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263-15-BZ

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264-15-A

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265-15-A

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266-15-A

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267-15-A

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268-15-A

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269-15-BZ

2076 Ocean Parkway, west side of Ocean Parkway between Avenue T and Avenue U, Block 07108, Lot(s) 39, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) for the enlargement of an existing two-family home. R4 (OP) zoning district. R5 (OP) district.

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

CALENDAR

REGULAR MEETING JANUARY 22, 2016, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Friday morning, January 22, 2016, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

382-80-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Full Gospel NY Church, owner.

SUBJECT – Application July 29, 2015 – Extension of Term of a previously approved variance permitting the operation of a theater (UG 8) on the mezzanine and second floor of an existing building which expired on July 1, 2015. R8B zoning district.

PREMISES AFFECTED – 316-318 East 91st Street, Block 1553, Lot 41, Borough of Manhattan.

COMMUNITY BOARD #8M

1255-80-BZ

APPLICANT – Gerald J. Caliendo, RA. AIA, for Brett Morgan LLP, owner.

SUBJECT – Application November 23, 2014 – Extension of Term; Amendment and Waiver 72-01: request an extension of term for a previously expired variance that expired on 6/2/2011 and Amendment to change from the use (UG 17) to (UG6) and also require Waiver of the Rules. R5 zoning district.

PREMISES AFFECTED – 35-33 31st Street, Block 00604, Lot 1, Borough of Queens.

COMMUNITY BOARD #1Q

APPEALS CALENDAR

220-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Ridgeway Abstracts LLC., owner.

SUBJECT – Application September 14, 2015 – Proposed construction of a mixed use building that does not front on a legally mapped street, contrary to Article 3, Section 36 of the General City Law. R3A zoning district.

PREMISES AFFECTED – 3858-60 Victory Boulevard, east corner of intersection of Victory Boulevard and Ridgeway Avenue, Block 2610, Lot 22, Borough of Staten Island.

COMMUNITY BOARD #2SI

2016-4-A thru 2016-1184-A

APPLICANT – Mayor’s Office of Housing Recovery Operations (“HRO”)

SUBJECT – Application January 5, 2016 – Waiver of General City Law 36 for 1181 properties destroyed or substantially damaged by Hurricane Sandy filed by HRO on behalf of individual property owners enrolled in New York City’s Build-It-Back (“BIB”) program.

PREMISES AFFECTED – Borough of Brooklyn, Borough of Queens, Borough of Staten Island.

REGULAR MEETING JANUARY 22, 2016, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Friday afternoon, January 22, 2016, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

24-14-BZ

APPLICANT – Gerald J. Caliendo, Architect, PC, for Frank Moreno, owner.

SUBJECT – Application February 3, 2014 – Variance (§72-21) to legalize an enlargement of an existing one family residence and a conversion from one dwelling unit to two dwelling units, contrary to front and side yards (§23-45 and §23-46). R4 zoning district.

PREMISES AFFECTED – 106-02 Sutter Avenue, Block 11506, Lot 42, Borough of Queens.

COMMUNITY BOARD #10Q

95-15-BZ

APPLICANT – Eric Palatnik, P.C., for Shalev Shoshani, owner; Rudolf Abramov, lessee.

SUBJECT – Application April 30, 2015 – Special Permit (§73-36) to a physical culture establishment (*Retro Fitness*), within two-story masonry building. C8-3 Div. by R7-1 W/C2-4 zoning district.

PREMISES AFFECTED – 1203 Jerome Avenue, Block 02506, Lot 062, Borough of Bronx.

COMMUNITY BOARD #4BX

158-15-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 125 Park Owner LLC, Blink 125 Park, Inc., lessee.

SUBJECT – Application July 14, 2015 – Special Permit (73-36) to allow a physical culture establishment (“PCE”) to be operated as (Blink Fitness) within an existing twenty-four story commercial building. C5-3(MID) zoning district.

PREMISES AFFECTED – 125 Park Avenue, northwest corner of intersection of Park Avenue and East 42nd Street, Block 01296, Lot 01, Borough of Manhattan.

COMMUNITY BOARD #5M

CALENDAR

203-15-BZ

APPLICANT – Kramer Levin Naftalis & Frankell LLP, for Margaret Cotter, Liberty Theaters, owners.

SUBJECT – Application August 28, 2015 – Variance (§72-21) to allow the restoration, reuse and enlargement of an existing commercial building located partly in a C6-4 district/Special Union Square District and an R8B district. The building is Tammany Hall and is a landmark.

PREMISES AFFECTED – 44 Union Square East, Block 0872, Lot 078, Borough of Manhattan.

COMMUNITY BOARD #5M

Ryan Singer, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, DECEMBER 8, 2015
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

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 0044, Borough of Queens.

COMMUNITY BOARD #13Q

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 pursuant to a variance, as amended, which permitted the operation of an automotive service station with accessory use, pursuant to ZR § 11-412; and

WHEREAS, a public hearing was held on this application on October 16, 2015, after due notice by publication in *The City Record*, with a continued hearing on November 24, 2015, and then to decision on December 8, 2015; and

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

WHEREAS, the subject site is located on the north side of North Conduit Avenue between 224th Street and 225th Street, in an R3X zoning district, in Queens; and

WHEREAS, the site has approximately 133 feet of frontage along North Conduit Avenue, 186 feet of frontage along 224th Street, 120 feet of frontage along 143rd Avenue, and 18,720 sq. ft. of lot area; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 28, 1947, when, under the subject calendar number, the Board granted a variance permitting the reconstruction and enlargement of an existing gasoline service station and an accessory building for auto accessory sales, lubricatorium, office and laundry; and

WHEREAS, on September 9, 1947, under the subject

calendar number, the Board amended the resolution to permit an automobile showroom in the accessory building; and

WHEREAS, on February 3, 1948, under the subject calendar number, the Board further amended the resolution to extend the time in which to complete all construction and obtain all permits to February 3, 1949; and

WHEREAS, on February 23, 1949, under the subject calendar number, the Board granted an additional one (1) year extension of time to complete construction and obtain permits; and

WHEREAS, on October 25, 1949, February 13, 1952, and November 13, 1968, under the subject calendar number, the Board granted applications for amendments to the resolutions relating to the location of pumps and number of gasoline storage tanks permitted on the subject premises; and

WHEREAS, on November 19, 2013, under the subject calendar number, the Board granted an application for an amendment permitting the conversion of the automotive service bays to an accessory convenience store, the elimination of automobile repair use, an increase in the number of gasoline pumps, and other related site conditions and required that a new certificate of occupancy be obtained by May 19, 2015; and

WHEREAS, the applicant represents that no construction has been performed on the subject premises pursuant to the November 19, 2013 approval because of delays in the Department of Buildings (DOB) review process;

WHEREAS, accordingly, the applicant seeks: (1) an extension of an additional three (3) years to complete construction and obtain a certificate of occupancy; 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 January 28, 1947, 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 May 19, 2018; *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 May 19, 2018;

THAT a Certificate of Occupancy for the premises shall be obtained by May 19, 2018;

THAT plantings shall be provided on the premises as shown in the BSA-approved plans;

THAT fencing shall be replaced with black aluminum fencing and locking gates;

THAT the curb cuts shown on the BSA-approved plans shall be restored;

THAT all open DOB violations on the premises shall be cured;

THAT the premises shall be kept free of all graffiti and debris;

THAT barbed wire shall not be permitted on the premises;

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

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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. 420594315)

Adopted by the Board of Standards and Appeals, December 8, 2015.

333-78-BZ

APPLICANT – Goldman Harris LLC., for 136 Loft Corporation, owner.

SUBJECT – Application May 5, 2015 – Amendment (72-21) to reopen and amend the captioned variance to permit the transfer of unused development rights for the premises for use in a commercial development, located within an M1-6 zoning district.

PREMISES AFFECTED – 136-138 West 24th Street, south of West 24th Street between Sixth and Seventh Avenue, Block 0799, Lot 060, Borough of Manhattan.

COMMUNITY BOARD #4M

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 to reopen and amend the variance granted by the Board under BSA Cal. No. 333-78-BZ (the “Variance”), which permitted the conversion, from manufacturing and commercial uses to residential use, of the second through fifth floors of the building known as and located at 136 West 24th Street, in Manhattan (the “Building”); and

WHEREAS, the purpose of this application is to facilitate the transfer of unused development rights appurtenant to the subject site (Block 799, Lot 60) by the owner of the site, 136 Loft Corporation (the “Applicant”) to the owner of a development site (the “Development Site”) within a zoning lot to be created upon the merger of the subject site with contiguous parcels located on Block 799 (the “Proposed Zoning Lot Merger”); and

WHEREAS, a public hearing was held on this application on October 20, 2015, after due notice by publication in *The City Record*, and then to decision on December 8, 2015; and

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

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

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

WHEREAS, the subject site has approximately 49 feet of frontage along the south side of West 24th Street, between Avenue of the Americas and Seventh Avenue, in Manhattan, within an M1-6 zoning district; and

WHEREAS, the subject site has a lot area of approximately 4,839 sq. ft. and the Building contains approximately 19,069.2 sq. ft. of floor area; and

WHEREAS, the Applicant states that a maximum FAR of 10.0 is permitted at the site, thus there are 29,545.8 sq. ft. of unused development rights appurtenant to the site; and

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

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

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

WHEREAS, in addition, the Applicant contends that the proposed transfer of development rights is consistent with the Court’s decision in *Bella Vista v. Bennett*, 89 N.Y. 2d 565 (1997), setting forth the parameters of Board review of requests for the transfer of development rights from sites for which a variance has been granted; and

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

WHEREAS, the Applicant represents that, at the time of the Variance, there were no viable opportunities to use the unused development rights to enlarge the Building or to transfer the unused development rights to an adjacent or secondarily adjacent lot, because of market conditions, the built conditions of the lots on the subject block, and the ownership of such lots; the foregoing representation was supported by an expert analysis of the unused development rights at the time of the Variance, together with a diagram identifying all possible receptors for the unused development rights at that time; and

WHEREAS, in hearing, the Board asked the Applicant to provide proof that potential receiving sites for the unused development rights at issue herein were separately owned in 1978; the Applicant provided ACRIS printouts and deeds showing that the properties were owned separately at that time; and

WHEREAS, the Applicant argues that because the unused development rights had no value at the time of the Variance, the Board incorporated the value of such rights into its analysis when it determined that a conforming use of the Building could not generate a reasonable return; and

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

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

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

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

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

WHEREAS, the Board also notes that a brief period of time elapsed between the issuance of the variance underlying the *Bella Vista* decision and the date of the permit application in which the owner proposed to use floor area transferred from the variance site, further distinguishing that case from the instant application and the Proposed Zoning Lot Merger; and

WHEREAS, the Board notes that in *Bella Vista*, the permit application proposing to use floor area transferred from the variance site was filed only three years after the Board grant, while the subject Variance was issued in 1978 (approximately thirty seven years before the filing of the instant application); and

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

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolutions, having been

adopted on December 19, 1978, so that as amended this portion of the resolutions shall read: "to permit the merger of the subject site with contiguous parcels located on Block 799, Manhattan, and the associated modifications to the BSA-approved site plan; and *on condition*:

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

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

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

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

Adopted by the Board of Standards and Appeals, December 8, 2015.

14-10-BZII

APPLICANT – Friedman & Gotbaum LLP by Shelly S. Friedman, Esq., for Cooper Square Assoc. Limited Partnership, owner; Grace Church School, lessee.

SUBJECT – Application March 30, 2015– Extension of Time to Complete Construction (73-01) for a previously granted variance and companion to 70-15-BZ (72-01) to construct a gymnasium in the existing school, located within an M1-5B zoning district.

PREMISES AFFECTED – 38-50 Cooper Square, Block 0544, Lot 7503/aka 38, 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, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to complete construction for a previously approved special permit; and

WHEREAS, a public hearing was held on this application on December 8, 2015, after due notice by publication in the *City Record*, and then to decision on the same date; and

WHEREAS, the applicant filed a companion application under BSA Cal. No. 70-15-BZ for a variance to allow the construction of a gymnasium on the fourth floor of the subject building; the Board heard the applications and granted the variance approval on the same date; and

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

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and

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

WHEREAS, the application is brought on behalf of Cooper Square Associates Limited Partnership, as owner, and the Board of Trustees of Grace Church School, a not-for-profit school, as lessee (the "School"); and

WHEREAS, the site is located on the west side of Cooper Square, between East 4th Street and Astor Place, within an M1-5B zoning district; and

WHEREAS, the site has a lot area of 19,877 sq. ft.; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 8, 2010 when, under BSA Cal. No. 14-10-BZ, the Board granted a special permit to allow the proposed operation of a Use Group 3 school on a site in an M1-5B zoning district within the NoHo Historic District; and

WHEREAS, substantial construction was to be completed by May 8, 2014 in accordance with ZR § 73-70; and

WHEREAS, the applicant represents that the construction is complete on the lower levels and floors one through three occupied by the School; and

WHEREAS, however, the School has not been able to occupy and complete work on the fourth floor because it remains occupied by two commercial tenants whose leases pre-date the 2010 special permit; and

WHEREAS, the School awaits the fourth-floor tenants' departure so that it may invoke its option to expand into those units and construct the gymnasium pursuant to the companion variance; and

WHEREAS, further, the School notes that it did not comply with the 2010 special permit requirement that the School, prior to the issuance of a Certificate of Occupancy, obtain from DEP either a Notice of No Objection or a Notice of Satisfaction with regard to vapor testing with the building upon completion of the work approved in the resolution; and

WHEREAS, as part of the subject application, the School provided the required reports, which stated that testing did not indicate vapor intrusion and detected levels do not present a concern for the school use, and DEP issued a letter on January 20, 2015 to confirm that it did not have any objection; and

WHEREAS, as to the special permit condition that the School "obtain any supplemental approvals from LPC, as required," LPC issued a Certificate of Appropriateness on November 16, 2011 to approve the exterior work related to the special permit approval and has since issued a second Certificate of Appropriateness, dated September 9, 2014, to approve the work associated with the variance; and

WHEREAS, the applicant revised the approved plans to incorporate the changes associated with the variance approval; and

WHEREAS, accordingly, the applicant now requests an extension of time to complete construction; and

WHEREAS, the Board notes that it conducted an environmental review of the underlying action and documented relevant information about the project in the Final Environmental Assessment States (EAS) CEQR No. 10BSA043M, dated May 14, 2010; and

WHEREAS, the applicant provided the Board with a Technical Memorandum dated November 24, 2015, updating the May 14, 2010 EAS; the Technical Memorandum states that neither the project nor the proposed modification thereto, nor the changes in the background conditions, would result in any significant adverse environmental impact and that the proposed project is consistent with the conclusion of the May 14, 2010 EAS; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals adopts the findings of the November 24, 2015 Technical Memorandum prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of the Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and *reopens* and *amends* the resolution, dated May 8, 2010, so that as amended this portion of the resolution shall read: "to grant an extension of time to complete construction and obtain a certificate of occupancy, to expire on December 8, 2019, and to permit the noted modifications to the previously-approved plans; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 7, 2015" – fifteen (15) sheets and; *on further condition*:

THAT substantial construction be completed by December 8, 2019;

THAT all conditions from prior resolutions 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. 120232319)

Adopted by the Board of Standards and Appeals, December 8, 2015.

70-15-BZ

CEQR #10-BSA-043M

APPLICANT – Friedman & Gotbaum LLP by Shelly S. Friedman, Esq., for Cooper Square Assoc. Limited Partnership, owner; Grace Church School, lessee.

SUBJECT – Application March 30, 2015– Variance (§72-21) with an SOC companion(14-10-BZII) to construct a multifunctional Gymnasium with appropriate floor-to-ceiling heights on the fourth floor of an existing school building presently housing Grace Church School high school division. Extension of Time to Complete

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Construction (§73-01) for a previously granted Special Permit (§73-19). M1-5B zoning district.

PREMISES AFFECTED – 38-50 Cooper Square, Block 0544, Lot 7503/aka 38, 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, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated July 27, 2015, acting on Department of Buildings Application No. 120232319, reads in pertinent part:

Proposed work increases the extent of the rear yard non-compliance in an M1-5B district, contrary to ZR 43-26; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-5B zoning district, within the NoHo Historic District, the proposed enlargement of an existing building to accommodate a gymnasium at the fourth floor, that increases the degree of rear yard non-compliance pursuant to ZR § 43-26; and

WHEREAS, the application is brought on behalf of Cooper Square Associates Limited Partnership, as owner, and the Board of Trustees of Grace Church School, a not-for-profit school, as lessee (the “School”); and

WHEREAS, the site is located on the west side of Cooper Square, between East 4th Street and Astor Place, within an M1-5B zoning district; and

WHEREAS, the site has a lot area of 19,877 sq. ft.; and

WHEREAS, the applicant states that the site is located on a portion of Lot 38, which also includes the buildings located at 32-36 Cooper Square; and

WHEREAS, the site is currently occupied by a four-story building primarily used by the School’s high school division (the “Building”); and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 8, 2010 when, under BSA Cal. No. 14-10-BZ, the Board granted a special permit pursuant to ZR § 73-19 to allow the operation of a Use Group 3 school on a site in an M1-5B zoning district within the NoHo Historic District; and

WHEREAS, the applicant filed a companion application to the current variance for an extension of time to complete the construction associated with the special permit (BSA Cal. No. 14-10-BZ); the Board heard both applications and granted both approvals on the same date; and

WHEREAS, a public hearing was held on this application on December 8, 2015, after due notice by publication in the *City Record*, and then to decision on the same date; and

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

and

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

WHEREAS, the School proposes to raise by varying degrees a portion of the existing roof over the 42-50 Cooper Square portion of the Building to provide for a curvilinear roof over a new 6,110 sq. ft. gymnasium (the “Gymnasium”) on the fourth floor (the “Roof Modification”); and

WHEREAS, the School represents that the Roof Modification will increase the Building’s volume but not its or its zoning lot’s zoning floor area, which will remain at 131,632 sq. ft. (4.46 FAR), below both the 5 FAR permitted in M1-5B zoning districts for manufacturing and commercial uses and 6.5 FAR permitted for community facility uses; and

WHEREAS, the School states that the Roof Modification is the only feasible and programmatically acceptable means for providing a multifunctional gymnasium with appropriate floor-to-ceiling heights that will accommodate the high school’s physical education program and an on-site location for its athletics program, which are both essential to the School’s curriculum; and

WHEREAS, the Building was originally built in the mid-19th Century as a row of four houses which were joined internally and used for various industrial and commercial purposes throughout the first half of the 20th Century; the current commercial façade was applied in 1960; the Building currently houses the School on the lower levels and on floors one through three and commercial tenants on floor four; and

WHEREAS, the applicant states that the existing four-story Building rises without setback to a height of 58.5 ft. at its highest point and that its massing complies with all Zoning Resolution bulk provisions except ZR § 43-26, which requires a rear yard with a depth of 20 feet; and

WHEREAS, the applicant states that the depth of the rear yard, which has existed since the mid-19th Century, is ten feet and includes a chimney within the noncompliant portion of the rear yard; and

WHEREAS, the applicant notes that the rear yard is a legal noncompliance that pre-dates the effective date of the Zoning Resolution; and

WHEREAS, the applicant states that the degree of non-compliance was decreased upon conversion of the Building to community facility use in 2010, at which time that portion of the noncompliance below the level of the second floor and a height of 23 feet became a permitted obstruction; and

WHEREAS, the applicant states that the proposed Roof Modification, a new 92.75-ft. by 68.67-ft. curvilinear standing seam roof over the fourth floor gymnasium, will increase the maximum height of the Building to 78.5 feet; because the Roof Modification is sloped, the increase in height varies between 9.75 feet at the roof’s lowest point to 22 feet at its highest point; and

WHEREAS, the applicant states that approximately 85 percent of the proposed Roof Modification is in compliance with the Zoning Resolution because it falls outside of the

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rear yard; however, the 927.5 sq. ft. (92.75 feet by 10 feet) western portion of the Roof Modification will increase the extent of the existing rear yard noncompliance because the noncompliant rear wall's height will increase by 9.75 feet and then, for the ten feet that the existing roof remains within the required rear yard, the new roof will slope up to a height of 18.58 feet above the existing roof; it will reach its full height of 38.5 feet (or 22 feet above the existing roof) beyond the rear yard line, where is it fully compliant; and

WHEREAS, the applicant describes the request as allowing relief to permit 15 percent of the new roof to be built in an already non-complying rear yard, thereby increasing the extent of an existing rear yard noncompliance; the Roof Modification will increase the height of that part of the Building located within the noncomplying rear yard from 9.75 feet at the rear wall to 18.58 feet at the rear yard line; and there will be no change in the location of the noncomplying rear wall; and

WHEREAS, because of the aforementioned noncompliance, the School seeks a variance; and

WHEREAS, the School represents that the waiver is sought to enable it to construct a facility that meets its programmatic needs within the historic building with a noncomplying rear yard; and

WHEREAS, the School identifies the following primary programmatic needs: (1) to satisfy the New York State Board of Regents' requirement for physical education for grades 7 through 12 of at least two or three times per week; (2) to accommodate the physical education requirement for all high school students within the Building; and (3) to create a gymnasium that achieves regulation dimensions; and

WHEREAS, as to satisfying the scheduling requirements, the School currently uses the Lower School gymnasium and commercial and institutional sports facilities in the area, some of which require up to an hour of travel time; and

WHEREAS, the School states that the Lower School gymnasium is used at its full capacity between the hours of 8:35 a.m. and 3:20 p.m. by the lower division for its own mandated daily physical education classes and by the middle division for its mandated physical education classes at least three times per week, requiring significant programmatic compromises and hardships in scheduling High School physical education classes; and

WHEREAS, the School states that potential classroom and study time for every High School student is compromised by the need to use the Lower School for physical education classes which must be scheduled either before 8:35 am or after 3:20 pm; and

WHEREAS, as to the size of the Gymnasium, the School requires suitable ceiling heights to accommodate the complete range of high school physical education and athletic programming; and

WHEREAS, the applicant contends that, per ZR § 72-21(a), the history of development of the site, when coupled with the School's programmatic needs, creates practical difficulties and unnecessary hardship in developing the site in compliance with the zoning regulations; and

WHEREAS, the applicant states that the irregular shape of the zoning lot and the Building, as well as the Building's existing internal configuration and the School's programming needs, are all factors that dictate the location of the Gymnasium be where it is proposed on the fourth floor; and

WHEREAS, the applicant notes that the subject Block 544 is a convex quadrilateral (four sides, non-parallel), formed by the nearly parallel Astor Place and West 4th Street, significantly non-parallel Cooper Square, which runs diagonal to the Manhattan street grid, and Broadway, which between the Battery and Union Square is on the Manhattan grid; and

WHEREAS, the applicant cites to the resultant unique geometry of the zoning lot: a 95-ft. side lot line to the north, a 115-ft. side lot line to the south, the 177-ft. Cooper Square frontage running straight but at a 70 degrees angle to the side lot line, a 50-ft portion of the rear lot line runs almost parallel to the street line and the remaining 117-ft. of the rear lot line runs perpendicular to the side lot lines; and

WHEREAS, accordingly, the resulting building, a six-sided structure with two non-parallel ten-ft. rear yards, is a composition of four row houses built in the mid-19th Century and joined internally around the turn of the 20th Century as one industrial building; and

WHEREAS, due to the unique configuration of the lot and the historic building, the applicant asserts that there is not any possibility of accommodating a regulation-size gymnasium within the building occupied by other school uses or otherwise on the site; and

WHEREAS, specifically, the applicant states that the internal configuration within the Building retains substantial elements of the four original structures; new elevator cores and stairs have since been introduced into the existing configuration so as to work around the remaining original structures, and cannot easily be relocated to accommodate a gymnasium; and

WHEREAS, the applicant adds that, programmatically, the gymnasium cannot be accommodated elsewhere in the building due to the limits of the existing conditions such as floor heights between 8.5 feet and 10.5 feet; and

WHEREAS, the applicant asserts that only on the fourth floor can the roof be raised to achieve a satisfactory height but, due to stair locations and other programmatic requirements, the only feasible location on the fourth floor is at the rear; and

WHEREAS, the applicant asserts that to locate the Gymnasium in any other part of the Building would result in a floor plan that significantly compromises the efficiency of the floor for educational purposes and interrupts important functional relationships among the remaining academic uses on the floor; and locating the proposed gymnasium elsewhere in the Building on a lower floor level would require the demolition of existing floor slabs and the pouring of new slabs at floor-to-floor heights in order to accommodate the necessary gymnasium heights; and

WHEREAS, additionally, the applicant states that

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constructing the Gymnasium elsewhere on the roof would be impossible due to the existing fire stair and elevator bulkheads, which cannot be relocated and locating the it on a portion of the fourth floor that would have permitted the raised roof to be located without a rear yard objection is impossible thus, partially encroaching within the site's noncomplying rear yard is the only viable location for the Roof Modification; and

WHEREAS, finally, the applicant asserts that locating the Roof Modification in an area that would not encroach within the noncomplying rear yard would increase its visibility to an extent that would be inconsistent with the Landmarks Preservation Commission's guidelines for approval of a Certificate of Appropriateness; and

WHEREAS, in analyzing the applicant's waiver requests, the Board notes at the outset that the School, as a nonprofit New York State chartered educational institution, may rely on its programmatic needs, which further its mission, as a basis for the requested waivers; and

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

WHEREAS, as noted by the applicant, under well-established precedents of the courts and this Board, an application for a variance that is needed in order to meet the programmatic needs of a non-profit educational institution is entitled to significant deference and shall be permitted unless the application can be shown to have an adverse effect upon the health, safety, or welfare of the community (*see, e.g., Cornell University v Bagnardi*, 68 NY2d 583 (1986)); and

WHEREAS, the Board observes that *Cornell* deference has been afforded to comparable institutions in numerous other Board decisions, certain of which were cited by the applicant in its submissions; and

WHEREAS, the applicant states that based on an extensive review of its facility and operations, the proposal is the most efficient and effective use of its educational programmatic space, and the applicant concludes that the bulk relief requested is necessary to meet the School's programmatic needs; and

WHEREAS, the Board finds that the proposal has been designed to be consistent and compatible with adjacent uses and with the scale and character of the surrounding neighborhood and is, therefore, consistent with the standard established by the decision in *Cornell*; and

WHEREAS, the Board concurs that the waivers will facilitate construction that will meet the School's articulated needs; and

WHEREAS, in sum, the Board concludes that the applicant has fully explained and documented the need for the waivers to accommodate the School's programmatic needs; and

WHEREAS, based upon the above, the Board finds that, consistent with ZR § 72-21(a), the programmatic needs of the School along with the existing constraints of the site create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

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

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

WHEREAS, the applicant notes that the proposal does not have any impact on the historic rear yard condition, which consists of two ten-ft.-wide noncomplying rear yards along the rear lot line and that there will not be any changes to the footprint of the Building or its historic relationships to the rear and side walls of the adjacent buildings; and

WHEREAS, the applicant represents that the proposed Roof Modification is compatible with the scale and bulk of the surrounding area; and

WHEREAS, because the site is within the NoHo Historic District, the applicant obtained approval for the Roof Modification from the Landmarks Preservation Commission ("LPC") by Certificate of Appropriateness issued September 9, 2014; and

WHEREAS, the applicant states that the proposed Roof Modification will not substantially alter the views from the public way or any of the adjacent buildings; the approval of this variance will have no public visual impacts on its immediate surroundings or the urban context to which the Building contributes; and

WHEREAS, the applicant proposes to use mostly translucent clerestory windows on the east and west sides (not facing any adjacent residential uses), combined with light gray corrugated metal siding with a matching light gray standing seam roof; and

WHEREAS, additionally, the applicant states that the arch form of the roof beams makes them more structurally efficient and hence shallower than a flat form, thus maximizing the clearance required below and minimizing the exterior bulk; and

WHEREAS, the applicant states that the gymnasium will be constructed on a fully-built roof with the lowest height of among the group of adjacent buildings; and

WHEREAS, the applicant asserts that the choice of materials is consistent with the rooftop materials found throughout the NoHo Historic District, allowing the new materials to blend into the background of surrounding buildings and mechanical equipment; and

WHEREAS, further, the applicant states that the proposal will not bring new uses nor increase in density to the community; and

WHEREAS, the Board agrees that the proposed Roof Modification will not alter the essential character of the surrounding neighborhood, impair the appropriate use and development of adjacent property, or be detrimental to the public welfare; and

WHEREAS, the applicant states that, pursuant to ZR §

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72-21(d), the unnecessary hardship encountered by compliance with zoning regulations is created by its programmatic needs in connection with the physical constraints of the Building, constructed in the mid-19th Century, which has pre-existing noncomplying bulk conditions that constrain any development; and

WHEREAS, the applicant concludes, and the Board agrees, that the practical difficulties and unnecessary hardship that necessitate this application have not been created by the School or a predecessor in title; and

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

WHEREAS, specifically, the applicant notes that the Roof Modification only requires relief from ZR § 43-26 to permit a 15 percent portion of the new roof to be built in an already noncomplying rear yard, thereby increasing the extent of an existing rear yard noncompliance; and the Roof Modification will increase the height of that part of the Building located within the noncomplying rear yard from 9.75 feet at the rear wall to 18.58 feet at the rear yard line; and

WHEREAS, the applicant states that the rear yard waiver represents the minimum variance necessary to allow the School to meet its programmatic needs; and

WHEREAS, the Board therefore finds that the requested waiver represents the minimum variance necessary to allow the School to meet its programmatic needs; and

WHEREAS, accordingly, based upon its review of the record and its site visits, the Board finds that the applicant has provided sufficient evidence to support each of the findings required for the requested variances; and

WHEREAS, the Board notes that it conducted an environmental review of the May 2, 2010 Special Permit and documented relevant information about the project in the Final Environmental Assessment States (EAS) CEQR No. 10BSA043M, dated May 14, 2010; and

WHEREAS, the applicant provided the Board with a Technical Memorandum dated November 24, 2015, updating the May 14, 2010 EAS; the Technical Memorandum states that neither the project nor the proposed modification thereto, nor the changes in the background conditions, would result in any significant adverse environmental impact and that the proposed project is consistent with the conclusion of the May 14, 2010 EAS; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals adopts the findings of the November 24, 2015 Technical Memorandum prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of the Procedure for City

Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an M1-5B zoning district, within the NoHo Historic District, the proposed enlargement of an existing building to accommodate a gymnasium at the fourth floor, that increases the degree of rear yard non-compliance pursuant to ZR § 43-26; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 7, 2015" – fifteen (15) sheets and *on further condition*:

THAT the proposed building will have the following parameters: (1) floor area of 131,632 sq. ft. (4.46 FAR); (2) a maximum height of 78'-6"; (3) four stories; and (4) a minimum rear yard depth of ten feet;

THAT the use of the Building will be a Use Group 3 school; any change in use requires the Board's review and approval;

THAT there shall be no exterior lighting or sound amplification;

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 construction will be substantially completed in accordance with the requirements of ZR § 72-23; and

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

Adopted by the Board of Standards and Appeals, December 8, 2015.

826-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartments, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 269-10 Grand Central Parkway, northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to March 8, 2016, at 10 A.M., for continued hearing.

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827-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartments, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 270-10 Grand Central Parkway, northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to March 8, 2016, at 10 A.M., for continued hearing.

828-86-BZ

APPLICANT – Eric Palatnik, P.C., for North Shore Tower Apartment, Inc., owner; Continental Communications, lessee.

SUBJECT – Application December 22, 2014 – Extension of Term of Special Permit (§73-11) permitting non-accessory radio towers and transmitting equipment on the roof of an existing thirty-three story building which expired on January 26, 2015. R3-2 zoning district.

PREMISES AFFECTED – 269-10 Grand Central Parkway, northeast corner of 267th Street, Block 08489, Lot 0001, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to March 8, 2016, at 10 A.M., for continued hearing.

APPEALS CALENDAR

35-15-A

APPLICANT – Herrick Feinstein, LLP, for Baychester Retail III, LLC., owner.

SUBJECT – Application February 25, 2015 – An administrative appeal challenging the Department of Buildings' final determination dated January 26, 2015, to permit the installation of 54 individual signs at the subject property. C7 zoning district.

PREMISES AFFECTED – 2001 Bartow Avenue, Block 05141, Lot 0101, Borough of Bronx.

COMMUNITY BOARD #10BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

ACTION OF THE BOARD – Laid over to February 23, 2016, at 10 A.M., for decision, hearing closed.

83-15-A thru 86-15-A

APPLICANT – Jesse Masyr, Esq. Fox Rothschild, LLP, for 1-10 Bush Terminal, LP, owner.

SUBJECT – Application April 16, 2015 – Proposed construction to build in the bed of a privately owned mapped street and to build an elevated pedestrian walkway and loading docks to improve pedestrian and vehicle safety and the flow of traffic. M3-1 zoning district.

PREMISES AFFECTED –

220 and 219 36th Street, Block 0695, Lot 20; Block 0691, Lot 1, 33, 67, 87, 35 35th Street, Block 0687, Lot 1, 67, 87, 34th Street, Block 0683, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

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

181-15-A thru 186-15-A

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

SUBJECT – Application August 13, 2015 – Proposed construction of single family residences not fronting on a legally mapped street, contrary to General City Law Section 36. R1-1 zoning district.

PREMISES AFFECTED – 7, 11, 15, 23, 27 Carriage Court, Block 866, Lot(s) 389, 388, 387, 386, 385, Borough of Staten Island.

COMMUNITY BOARD #2SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda5
Negative:.....0

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

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ZONING CALENDAR

316-14-BZ

CEQR #15-BSA-123K

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 – 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 Brooklyn Borough Commissioner, dated November 12, 2014, acting on Department of Buildings Application No. 320972239, reads in pertinent part:

- 1) The maximum lot coverage permitted under ZR 24-11 is 65%, the proposed building is over and is approximately 75% refer to BSA;
- 2) The required rear yard per ZR 24-36 is 30' the proposed is 8' 8" [and] 25', refer to BSA; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site partially within an R6 zoning district and partially within an R6 (C1-3) zoning district, the enlargement of an existing three-story school building, contrary to ZR §§ 24-11 and 24-36; and

WHEREAS, a public hearing was held on this application on June 23, 2015, after due notice by publication in *The City Record*, with a continued hearing on September 1, 2015 and October 27, 2015, and then to decision on December 8, 2015; and

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

WHEREAS, Community Board 6, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site has approximately 140 feet of frontage along the north side of Heyward Street, between Bedford Avenue, to the west, and Lee Avenue, to the east, partially within an R6 zoning district and partially within an R6 (C1-3) zoning district, in Brooklyn; and a total lot area of 14,992 sq. ft.; and

WHEREAS, the site is currently improved with a three-story building with approximately 24,800 sq. ft. of floor area and a floor area ratio ("FAR") of 1.65; and

WHEREAS, the building is an individually designated

New York City landmark and, as such, is under the jurisdiction of the New York City Landmarks Preservation Commission ("LPC"); and

WHEREAS, the applicant proposes to enlarge the existing building so as to accommodate its programmatic needs; and

WHEREAS, specifically, the applicant proposes to square off the rear portion of the existing building, creating a total of 48,698 sq. ft. of floor rea (3.25 FAR), lot coverage of 77.4 percent (the maximum lot coverage permitted is 65 percent, pursuant to ZR § 24-11) and rear yards at the upper floors of 8'-8" and 25' (a rear yard of 30' is required pursuant to ZR § 24-36); and

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

WHEREAS, the School states that the variance sought is necessary to meet its programmatic needs of accommodating its current student body, the relocation of students from other locations that are currently beyond capacity, and allowing for the school's modest growth over the next 6 (six) years; and

WHEREAS, specifically, the enlargement addresses the School's need for additional classroom space and also provides additional bathrooms, resource rooms, multi-purpose rooms, a kitchen, lunchroom, and play areas on the second floor and roof; and

WHEREAS, the School notes that the proposed building has been designed with the assistance of the LPC and that the proposal seeks to preserve the historic nature of the existing building; the bulk and design of the Heyward Street façade remains unchanged and will, additionally, be restored by the School in accordance with LPC guidelines; and

WHEREAS, the Board has exercised jurisdiction over this site since July 28, 1953 when, under BSA Calendar No. 533-53-A, the Board granted a variance application to convert the use of the building from a factory to a school; and

WHEREAS, on February 18, 1958, under BSA Calendar No. 533-53-A, the Board amended the sprinkler condition of the previously granted variance to permit a sprinkler system in only the hallways of the building; and

WHEREAS, the School represents that the premises have continuously been used as a school since the grant of the variance in 1953; and

WHEREAS, the premises have most recently been used as a high school for girls, but is currently vacant, and the proposed enlargement is intended to accommodate the elementary and middle school boys divisions of the School, which totals 900 children and 75 employees and cannot fit in the existing building; and

WHEREAS, the School asserts that an as-of-right alteration of the building would not satisfy its programmatic needs; and

WHEREAS, the building's landmark status inhibits an enlargement to the full bulk permitted as-of-right in an R6

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zoning district, and an enlargement that is consistent with the present proposal, less the requested lot coverage and rear yard waivers, would neither provide sufficient additional classroom space nor accommodate the School's current student body, much less accommodate the anticipated growth of the student body over the next 6 (six) years; and

WHEREAS, accordingly, the School contends that the requested waivers are both modest and essential to its ability to meet its programmatic needs; and

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

WHEREAS, specifically, as held in *Cornell University v. Bagnardi*, 68 NY2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

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

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

WHEREAS, the School represents that, pursuant to ZR § 72-21(c), the variance, if granted, will not alter the character of the neighborhood, impair the appropriate use or development of adjacent property, or be detrimental to the public welfare; and

WHEREAS, specifically, the School states that the use is an as-of-right use; the block on which the premises is located is predominated by residential and community facility uses; the proposed bulk of the building complies with the height, floor area and floor area ratio regulations of the underlying R6 zoning district; that the building façade will not be altered; that the enlargement has been designed so as to minimize its visibility and impact from the street and maintain the historical aesthetic of the building; that Heyward Street and the surrounding area can accommodate the increased traffic demands imposed by the use at its full capacity and, further, the no-standing zone in front of the premises ensures that buses can pull up directly in front of the school and not block traffic in order to pick up and drop off students; dismissals will be staggered so as to minimally impact pedestrian traffic in the surrounding neighborhood; and

WHEREAS, in response to the Board's questions regarding the potential nuisance of the roof play areas, the School represents that the second floor roof play area will have a 10'-0" high fence and acoustic barriers for noise

attenuation and that the rooftop play area's use will be limited to certain school day hours and it will have no noise amplification features or lighting; and

WHEREAS, on May 22, 2014, the LPC issued a Status Update Letter noting their approval of the proposal to modify the building entrance and construct a rear yard edition (expiring May 20, 2020); and

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

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

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

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

WHEREAS, the School represents that, consistent with ZR § 72-21(e), the proposal represents the minimum variance needed to accommodate its current and projected programmatic needs; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to allow the School to fulfill its programmatic needs; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. CEQR 15-BSA-123K, dated October 7, 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 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 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every

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one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site partially within an R6 zoning district and partially within an R6 (C1-3) zoning district, the enlargement of an existing three-story school building, contrary to ZR §§ 24-11 and 24-36, *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 November 18, 2015” – Fourteen (14) sheets; and *on further condition*:

THAT a Certificate of Appropriateness from the LPC must be obtained prior to issuance of permits;

THAT substantial construction will 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);

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

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

Adopted by the Board of Standards and Appeals, December 8, 2015.

24-15-BZ

APPLICANT – Cozen O'Connor, for Roosevelt 5 LLC, owner.

SUBJECT – Application February 11, 2015 – Special Permit (§73-66) to permit the construction of a new building in excess of the height limits established under ZR 61-21. C2-3/R6 zoning district.

PREMISES AFFECTED – 71-17 Roosevelt Avenue, frontage on Roosevelt Avenue and 72nd Street, Block 01282, Lot (s) 137,138,141,151,160, 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, Commissioner Montanez and Commissioner Chanda.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the Notice of Comments of the New York City Department of Buildings (“DOB”), dated January 22, 2015, acting on Job Application No. 420653000, reads in pertinent part:

ZR 61-21 – The proposed height of building exceeds maximum allowable height as per section 61-21 of the NYC Zoning Resolution; and

WHEREAS, this is an application under ZR § 73-66, to permit, within an R6 (C2-3) zoning district, the construction of a 15-story mixed-use community facility/retail/residential building which exceeds the

maximum height limits around airports, contrary to ZR § 61-21; and

WHEREAS, a public hearing was held on this application on October 27, 2015, after due notice by publication in *The City Record*, with a continued hearing on December 1, 2015 and then to decision on December 8, 2015; and

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

WHEREAS, the subject site is located on the north side of Roosevelt Avenue Boulevard, between 72nd Street and the Brooklyn Queens Expressway, within an R6 (C2-3) zoning district; and

WHEREAS, the site has not been subject of any prior applications to the Board; and

WHEREAS, the Board notes that ZR § 61-21 (Restriction on Highest Projection of Building or Structure) restricts the height of buildings or structures within designated flight obstruction areas; and

WHEREAS, specifically, the provision sets forth that the highest projection of any building or structure may not penetrate the most restrictive of either approach surfaces, transitional surfaces, horizontal surfaces, or conical surfaces, within an Airport Approach District of a flight obstruction area; and it may not penetrate the horizontal surface or conical surface within the Airport Circling District of the flight obstruction area; and

WHEREAS, however, pursuant to ZR § 73-66 (Height Regulations around Airports) the Board may grant a special permit to permit construction in excess of the height limits established under ZR §§ 61-21 (Restriction on Highest Projection of Building or Structure) only (1) subsequent to the applicant submitting a site plan, with elevations, reflecting the proposed construction in relation to such maximum height limits, and (2) if the Board finds that the proposed would not create danger and would not disrupt established airways; and

WHEREAS, the provision also provides that, in its review, the Board shall refer the application to the Federal Aeronautics Administration (FAA) for a report as to whether such construction will constitute a danger or disrupt established airways; and

WHEREAS, as to the information submitted by the applicant, the Board notes that the applicant submitted a site plan with elevations reflecting the proposed construction, which includes information about the maximum as-of-right height and the maximum height approved by the FAA for each building; and

WHEREAS, as to the Board’s determination about the safety of the proposed construction with regard to the proximity to the airport, the Board notes that the FAA regulates the heights of buildings within proximity to airports and that since the subject site is located within the flight obstruction area for LaGuardia Airport, it falls within the area regulated by the FAA; and

WHEREAS, the applicant represents that it filed an application with the FAA for review and approval of

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proposed building;

WHEREAS, on May 13, 2014, the FAA issued a Determination of No Hazard to Air Navigation for the project (the "FAA Determination"), which originally expired on November 15, 2015, but was renewed on October 20, 2015 and now expires on April 20, 2017; and

WHEREAS, specifically, the FAA Determination states that the proposed "structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities...."; and

WHEREAS, the FAA determination is based on an "aeronautical study [that] considered and analyzed the impact [of the building] on existing and proposed arrival, departure, and en route procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative impact resulting from the studied structure when combined with the impact of other existing or proposed structures..."; and

WHEREAS, the proposed height of the building is as follows: 161.25 feet above ground level (AGL), measured from a base plan of 65.78 feet above mean sea level (AMSL), or 227 feet above mean seal level (AMSL); and

WHEREAS, the maximum buildings heights approved by the FAA are as follows: 61 feet site elevation (SE) / 166 feet above ground level (AGL) / 227 feet above mean sea level (AMSL); and

WHEREAS, the Board notes that the FAA Determination is conditioned upon the following items, all of which the Board adopts as conditions to the issuance of the subject special permit: (1) the proposed building must be marked/lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, red lights – Chapters 4, 5 (Red), and 12; (2) the applicant must file FAA Form 7460-2, Notice of Actual Construction or Alteration, in the event that the project is abandoned or within five (5) days after construction reaches its greatest height (7460-2, Part 2); and

WHEREAS, the Board notes that the FAA-approved height includes temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure, which shall not exceed the overall approved heights; and

WHEREAS, additionally, the Board notes that such temporary construction equipment with heights greater than the structure requires separate notice to the FAA;

WHEREAS, accordingly, the Board notes that the proposed building heights are equal to those approved by the FAA; and

WHEREAS, the Board notes that the FAA regulations are similar to those found in the ZR but differ slightly based on updated reference points and runway elevations; and

WHEREAS, the applicant has also submitted requests for approval to the Port Authority of New York/New Jersey (PA), which operates LaGuardia Airport; and

WHEREAS, as reflected in a no objection letter dated

February 2, 2015 ("PA No Objection Letter"), the PA approves of the project and references the FAA Determination; and

WHEREAS, the PA No Objection Letter requests that all conditions stated in the FAA Determination be followed and that the proposed development project adhere to the heights stipulated therein; and

WHEREAS, based upon the above, 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 §§ 73-66 and 73-03; and

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

Therefore it is Resolved, that the Board of Standards and Appeals issued 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 §§ 73-66 and 73-03, to permit, within an R6 (C2-3) zoning district the construction of a 15-story mixed-use community facility/retail/residential building which exceeds the maximum height limits around airports, contrary to ZR § 61-21; *on condition* that all work will substantially conform to the drawings filed with this application and marked "Received November 6, 2015"-(7) sheets; and *on further condition*:

THAT the maximum height of the buildings, including all appurtenances, shall be as follows: 61 feet site elevation (SE) / 166 feet above ground level (AGL) / 227 feet above mean sea level (AMSL);

THAT the proposed building must be marked/lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, red lights – Chapters 4, 5 (Red), and 12;

THAT the relief granted herein is only that associated with ZR § 73-66 and all construction at the site shall be as approved by DOB and must comply with all relevant Building Code and zoning district regulations;

THAT the applicant must comply with all FAA notification requirements associated with the construction at the site including, without limitation, that the applicant must file FAA Form 7460-2, Notice of Actual Construction or Alteration, in the event that the project is abandoned or within five (5) days after construction reaches its greatest height (7460-2, Part 2);

THAT substantial construction be completed in accordance with ZR § 73-70;

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

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granted; and

THAT the Department of Buildings must ensure compliance with all of 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, December 8, 2015.

30-12-BZ

APPLICANT – Eric Palatnik, P.C., for Don Ricks Associates, owner; New York Mart Group, Inc., lessee.

SUBJECT – Application February 8, 2012 – Remand Back to Board of Standards and Appeals; seeks a judgment vacating the resolution issued on January 15, 2013 and filed on January 17, 2013. R6-/C2-2 zoning district.

PREMISES AFFECTED – 142-41 Roosevelt Avenue, northwest corner of Roosevelt Avenue and Avenue B, Block 5020, Lot 34, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to March 8, 2016, at 10 A.M., for continued hearing.

193-13-BZ

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

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

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

COMMUNITY BOARD #12BX

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

44-15-BZ

APPLICANT – Akerman, LLP, for 145 CPN, LLC., owner.

SUBJECT – Application March 6, 2015 – Variance (§72-21) to permit the construction of a conforming fourteen-story, (UG 2) residential building containing 24 dwelling units contrary to the maximum building height and front setback requirements (§23-633) and rear setback requirements (§23-633(b)). R8 zoning district.

PREMISES AFFECTED – 145 Central Park North, between Adam Clayton Powell and Lenox Avenue, Block 01820, Lot 0006, Borough of Manhattan.

COMMUNITY BOARD #10M

ACTION OF THE BOARD – Laid over to February

2, 2016, at 10 A.M., for continued hearing.

62-15-BZ

APPLICANT – Glen V. Cutrona, AIA, for 139 Bay Street Point, LLC, owner.

SUBJECT – Application March 20, 2015 – Variance (§72-21) enlargement of a mixed use building contrary floor area regulations, lot coverage, balconies below third story, distance from legally required windows, lot line and side yard regulation, located within an C4-2/SG zoning district. PREMISES AFFECTED – 139 Bay Street, Bay Street between Slosson terrace and Central Avenue, Block 00001, Lot(s) 10,17,18,19, Borough of Staten Island.

COMMUNITY BOARD #1SI

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

REGULAR MEETING

TUESDAY AFTERNOON, DECEMBER 8, 2015

1:00 P.M.

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

ZONING CALENDAR

57-15-BZ

APPLICANT – Eric Palatnik, P.C., for Yossi Toleando, owner.

SUBJECT – Application March 13, 2015 – Variance (§72-21) to permit the development of a three-story, three family residential and to waive the side yard open space of the existing premises. R5/C1-3 zoning district.

PREMISES AFFECTED – 482 Logan Street, between Pitkin Avenue and Belmont Avenue Block 04227, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #5BK

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

Ryan Singer, Executive Director

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*CORRECTION

This resolution adopted on May 19, 2015, under Calendar No. 172-79-BZ and printed in Volume 100, Bulletin No. 22, is hereby corrected to read as follows:

172-79-BZ

APPLICANT – Alfonso Duarte, for Luciano Utopia LLC., owner.

SUBJECT – Application July 16, 2014 – Extension of Term of a previously approved variance permitting the operation of a Real Estate office and accessory parking which will expire on July 24, 2014. R2 zoning district.

PREMISES AFFECTED – 167-04 Northern Boulevard, southeast corner of 16th Street, Block 5398, Lot 11, Borough of Queens

COMMUNITY BOARD #4Q

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 re-opening, an extension of term for a variance permitting an office (Use Group 6) within an R2 zoning district, which expired on July 24, 2014, and an amendment to eliminate the condition requiring Board approval for any change in the owners or operator of the site; and

WHEREAS, a public hearing was held on this application on January 13, 2015, after due notice by publication in *The City Record*, with continued a hearing on March 24, 2015, and then to decision on May 19, 2015; and

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

WHEREAS, Community Board 7, Queens, recommends approval of the application, on condition that the grant retain the condition requiring Board approval for a change in operator or owner; and

WHEREAS, Assemblyman Edward Braunstein, Councilman Paul Vallone, and Queens Borough President Melinda Katz, and certain members of the surrounding community, including the Auburndale Improvement Association, recommend approval of the application, on condition that the grant retain the condition requiring Board approval for a change in operator or owner; and

WHEREAS, the subject site is located at the southeast corner of the intersection of Northern Boulevard and 167th Street, within an R2 zoning district; and

WHEREAS, the site, approximately 64 feet of frontage along Northern Boulevard, approximately 89 feet of frontage along 167th Street, and approximately 5,694 sq. ft. of lot area; and

WHEREAS, the site has is occupied by a one-story office building (Use Group 6) with approximately 1,300 sq. ft.

of floor area (0.23 FAR) and six accessory parking spaces; and

WHEREAS, the Board has exercised jurisdiction over the site since July 24, 1979, when, under the subject calendar number, it granted, pursuant to ZR § 72-21, an application to permit, on a site within an R2 zoning district, the enlargement of an existing one-story building to be operated as a real estate office (Use Group 6) with four accessory parking spaces, contrary to use regulations, for term of 10 years, to expire on July 24, 1989; and

WHEREAS, the grant included several conditions, including the following: “that this variance shall lapse with any change in ownership or control”; and

WHEREAS, the term of the grant was extended on April 18, 1990 (to expire on July 24, 1999) and again on July 13, 1999, for a term of 15 years, to expire on July 24, 2014; the 1999 grant included an amendment allowing the addition of two parking spaces, bringing the number of spaces at the site to its current six; and

WHEREAS, accordingly, the applicant now seeks an extension of the term of the variance; in addition, the applicant seeks an amendment removing the condition requiring Board approval for a change in the owner or operator of the site; and

WHEREAS, the Board notes that, initially, the applicant sought to increase the number of parking spaces at the site to seven; however, in response to the Board concern about the provision of a parking space for a person with certain physical disabilities, the applicant revised its proposal to provide only six parking spaces, including an ADA-compliant space; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may, in appropriate cases, modify the conditions of a variance; and

WHEREAS, the applicant asserts that the condition requiring Board approval for a change in the owner or operator creates an unnecessary hardship for the owner, who cannot sell or lease the building without prior Board approval; further, the applicant contends that the condition has no land use regulation purpose that cannot be accomplished with a limitation on the permitted use; and

WHEREAS, the applicant also notes that changes from one Use Group 6 office to another are permitted as-of-right under the Zoning Resolution; and

WHEREAS, at hearing, the Board directed the applicant to: (1) verify that the signage complies with the prior grant; (2) install and maintain landscaping at the rear of the site; and (3) replace the existing chain enclosure for the curb cut along 167th Street with a more robust enclosure; and

WHEREAS, in response, the applicant demonstrated that the signage was in compliance with the prior grant; in addition, the applicant revised its plans to include notes regarding the required landscaping and enclosure for 167th Street curb cut; and

WHEREAS, as to the removal of the condition regarding the identity of the owner/operator, the Board observes that while such a condition is necessary for a non-profit entity receiving a variance—because such grants are directly related to the non-profit’s demonstrated programmatic needs—it is not necessary in this case, because the land use purpose of ensuring

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that the commercial use operates harmoniously within in the residence district can be accomplished with: (1) a term; and (2) a condition permitting Use Group 6 office use only; and

WHEREAS, based on the foregoing, the Board has determined that the evidence in the record supports the findings required to be made for an extension of term under ZR §§ 72-01 and 72-22.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated July 24, 1979, so that as amended the resolution reads: “to permit an extension of the term of the variance for an additional ten years from the prior expiration, to expire on July 24, 2024 and to permit the elimination of the condition requiring Board approval for a change in the owner or operator of the site; *on condition on condition* that all work shall substantially conform to drawings, filed with this application marked ‘Received April 30, 2015’ –(4) sheets; and on further condition:

THAT the term of the variance shall expire on July 24, 2024;

THAT the use of the site shall be limited to Use Group 6 offices;

THAT all site conditions, including parking, signage, and landscaping, shall comply with the BSA-approved plans;

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

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

THAT a certificate of occupancy shall be obtained by May 19, 2016;

THAT DOB shall verify that the signage complies with the applicable regulations;

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

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

Adopted by the Board of Standards and Appeals, May 19, 2015.

*The resolution has been amended. **Corrected in Bulletin No. 48, Vol. 100, dated December 16, 2015.**