue (*Jewish Center of Kew Gardens*) religious school, and Rabbi's apartment, which expired on August 23, 2015. R4 zoning district.

PREMISES AFFECTED – 147-58 77th Road, 150th Street and 77th Road, Block 06688, Lot 031, 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, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for an extension of time to complete construction and obtain a Certificate of Occupancy pursuant to a variance, which permitted the construction of a three-story building to be occupied by a synagogue, religious school, and Rabbi's apartment, pursuant to ZR § 72-21; and

WHEREAS, a public hearing was held on this application on November 24, 2015 after due notice by publication in *The City Record*, the case was closed, and a decision was rendered on that same date; and

WHEREAS, Commissioner Ottley-Brown and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the southwest corner of 77th Road and 150th Street, in an R4 zoning district, in Queens; and

WHEREAS, the site has approximately 40 feet of frontage along 77th Road, 100 feet of frontage along 150th Street, and 4,000 sq. ft. of lot area; and

WHEREAS, the Board has exercised jurisdiction over the subject site since August 23, 2011, when, under the subject calendar number, the Board granted a variance permitting the construction of a three-story building to be occupied by a synagogue, religious school, and Rabbi's apartment, that did not comply with the underlying zoning district regulations for lot coverage, height and setback, front yard, side yards, side setback, and parking for community facilities, contrary to ZR

§§ 24-11, 24-521, 24-34 and 24-35, 24-551 and 25-31; and

WHEREAS, on August 21, 2012, under the subject calendar number, the Board granted an application to amend the August 23, 2011 variance with respect to building height, floor area, and lot coverage, contrary to ZR §§ 24-521 and 24-11; and

WHEREAS, construction was to be substantially completed by August 23, 2015, pursuant to ZR § 72-23; and

WHEREAS, the applicant represents that, by May 2015, 71 helical foundation piles have been installed, the foundation has been reinforced, the foundation slab has been poured and the foundation wall has been constructed, and anticipate that the project will be completed by late 2017; and

WHEREAS, accordingly, the applicant seeks: (1) an extension of an additional four (4) years to complete construction and obtain a Certificate of Occupancy; and

WHEREAS, in response to questions raised at hearing, the applicant represents that no construction has been completed on the premises since May 2015 because of lack of funding and a dispute with the general contractor; and

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

*Therefore it is Resolved*, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated August 23, 2011, so that as amended this portion of the resolution reads: "to grant an extension of time to complete construction and obtain a Certificate of Occupancy to August 23, 2019; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT construction shall be completed by August 23, 2019;

THAT a Certificate of Occupancy for the premises shall be obtained by August 23, 2019;

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

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

(DOB Application No. 110296028)

Adopted by the Board of Standards and Appeals, November 24, 2015.

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#### 699-46-BZ

APPLICANT – Eric Palatnik, P.C., for Gurcharan Singh, owner.

SUBJECT – Application May 22, 2015 – Extension of Time to Complete Construction of a previously approved variance permitting the operation of an Automotive Service Station (UG 16B), which expired on May 19, 2015. R3X zoning district.

PREMISES AFFECTED – 224-01 North Conduit Avenue, between 224th Street and 225th Street, Block 13088, Lot

# MINUTES

0044, Borough of Queens.

## COMMUNITY BOARD #13Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda .....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to December 8, 2015, at 10 A.M., for decision, hearing closed.

## 528-64-BZ

APPLICANT – Gerald Caliendo, RA, AIA, for 240-02 Realty LLC/Tim Broliieb, owner.

SUBJECT – Application November 4, 2013 – Amendment of a previously approved Variance (§72-21) which permitted the erection of a two story enlargement of an auto showroom (UG 16B). The amendment seeks to enlarge the existing automobile showroom and include an addition of a parking deck to the existing automobile dealership (*East Hills Chevrolet*). R1-2 zoning district.

PREMISES AFFECTED – 240-02 Northern Boulevard, southwest corner of Alameda Avenue and Northern Boulevard, Block 08167, Lot 1, Borough of Queens.

## COMMUNITY BOARD #11Q

**ACTION OF THE BOARD** – Laid over to January 22, 2016, at 10 A.M., for continued hearing.

## 1207-66-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Apple Art Supplies of New York, LLC., owner.

SUBJECT – Application December 10, 2014 – Extension of Term of a previously granted variance for the continued operation of a UG6 art supply and bookstore which expired July 5, 2012; Waiver of the Rules. R6 zoning district.

PREMISES AFFECTED – 305 Washington Avenue aka 321 DeKalb Avenue, northeast corner of Washington Avenue & DeKalb Avenue, Block 1918, Lot 7501, Borough of Brooklyn.

## COMMUNITY BOARD #3BK

**ACTION OF THE BOARD** – Laid over to January 12, 2016, at 10 A.M., for continued hearing.

## 173-92-BZ

APPLICANT – Simons & Wright LLC, for Bremen House, Inc., owner.

SUBJECT – Application January 17, 2014 – Extension of Term of a previously approved Special Permit (§73-36) permitting the operation of martial arts studio which expires on January 24, 2014; Amendment to permit the relocation of the facility from the 2nd floor to the cellar. C2-8A zoning district.

PREMISES AFFECTED – 220 East 86th Street, 86<sup>th</sup> Street between 2<sup>nd</sup> and 3<sup>rd</sup> Avenues, Block 01531, Lot 38, Borough of Manhattan

## COMMUNITY BOARD #8M

**ACTION OF THE BOARD** – Laid over to January 12, 2016, at 10 A.M., for continued hearing.

## 57-95-A thru 59-95-A

APPLICANT – Mitchell S. Ross, Esq., for Upwest Company, LLC, owner.

SUBJECT – Application February 9, 2015 – Amendment/Time to complete construction filed under Certificate of Occupancy Modification. R7-2 zoning district.

PREMISES AFFECTED – 473 Central Park West, West side of Central Park West between West 107th and West 108th Streets, Block 01843, Lot 32, Borough of Manhattan.

## COMMUNITY BOARD #7M

**ACTION OF THE BOARD** – Laid over to February 2, 2016, at 10 A.M., for continued hearing.

## 182-95-BZ

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

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

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

## COMMUNITY BOARD #7M

**ACTION OF THE BOARD** – Laid over to January 22, 2016, at 10 A.M., for continued hearing.

## 183-95-BZ

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

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

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

## COMMUNITY BOARD #7M

**ACTION OF THE BOARD** – Laid over to January 22, 2016, at 10 A.M., for continued hearing.

# MINUTES

## 301-03-BZ

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

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

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

### COMMUNITY BOARD #14BK

**ACTION OF THE BOARD** – Laid over to December 15, 2015, at 10 A.M., for continued hearing.

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## 105-10-BZ

APPLICANT – Eric Palatnik, P.C., for Misha Keylin, owner.

SUBJECT – Application February 24, 2015 – Amendment of a previously approved Special Permit (§73-622) permitting the enlargement of an existing single family home. The amendment seek a second story enlargement. R4A (BRSD) zoning district.

PREMISES AFFECTED – 269 77th Street, between 3rd Avenue and Ridge Boulevard, Block 05949, Lot 0054, Borough of Brooklyn.

### COMMUNITY BOARD #10BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda .....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to January 12, 2016, at 10 A.M., for decision, hearing closed.

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## APPEALS CALENDAR

### 73-15-A & 74-15-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Ashland Building LLC., owner.

SUBJECT – Application March 31, 2015 – Proposed construction of buildings that do not front on a legally mapped street, pursuant to Section 36 Article 3 of the General City Law. R3X (SRD) zoning district.

PREMISES AFFECTED – 170 Arbutus Avenue, east side of Arbutus Avenue, 513.26’ north of intersection of Arbutus Avenue and Louise Street, Block 06552, Lot 0058, Borough of Staten Island.

### COMMUNITY BOARD #3SI

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

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

## THE RESOLUTION –

WHEREAS, the decisions of the Staten Island Borough Commissioner dated March 18, 2015 acting on DOB Application Nos. 520216668 and 520216677, read in pertinent part:

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

A) No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 of General City Law;

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

WHEREAS, this is an application to allow the construction of two (2) residences which do not front on a mapped street, contrary to General City Law (“GCL”) § 36; and

WHEREAS, a public hearing was held on this application on October 27, 2015 after due notice by publication in *The City Record*, and then to decision on November 24, 2015; and

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

WHEREAS, Community Board 3, Staten Island, recommended disapproval of this application; and

WHEREAS, the subject application applies to two proposed tax lots to be apportioned from existing Lot 58, a single zoning lot located on the east side of Arbutus Avenue, between Christine Court and Louise Street, within an R3X zoning district, in the Special South Richmond Development District, on Staten Island; and

WHEREAS, the applicant proposes to divide existing Lot 58 into two new lots—New Lot 58 (or “176 Arbutus Avenue”) with approximately 58 feet of frontage along Arbutus Avenue, and New Lot 60 (or “170 Arbutus Avenue”), with approximately 21 feet of frontage along Arbutus Avenue; and

WHEREAS, an Application for Mergers or Apportionments to apportion existing Lot 58 into New Lot 58 and New Lot 60 was submitted to the New York City Department of Finance, Property Division – Tax Map Office in or around March 2014; and

WHEREAS, the applicant further proposes to develop each lot with a single two (2) story plus cellar one (1) family residence with accessory parking for two (2) vehicles and an in-ground pool with a total of 10,709 sq. ft. of floor area and a floor area ratio (FAR) of 0.27; and

WHEREAS, the applicant represents that the two residences will front on Arbutus Avenue, a public street that is currently open and improved and provides access to existing residences in the vicinity of the subject premises; and

WHEREAS, the applicant further represents that the residences will be located on the eastern portion of the subject site and, as such, will avoid the wetland area in the western portion of the subject site; and

# MINUTES

WHEREAS, by letter dated July 10, 2014, the New York State Department of Environment Conservation (“NYSDEC”) confirmed that applicant’s proposed project was not located within NYSDEC regulated tidal wetlands or tidal wetlands adjacent area and an NYSDEC tidal wetlands permit was not required; and

WHEREAS, by letter dated October 23, 2015 the Fire Department states that it has no objections or recommendations to the proposal as it relates to the proposed New Lot 58 (BSA Calendar Number 74-15-A); and

WHEREAS, by letter dated October 23, 2015, the Fire Department states that it has no objections to the proposal as it relates to the proposed New Lot 60 (BSA Calendar Number 73-15-A) under the following conditions: (1) the fire apparatus access road is designed and is used exclusively to provide access only to 170 Arbutus Avenue (New Lot 60), and to no other buildings and provides direct access to the required 30’ x 30’ frontage space; (2) the height of 170 Arbutus Avenue does not exceed 35 feet above the grade plane (with the terms “building height” and “grade plane” having the meanings set forth in Section 502.1 of the Building Code); (3) the dwelling is equipped with interconnected smoke alarms, in accordance with Section 907.2.10 of the Building Code; (4) the building is protected throughout by a sprinkler system; (5) the required off-street parking space(s) is/are separate from the fire apparatus access road and the required frontage space; and (6) parking is prohibited on the fires apparatus road and a “No Parking” sign conforming to the requirements of FC503.2.7.2 is conspicuously posted at the entrance to the access road; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant approval of the application subject to certain conditions set forth herein.

*Therefore it is Resolved*, that the decisions of the DOB, dated March 18, 2015, acting on DOB Application Nos. 520216668 and 520216677, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received November 5, 2015”-(1) sheet; that the proposal will comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval is limited to the relief granted by the Board in response to objections cited and filed by the DOB;

THAT the fire apparatus access road is designed and is used exclusively to provide access only to 170 Arbutus Avenue (Lot 60), and to no other buildings and provides direct access to the required 30’ x 30’ frontage space;

THAT the height of 170 Arbutus Avenue does not exceed 35 feet above the grade plane (with the terms “building height” and “grade plane” having the meanings set forth in Section 502.1 of the Building Code)

THAT the dwelling located at 170 Arbutus Avenue is equipped with interconnected smoke alarms, in accordance with Section 907.2.10 of the Building Code;

THAT the building at 170 Arbutus Avenue is protected

throughout by a sprinkler system;

THAT the required off-street parking space(s) for 170 Arbutus Avenue is/are separate from the fire apparatus access road and the required frontage space;

THAT parking is prohibited on the fires apparatus road and a “No Parking” sign conforming to the requirements of FC503.2.7.2 is conspicuously posted at the entrance to the access road;

THAT the any changes to the subject zoning lot shall be subject to Board approval;

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

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

Adopted by the Board of Standards and Appeals, November 24, 2015.

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## 234-14-A

APPLICANT – Law Offices of Marvin B. Mitzner, for Ohmni Properties, owners.

SUBJECT – Application September 29, 2014 – Appeal of the NYC Department of Buildings' determination to not revoke a Certificate of Occupancy issued in 1989 and reinstate the Certificate of Occupancy issued in 1985.

PREMISES AFFECTED – 738 East 6th Street, south side of East 6th Street between Avenue C and Avenue D, Block 00375, Lot 0028, Borough of Manhattan.

## COMMUNITY BOARD #3M

**ACTION OF THE BOARD** – Laid over to February 9, 2016, at 10 A.M., for continued hearing.

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## ZONING CALENDAR

### 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** – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

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# MINUTES

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## THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated December 26, 2013, acting on DOB Application No. 320817559, reads in pertinent part:

The proposed enlargement of the existing one family residence in an R3-2 zoning district:

1. Creates non-compliance with respect to floor area by exceeding the allowable floor area ratio and is contrary to section 23-141 of the Zoning Resolution;
2. Creates non-compliance with respect to the lot coverage and open space and is contrary to section 23-141 of the Zoning Resolution;
3. Creates non-compliance with respect to the rear yard and is contrary to section 23-47 of the Zoning Resolution; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R3-2 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio (“FAR”), lot coverage and open space, and rear yards, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on July 29, 2014, after due notice by publication in *The City Record*, with continued hearings on August 19, 2014, September 16, 2014, November 18, 2014, January 27, 2015, March 3, 2015, June 23, 2015, July 28, 2015, September 22, 2015, and October 27, 2015, and then to decision on November 24, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez, Commissioner Ottley-Brown, and Commissioner Chanda performed inspections of the subject site and neighborhood; and

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

WHEREAS, the subject site is located on the east side of East 22<sup>nd</sup> Street, between Quentin Road and Avenue R, in Brooklyn, within an R3-2 zoning district; and

WHEREAS, the site has 80 feet of frontage along East 22<sup>nd</sup> Street, a depth of 100 feet, and 8,000 sq. ft. of lot area; and

WHEREAS, the site is comprised of two lots; the applicant proposes to merge these lots into a single lot and enlarge the two-story with attic single family residence which occupies the northern side of the merged lot, which contains approximately 2,364 sq. ft. of floor area (.59 FAR) (the home on the other lot will be demolished); and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single-* or *two family detached* or *semi-detached residence* within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway,

Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage*, *open space*, *floor area*, *side yard*, *rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*;
- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and
- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single-* or *two family detached* or *semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building’s non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins. Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply.

The Board shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge an existing single family residence, as contemplated in ZR § 73-622; and

WHEREAS, the applicant now seeks to enlarge the subject building as follows: (1) increase the floor area of the structure to 7,174 sq. ft. (.90 FAR) (the maximum permitted floor area ratio is .50 FAR pursuant to ZR § 23-141(b)); increase the lot coverage of the structure to 36-percent (the maximum permitted lot coverage is 35-percent pursuant to ZR § 23-141(b)); decrease the open space of the site to 64-percent (the minimum required open space is 65-percent

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pursuant to ZR § 23-141(b)); reduce the depth existing rear yard to 20'-0" for a 37'-4" portion of the proposed home and increase the depth of the rear yard for the remainder of the home to 60'-0" (a 30'-0" rear yard is required pursuant to ZR § 23-47); and

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

WHEREAS, in support of the application, the applicant submitted a rear yard study which shows that the partial 20'-0" rear yard is consistent with adjacent properties, and notes that of the 53'-4½" width of the proposed home, 37'-4" reduces the rear yard to a depth of 20'-0", while the remainder of the home provides a rear yard of 60'-0" or more; and

WHEREAS, the applicant also notes that the proposed home provides a large southern side yard that ranges from 19'-0" to 35'-0", and increases the width of the northern side yard to 7'-7½"; 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, at hearing, the Board inquired as to the use of the cellar and sub-cellar, which contains a gymnasium and basketball court, as well as to the enlargement at the cellar level which extends beyond the perimeter walls of the story above the cellar;

WHEREAS, the applicant responded, with reference to DOB Building Bulletin 2012-008, that the cellar may be used for non-dwelling purposes as an accessory to the residential use where the perimeter walls of the cellar extends the perimeter walls of the story above the cellar, provided that the entire cellar floor devoted to non-dwelling purposes is less than 50% of the total residential floor area in the building; and

WHEREAS, the applicant stated further that the proposed floor area of the building is 7,174 sq. ft., of which 472 sq. ft. is located at the cellar (which does not include the space above the gymnasium and basketball court, which is located in the sub-cellar level), and that the maximum permitted area for the cellar and sub-cellar is 3,597 sq. ft.; and

WHEREAS, the applicant stated that the cellar contains 2,560 sq. ft. of floor space, 472 sq. ft. of which is included as part of the building's residential floor area, for a total of 2,088 sq. ft. of accessory cellar floor space, and that the sub-cellar contains 1,313 sq. ft. of floor space, for a total of 3,401 sq. ft. of floor space, which is less than the permitted 3,597 sq. ft.; 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 R3-2 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio ("FAR"), lot coverage and open space, and rear yards, contrary to ZR §§ 23-141 and 23-47; on condition that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received November 5, 2015" – Fourteen (14) sheets; and on further condition:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 7,174 sq. ft. (.90 FAR), side yards of 19'-0" and 7'-7½", a rear yard of 20'-0" for a length of 37'-4"; lot coverage of 36-percent and an open space ratio of 64-percent, all as illustrated on the BSA-approved plans;

THAT the chimney in the rear yard is to be approved by the Department of Buildings;

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 November 24, 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, November 24, 2015.

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## 261-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Julie Haas, owner.

SUBJECT – Application October 21, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space ZR 23-141 and less than the required rear yard ZR 23-47. R-2 zoning district.

PREMISES AFFECTED – 944 East 23rd Street aka 948 East 23rd Street, Block 07586, Lot 64, 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, Commissioner Montanez and Commissioner Chanda.....5  
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City

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Department of Buildings (“DOB”), dated September 24, 2014, acting on DOB Application No. 320995241, 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 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR § 73-622, to permit, in an R2 zoning district, an enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, and rear yards contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on October 20, 2015 after due notice by publication in *The City Record*, and then to decision on November 24, 2015; and

WHEREAS, Commissioner Montanez and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

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

WHEREAS, the subject site is located on the west side of East 23rd Street, between Avenue I and Avenue J, in an R2 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 60 feet of frontage along East 23rd Street, a depth of 100 feet, and 6,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with attic, one-family residence with approximately 3,015 sq. ft. of floor area (0.50 FAR); and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single-* or *two family detached* or *semi-detached residence* within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage*, *open space*, *floor area*, *side yard*, *rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area

between the *building* that is being *enlarged* and the *side lot line*;

- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and

- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single-* or *two family detached* or *semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building's non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins. Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply.

The Board shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge an existing single family residence, as contemplated in ZR § 73-622; and

WHEREAS, specifically, the applicant seeks to increase the floor area of the structure from 3,015 sq. ft. (0.50 FAR) to 6,000 sq. ft. (1.00 FAR) (the maximum permitted floor area ratio is .50 FAR pursuant to ZR § 23-141(b)); decrease the open space ratio from 143.9 OSR to 73.84 OSR (the minimum permitted OSR is 150 pursuant to ZR § 23-141(a)); and increase the depth of the rear yard from a non-complying 10'-4" to a still non-complying 20'-6"; and

WHEREAS, in response to the Board's inquiry, the applicant provided the Board with a copy of an easement agreement which creates a driveway easement, 78'-0" deep and 3'-6" wide, on the north side of the premises; the applicant represents that the proposed enlargement does not interfere with this easement or the ability of the neighbor to access their garage; and

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

WHEREAS, based upon its review and the record, the Board finds that the proposed enlargement will neither alter the

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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 enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio, open space ratio and rear yards, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received November 12, 2015”- twelve (12) sheets and “Received November 23, 2015”- one (1) sheet; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 6,000 sq. ft. (1.00 FAR), side yards of 8’-0” and 5’-0”, and a rear yard with a minimum depth of 20’-6”, all 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 objection(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 November 24, 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, November 24, 2015.

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## 179-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Lillian Romano and Elliot Romano, owners.

SUBJECT – Application July 29, 2014 – Special Permit (§73-622) for the enlargement and conversion of an existing two family residence to single family residence contrary to the rear yard requirement (ZR 23-47). R5 zoning district.

PREMISES AFFECTED – 1937 East 14th Street, east side of East 14th Street between Avenue S and Avenue T, Block 07293, Lot 74, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

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

## THE VOTE TO GRANT –

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

Commissioner Chanda.....5  
Negative:.....0  
THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated July 1, 2014, acting on DOB Application No. 320932103, reads in pertinent part:

The proposed change from two to one family and enlargement of the existing two story and attic in an R5 zoning district:

1. Creates non-compliance with respect to the rear yard by not meeting the minimum requirements of Section 23-47 of the Zoning Resolution; and

WHEREAS, this is an application under ZR § 73-622, to and permit, in an R5 zoning district, the enlargement of a residence being converted from a two-family residence to single-family residence which does not comply with the zoning requirements for rear yards contrary to ZR § 23-47; and

WHEREAS, a public hearing was held on this application on August 18, 2015, after due notice by publication in the *City Record*, with continued hearings on September 18, 2015 and October 27, 2015, and then to decision on November 24, 2015; and

WHEREAS, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

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

WHEREAS, the subject site is located on the east side of East 14th Street, between Avenue S and Avenue T, in an R5 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 40 feet of frontage along East 23rd Street, a depth of 100 feet, and 4,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with attic, two-family residence with approximately 2,999 sq. ft. of floor area (0.75 FAR); and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single- or two family detached or semi-detached residence* within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage, open space, floor area, side yard, rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such

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*enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*;

- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and
- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single- or two family detached or semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building's non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins.

Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply.

The Board shall find that the *enlarged building* will not alter the essential character of the neighborhood or district in which the *building* is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge an existing two-family residence, as contemplated in ZR § 73-622; and

WHEREAS, the applicant now seeks to increase the floor area of the structure from 2,999 sq. ft. (0.75 FAR) to 4,120 sq. ft. (1.03 FAR) and increase the degree of non-compliance of the rear yard from a non-complying 26'-3½" to a still non-complying 20'-0" on the first floor and 24'-0" on the second floor; and

WHEREAS, the plans for conversion include a two-story plus attic extension in the front of the home, two one-story extensions on the southern side of the home, and an extension in the rear yard; only the proposed rear yard extension is the subject of this application; and

WHEREAS, the applicant further represents that the proposal 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 submitted a rear yard study which established that of the 35 lots on the subject block which have rear yards, 14 have rear yards with depths of less than

30'-0", and that 36% of such lots have rear yards have depths of equal to or less than 20'-0"; the applicant represents that 22 of the 35 lots have garages located in their rear yards, including the houses adjacent to the subject property; and

WHEREAS, based upon its review and 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 R5 zoning district, the enlargement of a residence being converted from a two-family to a single-family residence which does not comply with the zoning requirements for rear yards contrary to ZR § 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received November 5, 2015"- (12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,120 sq. ft. (1.03 FAR), side yards of 6'-8.375" and 10'-8.375", a front yard with a minimum depth of 10'-0", and a rear yard with a minimum depth of 20'-0" at the first floor and 24'-0" at the second floor, all 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 objection(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 November 24, 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, November 24, 2015.

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## 43-15-BZ

APPLICANT – Eric Palatnik, PC., for Joseph Tolv, owner.  
SUBJECT – Application March 6, 2015 – Special Permit (§73-622) to permit an enlargement of one family home, seeking to waive the floor area, lot coverage, rear yard, perimeter wall height and open space requirements. R3-2 zoning district.

PREMISES AFFECTED – 2617 Avenue R, between East 26th and 27th Streets, Block 06809, Lot 0049, Borough of Brooklyn.

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## COMMUNITY BOARD #15BK

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

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated July 8, 2014, acting on DOB Application No. 320931328, reads in pertinent part:

1. Proposed plans are contrary to ZR § 23-141(b) in that the proposed Floor Area Ratio (FAR) exceeds permitted 50%;
2. Proposed plans are contrary to ZR § 23-141(b) in that the proposed open space is less than the required 65%;
3. Proposed plans are contrary to ZR § 23-141(b) in that the proposed lot coverage exceeds the maximum required 35%;
4. Proposed plans are contrary to ZR § 23-47 in that the proposed rear yard is less than 30’-0”;

and  
WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R3-2 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, lot coverage, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on October 16, 2015, after due notice by publication in *The City Record*, and then to decision on November 24, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez, Commissioner Ottley-Brown, and Commissioner Chanda performed inspections of the subject site and neighborhood; and

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

WHEREAS, the subject site is located on the north side of Avenue R, between East 26<sup>th</sup> Street and East 27<sup>th</sup> Street, within an R3-2 zoning district; and

WHEREAS, the site has 33.33 feet of frontage along Avenue R, a depth of 100 feet, and 3,333 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with cellar, single-family residence with approximately 1,204 sq. ft. of floor area (0.36 FAR), lot coverage of 20.83 percent, an open space ratio of 79.17 percent, a non-complying front yard of 9’-11””, two side yards with a combined width of 13’-2” and a rear yard of 54’-0””; and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single- or two family detached or semi-detached residence* within the following areas:

- (a) Community Districts 10, 11 and 15, in the Borough of Brooklyn; and
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of *non-compliance*, with the applicable *bulk* regulations for *lot coverage, open space, floor area, side yard, rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*;
- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and
- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single- or two family detached or semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building’s non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins.

Above such height, the setback regulations of Section 23-31, paragraph (b), shall continue to apply.

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, *inter alia*, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge an existing single family residence, as contemplated in ZR § 73-622; and

WHEREAS, the applicant initially sought to increase the floor area of the structure from 1,204 sq. ft. (.36 FAR) to 2,272.84 sq. ft. (.68 FAR); reduce the open space ratio from 79.17 percent to 61.5 percent (thereby increasing the lot coverage from 20.83 percent to 38.5 percent); maintain the non-complying front yard of 9’-11” and existing side yards with a combined width of 13’-2””; reduce the depth of the rear yard from 54’-0” to 25’-2””; and extend the existing building’s non-complying perimeter wall into the rear yard at a height of 21’-8””; and

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WHEREAS, upon examination, the project architect amended its measurement of the eaves of the existing building at the second story level, such that the perimeter wall height believed to be 21'-8" was determined to be a complying 19'-5" above grade, thus, the applicant modified its proposal and now seeks to enlarge the subject building as follows: (1) increase the floor area of the structure from 1,204 sq. ft. (.36 FAR) to 2,272.84 sq. ft. (.68 FAR) (the maximum permitted floor area ratio is .5 pursuant to ZR § 23-141(b)); (2) reduce the open space ratio from 79.17 percent to 62.31 percent and, accordingly, increase the lot coverage from 20.83 percent to 37.69 percent (the minimum required open space ratio is 65 percent, and the maximum permitted lot coverage is 35 percent, pursuant to ZR § 23-141(b)); maintain the non-complying front yard of 9'-11"; maintain the complying side yards of 7'-5" and 5'-9"; and reduce the depth of the rear yard from 54'-0" to 25'-2"; and

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

WHEREAS, with respect to the reduction in the depth of the rear yard, the applicant notes that the subject block is characterized by rear yard garage structures, such that the reduction in the depth of the subject yard will have little discernible impact on surrounding properties which, the applicant notes, are all occupied by substantial garage structures; the applicant submitted a land use study which depicts, *inter alia*, that of the 54 lots on the subject block, 47 are occupied by garage structures located in their respective rear yards; 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 R3-2 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio ("FAR"), open space ratio, lot coverage, and rear yard, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this

application and marked "Received November 5, 2015" – ten (10) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 2,272.84 sq. ft. (.68 FAR); a minimum open space ratio of 62.31 percent; a maximum lot coverage of 37.69 percent; a wall height of 19'-5" and a total height of 25'-3"; a front yard with a minimum depth of 9'-11"; side yards of 7'-5" and 5'-9"; and a rear yard with a minimum depth of 25'-2", all 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 the following items are subject to DOB approval: the proposed rear and front porch; the proposed bay window; the proposed overhang at the second story of the building; and the proposed cellar;

THAT planting shall be provided as per ZR § 23-451;

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 November 24, 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, November 24, 2015.

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**51-14-BZ**

APPLICANT – Lewis E. Garfinkel, for David Freier, owner.  
SUBJECT – Application April 2, 2014 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area and open space ZR §23-141; side yards ZR §23-461 and rear yard ZR §23-47. R2 zoning district.

PREMISES AFFECTED – 1369 East 28th Street, East side of East 28th Street, 220' north from Avenue N, Block 7664, Lot 17, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to December 15, 2015, at 10 A.M., for decision, hearing closed.  
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1 The Board notes that the underlying decision of the DOB, acting on DOB Application No. 3209313281, initially stated that the "[p]roposed plans are contrary to ZR § 23-631(b) in that the perimeter wall height exceeds 21'-0";" but that such objection is no longer relevant to the subject application.

# MINUTES

## 98-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 404-414 Richmond Terrace Inc., owner.

SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the reestablishment of a banquet facility (catering hall -UG 9) with accessory parking. Located in an R5 and R3A zoning districts within the St. George Historic District. PREMISES AFFECTED – 404 Richmond Terrace, southeast corner of Richmond Terrace and Westervelt Avenue, Block 3, Lot(s) 40, 31, Borough of Staten Island.

### COMMUNITY BOARD #1SI

**ACTION OF THE BOARD** – Laid over to January 12, 2016, at 10 A.M., for continued hearing.

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## 129-14-BZ

APPLICANT – Sheldon Lobel, P.C., for Mourad Louz, owner.

SUBJECT – Application June 9, 2014 – Special Permit (§73-622) as amended, to permit the enlargement of a single-family detached residence, contrary to floor area, side yard, and rear yard regulations. R5 zoning district.

PREMISES AFFECTED – 2137 East 12th Street, east side of East 12th Street between Avenue U and Avenue V, Block 07344, Lot 62, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

**ACTION OF THE BOARD** – Laid over to January 12, 2016, at 10 A.M., for continued hearing.

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## 148-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 11 Avenue A Realty LLC, owner.

SUBJECT – Application June 24, 2014 – Variance (§72-21) to permit multi-family residential use at the premises. R8A/C2-5 zoning districts.

PREMISES AFFECTED – 11 Avenue A, west side of Avenue A between East 1st Street and East 2nd Street, Block 429, Lot 39, Borough of Manhattan.

### COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to December 15, 2015, at 10 A.M., for decision, hearing closed.

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## 323-14-BZ

APPLICANT – Eric Palatnik, P.C., for Avner Levy, owner. SUBJECT – Application December 12, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area (ZR 23-141(b)). R3-1 zoning district.

PREMISES AFFECTED – 282 Corbin Place, adjacent to the Coney Island Beach and Boardwalk, Block 08723, Lot 276, Borough of Brooklyn.

## COMMUNITY BOARD #3BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to January 12, 2016, at 10 A.M., for decision, hearing closed.

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## REGULAR MEETING

TUESDAY AFTERNOON, NOVEMBER 24, 2015

1:00 P.M.

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

## ZONING CALENDAR

### 45-15-BZ

APPLICANT – Simons & Wright LLC, for Queensboro Development, LLC, owner; Long Island City Rock Climbing Co. LLC, lessee.

SUBJECT – Application March 10, 2015 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Rock Climbing Facility*) C5-3 zoning district.

M1-5/R7-3 (LIC) zoning district.

PREMISES AFFECTED – 23-10 41st Avenue, between 23rd and 24th Streets, Block 00413, Lot 0022, Borough of Queens.

### COMMUNITY BOARD #1Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to December 15, 2015, at 10 A.M., for decision, hearing closed.

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### 53-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 10 E53rd Street Owner LLC c/o SL Green Realty Co., owner; Equinox East 53rd Street, Inc., lessee.

SUBJECT – Application March 12, 2015 – Special Permit (§73-36) to permit a physical culture establishment (*Equinox*) within an existing building. C5-2.5(MID) + C.3MID)(F) zoning district.

PREMISES AFFECTED – 10 East 53rd Street, south side of east 53rd Street, 125' west of intersection of East 53rd Street and 5th Avenue, Block 01288, Lot 7, Borough of Manhattan.

### COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson,

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# MINUTES

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Commissioner Ottley-Brown, Commissioner Montanez and  
Commissioner Chanda.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to December  
15, 2015, at 10 A.M., for decision, hearing closed.

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**63-15-BZ**

APPLICANT – Sheldon Lobel, P.C., for Sutton Owners  
Corporation, Inc., owner; Harriet Harkavy, Esq., lessee.

SUBJECT – Application March 23, 2015 – Variance (§72-  
21) to legalize the three existing enclosures of portions of  
the terrace of Unit PHC located on the penthouse floor of  
the premises. R10 zoning district.

PREMISES AFFECTED – 35 Sutton Place, corner through-  
lot with frontage on 59th Street between Sutton Place and  
Riverview Terrace, Block 01372, Lot 73, Borough of  
Manhattan.

**COMMUNITY BOARD #6M**

**ACTION OF THE BOARD** – Laid over to December  
15, 2015, at 10 A.M., for postponed hearing.

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*Ryan Singer, Executive Director*