

---

# BULLETIN

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

Published weekly by The Board of Standards and Appeals at its office at:  
250 Broadway, 29<sup>th</sup> Floor, New York, N.Y. 10007.

---

Volume 100, Nos. 1-3

January 14, 2015

---

### DIRECTORY

MARGERY PERLMUTTER, *Chair*

SUSAN HINKSON, *Vice-Chair*

DARA OTTLEY-BROWN

EILEEN MONTANEZ

*Commissioners*

*Vacant, Executive Director*

John Egnatios-Beene, *Counsel*

---

OFFICE -	250 Broadway, 29th Floor, New York, N.Y. 10007
HEARINGS HELD -	22 Reade Street, Spector Hall, New York, N.Y. 10007
BSA WEBPAGE @	<a href="http://www.nyc.gov/html/bsa/home.html">http://www.nyc.gov/html/bsa/home.html</a>

TELEPHONE - (212) 386-0009
FAX - (646) 500-6271

### CONTENTS

DOCKET .....	3
CALENDAR of January 27, 2015	
Afternoon .....	4

---

# CONTENTS

---

**MINUTES of Regular Meetings,  
Tuesday, January 6, 2015**

Morning Calendar .....5

**Affecting Calendar Numbers:**

76-12-BZ                   148 Norfolk Street, Brooklyn  
65-14-A thru               Lemon Drop and Apricot Court, Staten Island  
  88-14-A  
665-39-A &               55-57 West 44<sup>th</sup> Street, Manhattan  
  107-14-A  
192-14-A thru             10/12/18/20/26/30/32 Winslow Place, Staten Island  
  198-14-A  
328-13-BZ                 8 Berry Street, Brooklyn  
26-14-BZ                 45 East 75<sup>th</sup> Street, aka 42-76 East 76<sup>th</sup> Street, Manhattan  
183-14-BZ                 113 Nassau Street, aka 6 Theater Alley, Manhattan  
153-11-BZ                 27-11 30<sup>th</sup> Avenue, Brooklyn  
65-13-BZ                 123 Franklin Avenue, Brooklyn  
225-13-BZ                 810 Kent Avenue, Brooklyn  
254-13-BZ                 2881 Nostrand Avenue, Brooklyn  
271-13-BZ                 129 Norfolk Street, Brooklyn  
31-14-BZ                 165 Spencer Street, Brooklyn  
38-14-BZ                 116 Oxford Street, Brooklyn  
45-14-BZ                 337 99<sup>th</sup> Street, Brooklyn  
56-14-BZ                 161-51/6 Bailey Boulevard, Queens  
114-14-BZ                 2442 East 14<sup>th</sup> Street, Brooklyn  
122-14-BZ                 1318 East 28<sup>th</sup> Street, Brooklyn  
125-14-BZ                 11 Avenue C, Manhattan

Afternoon Calendar .....11

**Affecting Calendar Numbers:**

248-13-BZ                 1179 East 28<sup>th</sup> Street, Brooklyn  
41-14-BZ                 21-37 Waverly Avenue, aka 56-58 Washington Avenue, Brooklyn  
146-14-BZ                 285 Grand Street, Manhattan  
201-14-BZ                 3524 Third Avenue, Bronx

Correction .....12

**Affecting Calendar Numbers:**

164-04-BZ                 2241 Westchester Avenue, Bronx  
300-12-BZ                 36 West 93<sup>rd</sup> Street, aka 33 West 92<sup>nd</sup> Street, Manhattan  
287-14-BZ                 138 Roma Avenue, Staten Island  
291-14-BZ &               19 Milbank Road, Staten Island  
  292-14-A  
293-14-BZ &               23 Neutral Avenue, Staten Island  
  294-14-A  
295-14-BZ &               58 Seafoam Avenue, Staten Island  
  296-14-A  
303-14-BZ                 1032 Olympia Boulevard, Staten Island  
304-14-BZ                 1034 Olympia Boulevard, Staten Island  
305-14-BZ                 296 Adams Avenue, Staten Island  
306-14-BZ                 156 Baden Place, Staten Island  
309-14-BZ                 55 Hempstead Avenue, Staten Island

---

# DOCKETS

---

New Case Filed Up to January 6, 2015  
-----

**326-14-A**

95 Ridgeway Avenue, East side of Ridgeway Avenue, Block 2610, Lot(s) 150, Borough of **Staten Island, Community Board: 2**. GCL 36 Waivers: propose construction of two buildings that do not front on a legally mapped street, contrary to Article 3, Section 36 of the General City Law. M1-1 district.  
-----

**327-14-A**

105 Ridgeway Avenue, East side of Ridgeway Avenue, Block 2610, Lot(s) 50, Borough of **Staten Island, Community Board: 2**. GCL 36 Waivers: proposed construction of two buildings that do not front on a legally mapped street, contrary to Article 3 Section 36 of the General City Law. M1-1 district.  
-----

**328-14-BZ**

921 East 23rd Street, East side of east 23rd Street between Avenue I and Avenue J, Block 7587, Lot(s) 38, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to proposed a special permit to allow the enlargement of an existing single family residence located in a residential R2 zoning district. R2 district.  
-----

**329-14-BZ**

1316 Avenue S, South side of Avenue S between East 13th Street and East 14th Street, Block 7292, Lot(s) 7, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to allow the enlargement of an existing single family semi-detached residence located in residential (R4-1) zoning district. RA4-1 district.  
-----

**330-14-BZ**

1746 East 21st Street, West side of East 21st Street between Kings Highway and Quentin Road, Block 6783, Lot(s) 18, Borough of **Brooklyn, Community Board: 15**. Special Permit (73-622) to allow the enlargement of an existing two family residence located in a residential R3-2 zoning district. R3-2 district.  
-----

**331-14-BZ**

2171 Ocean Parkway, East side of Ocean Parkway between Avenue U and Avenue V, Block 7133, Lot(s) 45, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to allow the enlargement of an existing single family residence located in a residential (R5) zoning district. R5(OP) district.  
-----

**332-14-BZ**

2912 Avenue N, South side of Avenue N between East 29th and No strand Avenue, Block 7683, Lot(s) 45, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area and open space ratio (ZR 23-141), side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R2 & R4/C2-2 zoning district. R2 district.  
-----

**333-14-BZ**

2323 East 5th Street, East side of East 5th Street between Gravesend Neck Road and Avenue W, Block 7157, Lot(s) 60, Borough of **Brooklyn, Community Board: 15**. Special Permit (73-622) to all the enlargement of an existing single family residence located in a residential R4 zoning district. R4(OP) district.  
-----

**334-14-A**

11-27 Foam Place, Located between Smith Place and Beach 18th Street, Block 15559, Lot(s) 58, Borough of **Queens, Community Board: 14**. GCL 36 to permit the construction of a nine-story transient hotel at the premises which does not appear on a legally mapped street, pursuant to Section 36 Article 3 of the General City Law. C4-2 district.  
-----

**335-14-BZ (12/31/2014)**

1065 Avenue of the Americas, Northwest Corner Avenue of the Americas and West 40th Street, Block 993, Lot(s) 29, Borough of **Manhattan, Community Board: 5**. Special Permit (§73-36) to allow for a physical culture establishment within portions of an existing commercial building, located within an C5-3(MID)(T) zoning. C5-3(MID)(T) district.  
-----

**1-15-BZ (1/2/2015)**

150 West 85th Street, Southerly side of West 85th Street between Columbus Avenue and Amsterdam Avenue, Block 1215, Lot(s) 53, Borough of **Manhattan, Community Board: 7**. Variance (§72-21) proposed enlargement of an existing school structure to be used by the Manhattan Country School which will exceed permitted floor area and exceeds the maximum height, located within an R8B zoning district. R8B 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

---

**JANUARY 27, 2015, 1:00 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, January 27, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

-----  
**ZONING CALENDAR**

**44-14-BZ**

APPLICANT – Sheldon Lobel, P.C., for AA Olympic LLC., owner;  
The Live Well Company LLC., lessee.  
SUBJECT – Application March 17, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Live Well*) on the first floor of the existing building. C6-3A & C6-2A zoning districts.  
PREMISES AFFECTED – 92 Laight Street aka 256 West Street, 416 Washington Street, block bounded by Washington Street, West Street, and Vestry Street, Block 218, Lot 7501, Borough of Manhattan.

**COMMUNITY BOARD #1M**

-----  
**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**

-----  
**175-14-BZ**

APPLICANT – Greenberg Traurig, LLP, for 1162 Broadway LLC, owner.  
SUBJECT – Application July 24, 2014 – Variance (§72-21) proposed the construction a new 14-story hotel building seeking waivers for setback and side yard requirements. M1-6 zoning district.  
PREMISES AFFECTED – 1162 Broadway, east side of Broadway between W 27th Street and W 28th Street, Block 829, Lot 28, Borough of Manhattan.

**COMMUNITY BOARD #5M**

-----  
**216-14-BZ**

APPLICANT – Law Office of Stuart Klein, for 150 Amsterdam Avenue Holdings LLC, owner; Flywheel Sports Inc., lessee.  
SUBJECT – Application September 4, 2014 – Special Permit (§73-36) to permit the legalization of a physical

culture establishment (*Flywheel*) located on portions of the first floor and cellar of the existing building. R8 zoning district.

PREMISES AFFECTED – 150 Amsterdam Avenue, northwest corner of Amsterdam Avenue and West 66th Street, Block 1158, Lot 7507/129, Borough of Manhattan.

**COMMUNITY BOARD #7M**

-----  
**217-14-BZ**

APPLICANT – Law Office of Stuart Klein, for NY REIT, Inc., owner; Flywheel Sports Inc., lessee.  
SUBJECT – Application September 4, 2014 – Special Permit (§73-36) to allow for the legalization of a physical culture establishment (*Flywheel*) on a portion of the first floor of the building and a portion of the cellar. C6-2A zoning resolution.

PREMISES AFFECTED – 245 West 17th Street, north side of W. 17th Street, 325' east of 8th Avenue, between 7th and 8th Avenue, Block 767, Lot 15, Borough of Manhattan.

**COMMUNITY BOARD #4M**

-----  
**222-14-BZ**

APPLICANT – Sheldon Lobel, P.C., for GP NY Partners LLC, owners.  
SUBJECT – Application September 5, 2014 – Special Permit (§73-36) to allow for physical culture establishment (*Envy Spa*) on a portion of the ground floor and cellar of the existing building. C2-8 and R8B zoning districts.

PREMISES AFFECTED – 344 East 63rd Street, bounded by East 63rd Street and 1st Avenue, Block 1437, Lot 29, Borough of Manhattan.

**COMMUNITY BOARD #8M**

-----  
**246-14-BZ**

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for NYC DCAS, owner; SoulCycle, Joralemon Street, LLC, lessee.

SUBJECT – Application October 10, 2014 – Special Permit (§73-36) to operate a physical culture establishment (*Soul Cycle*) within an existing building. C5-2A (DB), C5- zoning districts.

PREMISES AFFECTED – 210 Joralemon Street aka 45/63 Court Street, southwest corner formed by Joralemon Street and Court Street, Block 266, Lot 7501, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

-----  
*Ryan Singer, Executive Director*

# MINUTES

## REGULAR MEETING TUESDAY MORNING, JANUARY 6, 2015 10:00 A.M.

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

Absent: Commissioner Ottley-Brown.

### SPECIAL ORDER CALENDAR

#### 76-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Alexander and Inessa Ostrovsky, owners.

SUBJECT – Application April 25, 2014 – Amendment to modify the previously granted special permit (§73-622) for the enlargement of an existing single-family detached residence. R3-1 zoning district.

PREMISES AFFECTED – 148 Norfolk Street, west side of Norfolk Street between Oriental Boulevard and Shore Boulevard, Block 8756, Lot 18, Borough of Brooklyn.

#### COMMUNITY BOARD #15BK

**ACTION OF THE BOARD** – Laid over to January 27, 2015, at 10 A.M., for continued hearing.

### APPEALS CALENDAR

#### 65-14-A thru 88-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP., for Block 7092 LLC, owner.

SUBJECT – Application April 29, 2014 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-1(SRD) zoning district.

PREMISES AFFECTED – Lemon Drop and Apricot Court, Block 7105, Lots 148 thru 171, 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 and Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Ottley-Brown.....1

#### THE RESOLUTION –

**WHEREAS**, the decision of the Department of Buildings (“DOB”), dated March 31, 2014 acting on DOB Application Nos. 520188449, 430, 421, 412, 403, 323, 387, 582, 396, 573, 564, 378, 298, 289, 314, 270, 305, 369, 350, 476, 467, 458, 332, 341, reads in pertinent part:

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

A) No Certificate of Occupancy can be issued

pursuant to Article 3, Section 36 of the General City Law;

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

**WHEREAS**, this is an application to allow the construction of 24 , two-story, one and two family buildings not fronting a mapped street, contrary to General City Law (“GCL”) § 36; and

**WHEREAS**, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, hearing closed, and then to decision on January 6<sup>th</sup>; and

**WHEREAS**, the premises and surrounding area had site and neighborhood examinations by Commissioner Montanez; and

**WHEREAS**, the subject site is located on the at the northwest corner of the intersection of Turner Street and Crabtree Avenue, within an R3-1 (SRD) zoning district; and

**WHEREAS**, the applicant proposes to construct 24, two-story, one and two-family dwellings and, on Lot 151, a three story, two-family home on the site; and

**WHEREAS**, seven of the aforesaid dwellings do not front a legally mapped street, thereby necessitating a GCL waiver; and

**WHEREAS**, the applicant represents that the dwellings will be fully sprinklered; and

**WHEREAS**, a DEC permit has been obtained as this site is adjacent to Freshwater Wetlands; and

**WHEREAS**, by letter dated December 12, 2014, the Fire Department states that it has no objection to the proposal under the following conditions; (1) minimum curb to curb street width shall be 34 feet; (2) all buildings must be fully sprinklered; (3) the main entrance to all dwellings shall be located upon the side of the building facing the street with no rear main entrances; and

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

*Therefore it is Resolved*, that the decision of the DOB, dated March 31, 2014, acting on DOB Application Nos. 520188449, 430, 421, 412, 403, 323, 387, 582, 396, 573, 564, 378, 298, 289, 314, 270, 305, 369, 350, 476, 467, 458, 332, and 341, 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 December 31, 2014”- one (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 specifically cited and filed DOB/other jurisdiction objection(s);

# MINUTES

THAT building shall be fully-sprinklered;

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 January 6, 2015.

-----

## 665-39-A & 107-14-A

APPLICANT – Jesse Masyr, Esq/Fox Rothschild, for City Club Realty, LLC., owner.

SUBJECT – Application May 22, 2014 – Amendment to a previously approved waiver of a non-complying exit stair; and an Appeal filed pursuant to MDL Section 310(2)(a) proposed an addition to the existing building which will require a waiver of MDL Section 26(7)pursuant to Section 310. C6.45 SPD zoning district.

PREMISES AFFECTED – 55-57 West 44th Street, between 5th Avenue and Avenue of the Americas, Block 1260, Lot 10, Borough of Manhattan.

### COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson and Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Dara Ottley-Brown.....1

**ACTION OF THE BOARD** – Laid over to January 27, 2015, at 10 A.M., for decision, hearing closed.

-----

## 192-14-A thru 198-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Thomas Mantione, owner.

SUBJECT – Application August 15, 2014 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3-2(SRD) zoning district.

PREMISES AFFECTED –

10 Winslow Place, Block 6373, Lot 40

12 Winslow Place, Block 6373, Lot 42

18 Winslow Place, Block 6373, Lot 43

20 Winslow Place, Block 6373, Lot 45

26 Winslow Place, Block 6373, Lot 145

30 Winslow Place, Block 6373, Lot 146

32 Winslow Place, Block 6373, Lot 147

### COMMUNITY BOARD #3SI

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

-----

## ZONING CALENDAR

### 328-13-BZ

#### CEQR #14-BSA-090K

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

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

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

### COMMUNITY BOARD #1BK

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

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson and Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Ottley-Brown .....1

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated December 12, 2013, acting on DOB Application No. 320330209, reads, in pertinent part:

Proposed Physical Culture or Health Establishment (PCE) requires BSA special permit; contrary to ZR 42-31; and

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

WHEREAS, a public hearing was held on this application on July 20, 2014 after due notice by publication in the *City Record*, with a continued hearing on October 21, 2014, and then to decision on January 6, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioners Montanez and Ottley-Brown performed an inspection of the site and premises, as well as the surrounding area and neighborhood; and

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

WHEREAS, the subject site, located within an M1-1 zoning district, is a corner lot with approximately 125 feet of frontage along Berry Street and approximately 225 feet of frontage along North 13<sup>th</sup> Street, consisting of approximately 25,000 sq. ft. of lot area; and

WHEREAS, at the site is a five-story commercial building; and

WHEREAS, the PCE will occupy a total of 10,155 sq. ft. of floor space, consisting of 2,315 sq. ft. of floor space in the cellar, 2,861 sq. ft. of floor area on the first story, 2,844 sq. ft. of floor area on the second story, and 2,135 sq. ft. of floor area on the third story; and

WHEREAS, the PCE will operate as Brooklyn Athletic Club, Inc.; and

---

# MINUTES

---

WHEREAS, the PCE's hours of operation will be Monday through Friday, 5:30 a.m. to 10:30 p.m., Saturday and Sunday, 8:00 a.m. to 9:00 p.m.; and

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

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

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

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

WHEREAS, at hearing, the Board inquired as to the PCE currently occupied at the subject site; and

WHEREAS, in response, the principal of Brooklyn Athletic Club, Inc. submitted an affidavit in which he averred that his current operation of a training facility on a building located at the subject site would be discontinued, and that the building in which such use was conducted would be torn down, upon the opening of the subject PCE; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 14BSA090K, dated December 26, 2013; and

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

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

WHEREAS, the Board has determined that the operation of the facility 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 Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within an M1-1 zoning district, the operation of a PCE in portions of the cellar, first, second and third stories of a five-story commercial building, contrary to ZR § 42-10; *on condition* that all work will substantially conform to drawings filed with this application marked "Received December 18, 2014"- Six (6) sheets; *on further condition*:

THAT the term of the PCE grant will expire on January 6, 2025;

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

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

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

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by January 6, 2019;

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

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

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

Adopted by the Board of Standards and Appeals, January 6, 2015.

-----  
**183-14-BZ**  
**CEQR #15-BSA-040M**

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Ann/Nassau Realty LLC, owner; Blink Nassau Street, Inc., lessee.

SUBJECT – Application August 6, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*Blink Fitness*) within portions of an existing mixed use building, C5-5(LM) zoning district.

PREMISES AFFECTED – 113 Nassau Street aka 6 Theater Alley, northwest side of Nassau Street, 35.02' north of Ann Street, Block 90, Lot 17, Borough of Manhattan.

**COMMUNITY BOARD #1M**

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

---

# MINUTES

---

condition.

## THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson and Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Ottley-Brown .....1

## THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated July 29, 2014, acting on DOB Application No. 104735912, reads, in pertinent part:

The proposed physical culture establishment, in a C5-5 (LM) zoning district, is contrary to section 32-10 ZR...

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-5 zoning district, within the Lower Manhattan Special Purpose District, the operation of a physical culture establishment (“PCE”) in portions of the first, second and third stories of a 30-story mixed residential and commercial use building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on December 9, 2014 after due notice by publication in the *City Record*, and then to decision on January 6, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioners Montanez and Ottley-Brown performed an inspection of the site and premises, as well as the surrounding area and neighborhood; and

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

WHEREAS, the subject site, located within a C5-5 zoning district, is a through/corner lot with approximately 123.75 feet of frontage along Theater Alley, approximately 35.6 feet of frontage along Ann Street, and approximately 75 feet of frontage on Nassau Street, consisting of approximately 9,317 sq. ft. of lot area; and

WHEREAS, at the site is a 30-story commercial building; and

WHEREAS, the PCE will occupy a total of 18,369 sq. ft. of floor area, consisting of 1,515 sq. ft. of floor area on the first story, 8,008 sq. ft. of floor area on the second story, and 8,846 sq. ft. of floor area on the third story; and

WHEREAS, the PCE will operate as Blink Fitness; and

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

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

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

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

WHEREAS, accordingly, the Board finds that this

action will neither: 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

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

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

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

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 15-BSA-040M, dated August 6, 2014 ; and

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C5-5 zoning district, within the Special Lower Manhattan District, the operation of a PCE in portions of the first, second and third stories of a 30-story mixed residential and commercial use building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to drawings filed with this application marked “December 11, 2014, Five ( 5 ) sheets; *on further condition*:

THAT the term of the PCE grant will expire on January 6, 2025;

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

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

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

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by January 6, 2019;

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

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

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

# MINUTES

Adopted by the Board of Standards and Appeals,  
January 6, 2015.

-----  
**153-11-BZ**

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

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

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

**COMMUNITY BOARD #4BK**

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

-----  
**65-13-BZ**

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

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

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

**COMMUNITY BOARD #3BK**

**ACTION OF THE BOARD** – Laid over to February 10, 2015, at 10 A.M., for deferred decision.

-----  
**225-13-BZ**

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

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

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

**COMMUNITY BOARD #3BK**

**ACTION OF THE BOARD** – Laid over to March 31, 2015, at 10 A.M., for continued hearing.

-----  
**254-13-BZ**

APPLICANT – Law Office of Marvin B. Mitzner, for Moshe Packman, owner.

SUBJECT – Application August 30, 2013 – Variance (§72-21) to permit a residential development, contrary to floor area (§23-141(a)), dwelling units (§23-22), lot coverage (§23-141(a)), front yard (§23-45(a)), side yard (§23-462(a)), and building height (§23-631(b)) regulations. R3-2 zoning district.

PREMISES AFFECTED – 2881 Nostrand Avenue, east side of Nostrand Avenue between Avenue P and Marine Parkway, Block 7691, Lot 91, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

**ACTION OF THE BOARD** – Laid over to March 31, 2015, at 10 A.M., for deferred decision.

-----  
**271-13-BZ**

APPLICANT – Eric Palatnik, P.C., for Viktoriya Midyany, owner.

SUBJECT – Application September 17, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and lot coverage (§23-141); side yard (§23-461) and rear yard (§23-47) regulations. R3-1 zoning district.

PREMISES AFFECTED – 129 Norfolk Street, Norfolk Street, between Shore Boulevard and Oriental Boulevard, Block 8757, Lot 43, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson and Commissioner Montanez.....3  
Negative:.....0  
Absent: Commissioner Dara Ottley-Brown.....1

**ACTION OF THE BOARD** – Laid over to January 27, 2015, at 10 A.M., for decision, hearing closed.

-----  
**26-14-BZ**

APPLICANT – Francis R. Angelino, Esq., for The Hewitt School, owner.

SUBJECT – Application February 6, 2014 – Variance (§72-21) to permit the enlargement of an existing community facility (*Hewitt School*), contrary to maximum building height (24-591); street wall height (§24-592); and rear yard requirements (§24-36). R8B zoning district.

PREMISES AFFECTED – 45 East 75th Street aka 42-76 East 76<sup>th</sup> Street, north side, East 75th Street through block to south side E 76th between Park & Madison Avenues, Block 1390, Lot(s) 28, 46, Borough of Manhattan.

**COMMUNITY BOARD #8M**

**ACTION OF THE BOARD** – Deferred until LPC approval is received.

-----  
**31-14-BZ**

APPLICANT – Moshe M. Friedman, PE, for Bnos Square of Williamsburg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-19) to allow a conversion of an existing Synagogue (*Bnos Square of Williamsburg*) building (Use Group 4 to (Use Group 3). M1-2 zoning district.

PREMISES AFFECTED – 165 Spencer Street, 32'6" Northerly from the corner of the northerly side of Willoughby Avenue and easterly side of Spencer Street, Block 1751, Lot 3, Borough of Brooklyn.

# MINUTES

## COMMUNITY BOARD #3BK

**ACTION OF THE BOARD** – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

-----

### 38-14-BZ

APPLICANT – Eric Palatinik, P.C., for Yury Dreysler, owner.

SUBJECT – Application February 28, 2014 – Special Permit (§73-622) for the enlargement of single family home, contrary to floor area, lot coverage and open space (§23-141), side yard (§23-461) and less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 116 Oxford Street, between Shore boulevard and Oriental Boulevard, Block 8757, Lot 89, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

### THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson and Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Dara Ottley-Brown.....1

**ACTION OF THE BOARD** – Laid over to January 27, 2015, at 10 A.M., for decision, hearing closed.

-----

### 45-14-BZ

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

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

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

## COMMUNITY BOARD #10BK

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

-----

### 56-14-BZ

APPLICANT – Walter Gorman, P.E.P.C., for Leemilts Petroleum Ink., owner; Capitol Petroleum Group, lessee.

SUBJECT – Application April 10, 2014 – Re-Instatement (§11-411) of a variance which permitted an auto service station (UG16B), with accessory uses; Waiver of the Rules. C1-3/R3-A zoning district.

PREMISES AFFECTED – 161-51/6 Bailey Boulevard, northwest corner of Guy Brewer Boulevard, Block 12256, Lot 36, Borough of Queens.

## COMMUNITY BOARD #12Q

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

-----

### 114-14-BZ

APPLICANT – Eric Palatinik, P.C., for Boris Vaysurb, owner.

SUBJECT – Application May 30, 2014 – Special Permit (§73-622) for enlargement of an existing two story single family dwelling contrary to floor area ratio, open space and lot coverage (ZR 23-141); side yard (ZR 23-461) and less than the rear yard requirements (ZR 23-47). R4 zoning district.

PREMISES AFFECTED – 2442 East 14th Street, between Avenue X and Avenue Y, Block 7415, Lot 24, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

**ACTION OF THE BOARD** – Laid over to February 3, 2015, at 10 A.M., for continued hearing.

-----

### 122-14-BZ

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

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

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

## COMMUNITY BOARD #14BK

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

-----

### 125-14-BZ

APPLICANT – Goldman Harris LLC, for 350 East Houston LLC c/o BLDG Management Inc., owner.

SUBJECT – Application June 5, 2014 – Variance (§72-21) to facilitate the construction of a ten-story mixed-use forty - six (46) residential dwelling units and retail on the ground floor and cellar. R8A zoning district.

PREMISES AFFECTED – 11 Avenue C, between East 2nd Street & East Houston Street, Block 384, Lot 33, Borough of Manhattan.

## COMMUNITY BOARD #3M

### THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson and Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Dara Ottley-Brown.....1

**ACTION OF THE BOARD** – Laid over to January 27, 2015, at 10 A.M., for decision, hearing closed.

-----

---

# MINUTES

---

**REGULAR MEETING  
TUESDAY AFTERNOON, JANUARY 6, 2015  
1:00 P.M.**

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

Absent: Commissioner Ottley-Brown.  
-----

**ZONING CALENDAR**

**248-13-BZ**

APPLICANT – Sheldon Lobel, P.C., for Moshe Benefeld,  
owner.

SUBJECT – Application August 23, 2014 – Special Permit  
(\$73-622) for the enlargement of an existing single-family  
home, contrary to floor area and open space (23-141a); side  
yards (23-461). R2 zoning district.

PREMISES AFFECTED – 1179 East 28th Street, east side  
of East 28th Street, approximately 127' north of Avenue L,  
Block 7628, Lot 13, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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

**41-14-BZ**

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

SUBJECT – Application March 7, 2014 – Special Permit  
(\$73-19) to legalize an existing school/yeshiva (UG 3). M1-  
2 zoning district.

PREMISES AFFECTED – 21-37 Waverly Avenue aka 56-  
58 Washington Avenue, between Flushing Avenue and Park  
Avenue front both Washington and Waverly Avenues, Block  
1874, Lot 38, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

**ACTION OF THE BOARD** – Laid over to February  
24, 2015, at 10 A.M., for continued hearing.  
-----

**146-14-BZ**

APPLICANT – Sheldon Lobel, P.C., for Fair Only Real  
Estate Corps., owner; LES Fitness LLC., lessee.

SUBJECT – Application June 23, 2014 – Special Permit  
(\$73-36) to permit the operation of a physical culture  
establishment (*Bowery CrossFit*) in the cellar of an existing  
building. C6-1G zoning district.

PREMISES AFFECTED – 285 Grand Street, south side of  
Grand Street approximately 25' west of the intersection  
formed by Grand Street and Eldridge Street, Block 306,  
Borough of Manhattan.

**COMMUNITY BOARD #3M**

**ACTION OF THE BOARD** – Laid over to February  
24, 2015, at 10 A.M., for continued hearing.  
-----

**201-14-BZ**

APPLICANT – Frank Angelino, Esq., for Joseph Pogostin,  
owner; New Fitness of 3rd Avenue, Bronx, LLC., lessee.

SUBJECT – Application August 22, 2014 – Special Permit  
(\$73-36) to allow a physical culture establishment (*Retro  
Fitness*) on the ground floor of an existing one-story and  
cellar commercial building. M1-1/R7-2 zoning district.

PREMISES AFFECTED – 3524 Third Avenue, northeast  
corner of East 168th Street, Block 2610, Lot 1, Borough of  
Bronx.

**COMMUNITY BOARD #3BX**

**THE VOTE TO CLOSE HEARING** –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson and  
Commissioner Montanez.....3

Negative:.....0

Absent: Commissioner Dara Ottley-Brown.....1

**ACTION OF THE BOARD** – Laid over to January  
13, 2015, at 10 A.M., for decision, hearing closed.  
-----

*Ryan Singer, Executive Director*

# MINUTES

## \*CORRECTION

**This resolution adopted on December 16, 2014, under Calendar No. 164-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:**

### 164-04-BZ

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

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

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

### COMMUNITY BOARD #10BX

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

### THE VOTE TO GRANT –

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

### THE RESOLUTION –

WHEREAS, this is an application for a reopening and an extension of term for a physical culture establishment (“PCE”), which expired on July 15, 2014; and

WHEREAS, a public hearing was held on this application on November 18, 2014, after due notice by publication in *The City Record*, and then to decision on December 16, 2014; and

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

WHEREAS, Community Board 10, Bronx, recommends approval of this application; and

WHEREAS, the subject site is located on the northwest corner of the intersection of Westchester Avenue and Glebe Avenue, within a C2-4/R6 zoning district;

WHEREAS, the site has 22,790 sq. ft. of lot area and is occupied by a two-story commercial building with approximately 25,290 sq. ft. of floor area (1.11 FAR); and

WHEREAS, the PCE occupies approximately 12,695 sq. ft. of floor area (0.56 FAR) on the second story; and

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

WHEREAS, on February 7, 2006, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to permit, the legalization of a PCE operated as Gotham City Fitness, for a term of ten years from the date that the PCE began operating, to expire on July 15, 2014; and

WHEREAS, on October 5, 2010, the Board authorized an amendment to the grant to permit certain modifications to

the BSA-approved plans, a change in the hours of operation, and a change in operator from Gotham City Fitness to Planet Fitness; and

WHEREAS, the applicant now seeks a further extension of term; and

WHEREAS, at hearing, the Board directed the applicant to: (1) demonstrate that the fire alarm and sprinkler systems have been installed and that the PCE has a Place of Assembly (“PA”) certificate of operation; (2) determine whether the open Environmental Control Board violation regarding the air conditioning units on the building’s roof are related to the PCE; and (3) remove graffiti from the exterior of the building and implement a graffiti management plan; and

WHEREAS, in response, the applicant: (1) provided copies of all permit applications and signoffs and provided a copy of the PA certificate of operation; and (2) stated that the violation relates to units that service the PCE and that permits will be obtained to legalize the installation; and

WHEREAS, as to the graffiti, the applicant represents that it is working with local elected officials to combat the presence of graffiti at the site; and

WHEREAS, based upon its review of the record, the Board finds that an extension of term for ten years 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 February 7, 2006, so that as amended the resolution reads: “to grant an extension of the special permit for a term of ten years from the prior expiration; on condition that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked ‘Received September 19, 2014’-(4) sheets; and on further condition: *on condition*:

THAT this grant shall be limited to a term of ten years, to expire on July 15, 2024;

THAT graffiti shall be removed within 48 hours of its appearance at the site;

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

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

THAT a certificate of occupancy for the operation of the PCE shall be obtained by December 16, 2015;

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

THAT Department of Buildings 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.” (DOB Application No. 210053378)

Adopted by the Board of Standards and Appeals, December 16, 2014.

**The resolution has been amended to correct the zoning district which read “C2-2(R6)” now reads “C2-4/R6”.**

---

# MINUTES

---

Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.

\*CORRECTION

**This resolution adopted on October 7, 2014, under Calendar No. 300-12-BZ and printed in Volume 99, Bulletin Nos. 40-41, is hereby corrected to read as follows:**

**300-12-BZ**

**CEQR #13-BSA-049M**

APPLICANT – Davidoff Hutcher & Citron LLP, for Columbia Grammar & Preparatory School, owner.

SUBJECT – Application October 19, 2012 – Variance (§72-21) to permit an enlargement of an existing school building (*Columbia Grammar and Preparatory*), contrary to lot coverage (§24-11), permitted obstruction (§24-33), rear yard equivalent (§24-382), initial setback distance (§24-522), height (§23-692), and side yard (§24-35(b)) regulations. R7-2 zoning district.

PREMISES AFFECTED – 36 West 93rd Street aka 33 West 92nd Street, between Central Park West and Columbus Avenue, Block 1206, Lot 50, Borough of Manhattan.

**COMMUNITY BOARD #7M**

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated July 1, 2013, acting on Department of Buildings Application No. 121161857, reads in pertinent part:

1. ZR 24-11 - The lot coverage proposed exceeds that permitted.
2. ZR 24-382 - Provide the required minimum rear yard equivalent. The project site is a through lot, with a depth in excess of 180'-0".
3. ZR 24-33 - Only a (1) one story building portion, with a maximum height of 23'-0", is allowed as a permitted obstruction in a rear yard equivalent. The proposed building envelope indicates two stories and a mechanical space in the rear yard equivalent.
4. ZR 24-522 - The building envelope does [not] meet the initial setback requirement.
5. ZR 23-692 - The frontage on 92<sup>nd</sup> Street is less than 45'-0" in width. The proposed street-wall is higher than the width of the narrow street and higher than the lowest abutting building.
6. ZR 24-35B The proposed side yard, at the new vertical extension, is less than the required 8'-0"; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R7-2 zoning district within the Upper West Side/Central Park West Historic District, the enlargement of an existing school building, which does not

---

# MINUTES

---

comply with zoning regulations for lot coverage, permitted obstruction, rear yard equivalent, encroachment into the required initial setback distance, width and height of street wall, and side yard, contrary to ZR §§ 24-11, 24-382, 24-33, 24-522, 23-692, and 24-35; and

WHEREAS, a public hearing was held on this application on June 17, 2014, after due notice by publication in the *City Record*, with a continued hearing on August 19, 2014, and then to decision on October 7, 2014; and

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

WHEREAS, Community Board 7, Manhattan, recommends disapproval of the application; and

WHEREAS, certain members of the community testified at the hearing and provided testimony in opposition to the application (collectively, the "Opposition"), citing primary concerns about traffic generated by the school and construction disturbance; other concerns from a shareholder at 36 West 93<sup>rd</sup> Street include that there are inconsistencies between the subject application and a 2008 variance application for the School, specifically as related to the School's needs; and

WHEREAS, certain members of the community, the West Side Organization for Responsible Development ("WORD"), represented by counsel, cited concerns about traffic associated with the school and construction disturbance and requested the following conditions for any approval: (1) the School continue to work with the community to address traffic concerns and provide a written traffic plan; (2) the School provide a traffic, noise, and pollution baseline report prior to the Board's decision; (3) the School commit to not increasing enrollment by more than 30 students over the next ten years; (4) the School ensure that all construction is performed during the summer, and only on weekdays between the 9:00 a.m. and 5:00 p.m.; (5) the School provide the Board with a site logistics plan and construction calendar prior to a final resolution; (6) the rooftop not be used as a play area; and (7) that the community be consulted prior to installation of the rooftop HVAC systems, which must include sufficient sound mitigation; and

WHEREAS, this application is brought on behalf of Columbia Grammar & Preparatory School (the "School"), a nonprofit educational institution founded in 1764, which serves students from grades pre-kindergarten through 12; and

WHEREAS, the subject site is an interior through lot with frontage on West 93<sup>rd</sup> Street and West 92<sup>nd</sup> Street between Central Park West and Columbus Avenue, within an R7-2 zoning district within the Upper West Side/Central Park West Historic District; and

WHEREAS, the site is currently occupied by a five-story building with a sub-cellar and cellar constructed in 1996; the building includes 13 classrooms and ancillary facilities for students in grades 5 and 6, 12 high school classrooms, and several shared spaces, including two dining areas and four art studios/technology classrooms; and

WHEREAS, the applicant notes that the School also occupies several other buildings in the vicinity: the lower division (pre-kindergarten through grade 4) occupies five interconnected brownstones on West 94<sup>th</sup> Street and 5 West 93<sup>rd</sup> Street, directly behind the brownstones; and the upper division (grades 7 through 12) occupies 4 West 93<sup>rd</sup> Street; and

WHEREAS, the School proposes to (1) build out an existing setback area at the West 92<sup>nd</sup> Street frontage at existing floors three and four; (2) build out an existing setback area at the West 93<sup>rd</sup> Street frontage at the existing fifth floor; and (3) add two new floors so that, upon completion, the building will consist of a sub-cellar, cellar and seven floors above grade; and

WHEREAS, the enlarged building will include ten additional middle school classrooms for a total of 23 classrooms, an additional art/technology studio and a library for the middle school, in addition to new space for faculty and administration offices; and

WHEREAS, while certain portions of the enlarged building will still be used by high school students (the cellar/first floor level will be occupied by high school classrooms and dining, half of the second floor will be high school classrooms and the third floor will contain shared art studios and technology classrooms), the number of high school classrooms will be reduced from 12 to eight and upper floors four through seven will be occupied solely by the middle school; and

WHEREAS, the applicant proposes to increase the building height from 68 feet to 95 feet, excluding rooftop bulkheads and mechanical space; increase the floor area from 28,187 sq. ft. (3.37 FAR) to 40,778 sq. ft. (4.88 FAR) (54,301 sq. ft. (6.50 FAR) is the maximum permitted); and

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

WHEREAS, the applicant states that the variance is necessary to meet the School's programmatic need to create a self-contained middle school and alleviate overcrowding in the high school building; and

WHEREAS, specifically, the applicant notes that the relocation of the seventh graders to the new building will free up space at the high school building; and

WHEREAS, the School also proposes to increase enrollment by 30 students which is still substantially below the demand for new admissions; and

WHEREAS, the applicant states that the proposed enlargement would result in 151 sq. ft. of space per student compared to the average new middle school in the region which provides 178.3 sq. ft. per student and 216.7 sq. ft. per high school student; and

WHEREAS, the applicant states that the proposed floor area to be added to the existing building is required to fulfill the School's longstanding goal of having a self-contained middle division consisting of grades five through seven; and

WHEREAS, the applicant asserts that the existing building is too small to accommodate the organization of the

---

# MINUTES

---

school with lower, middle and upper divisions, as it was not designed to accommodate the necessary classrooms and ancillary space needed for a middle division; and

WHEREAS, the applicant asserts that the School is one of the last public or private schools in New York City with grades pre-kindergarten through 12 that does not have a separate middle school; and

WHEREAS, the applicant asserts that in the years since the School's facilities were developed, educators have come to recognize the benefits of grouping grades kindergarten through 12 into lower, middle and upper schools; and

WHEREAS, however, the applicant states that the School's space limitations have required it to maintain grades five and six in the existing building at the subject site as the final two years of its grammar school division and to house grade seven in its high school building; and

WHEREAS, the applicant notes that the proposed floor area is significantly less than the maximum allowed for the underlying zoning district; and

WHEREAS, the applicant asserts that the proposed encroachment into the existing rear yard equivalent (above the 23-ft. height for a permitted obstruction), combined with the build-out of the existing setback on West 93<sup>rd</sup> Street and the two additional floors above the West 92<sup>nd</sup> Street portion of the building, allows the school to create a rational design for the additional classrooms and ancillary facilities while minimizing the proposed height of the enlarged building to seven stories; and

WHEREAS, the applicant asserts that practical difficulties arise in complying strictly with the underlying bulk regulations; and

WHEREAS, additionally, the applicant asserts that the unique features affecting the site include (1) the lot's narrowness and odd shape with its varying frontages on West 92<sup>nd</sup> Street and West 93<sup>rd</sup> Street and (2) the existing building's unique footprint, configuration and structural support system; and

WHEREAS, as to the lot size and shape, the applicant notes that it has 45 feet of frontage along West 93<sup>rd</sup> Street and widens by approximately five feet at its eastern property line, then narrows at the midblock, and the property line runs slightly diagonal towards West 92<sup>nd</sup> Street where it has frontage of 35 feet; and

WHEREAS, further, the applicant states that the footprint of the existing under-built building reflects the inability to use space that would have been available in a more typical square-shaped lot; and

WHEREAS, the applicant states that the existing building's constraints require that the enlargement be constructed within the required setback area along West 93<sup>rd</sup> Street and within the rear yard equivalent, as well as above the 23-ft. tall portion of the building along West 92<sup>nd</sup> Street, thereby exceeding the maximum permitted lot coverage; and

WHEREAS, the applicant notes that the required sky exposure plane would be encroached into by 7'-7" along the West 93<sup>rd</sup> Street façade at the fifth and sixth floors due to the inclusion of a middle school library at the fifth floor and two

new classrooms at the sixth floor; and

WHEREAS, the applicant asserts that if the street wall on West 93<sup>rd</sup> Street were to set back to comply with the 7'-7" sky exposure plane encroachment, it would effectively eliminate the proposed rooms because their depth would be too narrow (with the presence of the existing elevator and stairwell); and

WHEREAS, the applicant asserts that the proposed location of the majority of the additional proposed floor area along West 93<sup>rd</sup> Street is driven in part by the existing building's structural support system; the applicant's architect and engineer state that the load capacity for the addition along West 93<sup>rd</sup> Street is designed to be distributed across both building sections to be supported by the building's existing column and foundation support system; and

WHEREAS, the applicant represents that its development team reviewed the possibility of shifting the proposed floor area from the West 93<sup>rd</sup> Street portion of the building to the West 92<sup>nd</sup> Street frontage, and determined that the existing transfer beams in the West 92<sup>nd</sup> Street portion of the building are already very close to their allowable stress level; and

WHEREAS, further, the applicant states that the relocation of the floor area is programmatically problematic since the building narrows along West 92<sup>nd</sup> Street, which does not accommodate sufficiently-sized classrooms; and

WHEREAS, finally, the applicant states that a major piece of mechanical equipment must be located in the proposed fourth floor addition, and its required air intake and discharge would be directed toward the "open" area on that floor; and

WHEREAS, accordingly, the applicant states that the propose enlargement most effectively meets the School's programmatic needs; and

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

WHEREAS, specifically, as held in Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

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

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

WHEREAS, the applicant represents that the variance,

---

# MINUTES

---

if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the site is located within the West Side Urban Renewal Area and the existing building was limited, in 1996, by the then-applicable West Side Urban Renewal Plan controls affecting the site, which were more restrictive than the applicable zoning bulk regulations (the West Side Urban Renewal Plan was established in 1962 and expired in 2002); and

WHEREAS, because the site is within the Upper West Side/Central Park West Historic District, the applicant has obtained a Certificate of Appropriateness from the Landmarks Preservation Commission (“LPC”), dated September 18, 2013 and amended January 14, 2014; and

WHEREAS, the applicant cites to LPC’s designation report which states that the area’s residential buildings range from three-, four-, and five-story row houses, to twelve- to seventeen-story multiple dwellings and also include eight- to twelve-story apartment hotels and studio buildings that are on both the avenues as well as streets; and

WHEREAS, additionally, the applicant cites to LPC’s recognition that the Upper West Side is characterized by a variety of institutional buildings intended to meet the social, educational, and religious needs of neighborhood residents; and

WHEREAS, the applicant also cites to the Certificate of Appropriateness which states that “...the proposed additions will not cause damage to [the] historic fabric or any significant historic features of the district; that the construction of rooftop additions on this through-lot building will result in an overall building height that relates to the taller surrounding buildings; that the geometry of the addition, which raises the street wall two floors on West 93<sup>rd</sup> Street with set-back addition and two floors on West 92<sup>nd</sup> Street, will be compatible with the massing of other institutional buildings in this historic district...”; and

WHEREAS, the applicant asserts that the height and bulk of the proposed enlarged school building will be in context with the nearby buildings on the north and south sides of both West 92<sup>nd</sup> Street and West 93<sup>rd</sup> Street; and

WHEREAS, specifically, the applicant cites to 50 West 93<sup>rd</sup> Street to the west, which is eight stories, and 70 West 93<sup>rd</sup> Street, which is 31 stories; to the east of the high school building is 2 West 93<sup>rd</sup> Street with 16 stories and 325 Central Park West with 16 stories; and on the north side of West 92<sup>nd</sup> Street there are One West 92<sup>nd</sup> Street with 15 stories, 7 West 92<sup>nd</sup> Street with seven stories, 35 West 92<sup>nd</sup> Street, with 13 stories, and 73 West 92<sup>nd</sup> Street with 31 stories; on the north side of West 93<sup>rd</sup> Street to the west there is 37 West 93<sup>rd</sup> Street with eight stories and 689 Columbus Avenue with 16 stories; and to the east on the north side of West 93<sup>rd</sup> Street, 333 Central Park West with 12 stories; and

WHEREAS, in response to concerns raised by the Community Board regarding the potential impact on the light and air to the immediately adjacent buildings along West 92<sup>nd</sup>

Street, the proposed fourth floor (which contains mechanical equipment) has been reduced in depth to be located closer to West 92<sup>nd</sup> Street, and the proposed third floor roof has been sloped along the sides to allow additional light and air to the adjacent neighbors; and

WHEREAS, in response to the Opposition’s concerns, the applicant asserts first that the traffic concerns associated with the School exist now and will not be exacerbated by the proposed enlargement of the building; and

WHEREAS, the applicant represents that its traffic consultant is conducting additional field observations and will develop additional recommendations to address the traffic concerns including whether it would be helpful to install a red light camera and left turn traffic signal at West 93<sup>rd</sup> Street and Central Park West or closing West 93<sup>rd</sup> Street to traffic during peak times; and

WHEREAS, the School states that it is committed to developing a comprehensive traffic plan for review and comment from the community and agrees to continue to work with the community to try to resolve existing traffic issues; the School commits to participating in a working group with representatives from WORD to ensure safe traffic and pedestrian conditions; and

WHEREAS, the applicant states that it considered several other suggestions which it concluded were not feasible such as student drop-off on Columbus Avenue, including staggered drop-off and pick-up times, student shuttles from offsite, and drop-off on West 92<sup>nd</sup> Street; and

WHEREAS, in response to the Opposition’s proposed conditions, the School states that (1) it will establish a traffic plan in consultation with WORD, with whom it will meet on an ongoing basis to focus on traffic concerns and that it will coordinate with the Department of Transportation; (2) it has complied fully with CEQR requirements and that noise, traffic, and air quality analyses were not triggered by the proposal; (3) it proposes to add 30 students, but will not agree to cap enrollment; (4) it will strive to complete construction during the summer, only on weekdays and during business hours but notes the possibility of unforeseen delays which may require additional time; (5) it cannot produce a site logistics plan and construction calendar at this point in the process; (6) it does plan to use the sixth-floor rooftop for a play area but will fence and buffer it as well as limit the hours to school hours not to be later than 5:00 p.m.; and (7) the rooftop mechanicals will occupy the fourth-floor roof and will include an acoustical enclosure, all of which is subject to LPC approval; and

WHEREAS, finally, as to the Opposition’s concerns about inconsistencies between the subject application and the 2008 variance application, the applicant states that numerous circumstances have changed since the 2008 application, which should be viewed independently from the subject application and that all current and prior claims were credible, based on the respective circumstances; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or

---

# MINUTES

---

development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant states that the hardship was not self-created, and that no development that would meet the programmatic needs of the School could occur given the existing conditions of the North Building and the South Building; and

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

WHEREAS, the applicant represents that the requested waivers are the minimum necessary to accommodate the School's current and projected programmatic needs; and

WHEREAS, as noted, the applicant revised the plans to provide additional setback and slope at the fourth and third floor, respectively; and

WHEREAS, the Board finds that the requested relief is the minimum necessary to allow the School to fulfill its programmatic needs; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, 13BSA049M dated October 12, 2012; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R7-2 zoning district within the Upper West Side/Central Park West Historic District, the enlargement of an existing school building, which does not comply with zoning regulations for lot coverage, permitted obstruction, rear yard equivalent, encroachment into the required initial setback

distance, width and height of street wall, and side yard, contrary to ZR §§ 24-11, 24-382, 24-33, 24-522, 23-692, and 24-35, *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 3, 2014"– fourteen (14) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a floor area of 40,778 sq. ft. (4.88 FAR) and total height of 95 feet, exclusive of bulkheads, as illustrated on the BSA-approved plans;

THAT the School will establish a traffic plan to improve traffic flow at the site, in a timely manner; measures, in consultation with the community working group, may include a red light camera and left turn traffic signal, among other measures;

THAT fencing and buffering will be installed around the seventh-floor rooftop play area, which will have hours not to exceed school hours and no use after 5:00 p.m.;

THAT the use of the fourth-floor rooftop will be limited to mechanical systems accessible for maintenance/service-related work, will comply with all Noise Code requirements, and will include an acoustical enclosure for the generator;

THAT any change in the use, occupancy, or operator of the School requires review and approval by the Board;

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

THAT all construction will be in conformance with the LPC Certificate of Appropriateness, dated September 18, 2013 and amended January 14, 2014;

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

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

Adopted by the Board of Standards and Appeals, October 7, 2014.

**The resolution has been amended to correct part of the 3rd further condition which read "sixth-floor rooftop play area"...now reads: "seventh-floor rooftop play area". Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

---

# MINUTES

---

## \*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 287-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

### 287-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 138 Roma Avenue, Block 04089, Lot 0025. Borough of Staten Island.

### COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

### THE VOTE TO GRANT –

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

Negative:.....0

### THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

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

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the east side of Roma Avenue between Garibaldi Avenue and Ebbets Street, within an R3X zoning district; and

WHEREAS, the site has 20 feet of frontage along Roma Avenue and 2,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 815 sq. ft. of floor area (0.40 FAR); the existing site has the following yard non-

compliances: a front yard depth of 2’-9” (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); a rear yard depth of 18’-9” (a minimum rear yard depth of 30’-0” is required, per ZR § 23-47); and side yards with widths of 4’-2” (eastern side yard) and 1’-3” (western side yard) (the requirement is two side yards with minimum widths of 5’-0”, per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,082 sq. ft. of floor area (0.54 FAR); the new building will provide a front yard depth of 14’-6”, a rear yard depth of 18’-0”, an southern side yard width of 5’-0”, and northern side yard width of 6’-3½”;

WHEREAS, in addition, the applicant represents that the proposed building may be less than 8’-0” from the buildings directly north and south of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8’-0” is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5’-0”;

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 14’-6”, a rear yard depth of 18’-0”, and a minimum distance of less than 8’-0” from the buildings directly north and south of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant

---

# MINUTES

---

to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front, side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, rear, and side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 2'-9" to 14'-6", and increases in the width of both side yards; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the

neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, 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 § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; *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 December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,082 sq. ft. of floor area (0.54 FAR), a minimum front yard depth of 14'-6", a minimum rear yard depth of 18'-0", and side yards with minimum widths of 5'-0" and 6'-3½", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly north and south of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

Adopted by the Board of Standards and Appeals, December 16, 2014.

\*The resolution has been amended to correct the PREMISES AFFECTED which read "138 Roma Avenue, Block 0408, Lot 80025. Borough of Staten Island". **now read "138 Roma Avenue, Block 04089, Lot 0025. Borough of Staten Island". Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

---

# MINUTES

---

## \*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 291-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

### 291-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 19 Milbank Road, Block 04091, Lot 0027, Borough of Staten Island.

### COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

### THE VOTE TO GRANT –

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

Negative:.....0

### THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

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

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the north side of Millbank Road, west of Cedar Grove Avenue, within an R3X zoning district; and

WHEREAS, the site has 40 feet of frontage along Millbank Road and 2,400 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 720 sq. ft. of floor area (0.30 FAR); the existing site has the following yard non-

compliances: a front yard depth 6’-8” (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); a rear yard depth of 2’-9” (a minimum rear yard depth of 20’-0” is required, per ZR §§ 23-47 and 23-52); side yards with widths of 3’-9” (western side yard) and 2’-6” (eastern side yard) (the requirement is two side yards with minimum widths of 5’-0”, and a minimum distance between adjacent buildings along a side lot line of 8’-0”, per ZR § 23-461); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-52; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.53 FAR); the new building will provide a front yard depth of 18’-0”, a rear yard depth of 16’-1”, an eastern side yard width of 10’-5”, and western side yard width of 5’-0”;

WHEREAS, in addition, the applicant states that the proposed building may be less than 8’-0” from the building directly west of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 16’-1”, and a minimum distance of less than 8’-0” from the building directly west of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character

---

# MINUTES

---

of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from a non-complying 6'-8" to a complying 18'-0", and increase in the widths of both side yards, and increase in the depth of the rear yard from 12'-8" to 16'-1"; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards

and Appeals waives the Rules of Practice and Procedure, 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 § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 15, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,272 sq. ft. of floor area (0.53 FAR) and a minimum rear yard depth of 16'-1", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the building directly west of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

Adopted by the Board of Standards and Appeals, December 16, 2014.

\*The resolution has been amended to correct the PREMISES AFFECTED which read "19 Milbank Road, Block 0409, Lot 10027, Borough of Staten Island" **now read** "19 Milbank Road, Block 04091, Lot 0027, Borough of Staten Island". **Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

---

# MINUTES

---

## \*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 292-14-A and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

### 292-14-A

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 19 Milbank Road, Block 04091, Lot 0027, Borough of Staten Island.

### COMMUNITY BOARD #2SI

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 to permit the construction of a single-family home that does not front a mapped street, contrary to General City Law § 36; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

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

WHEREAS, this application is applicant is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, this site is also the subject of a companion application filed under BSA Cal. No. 291-14-BZ, for a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; and

WHEREAS, the subject site is located on the north side of Millbank Road, west of Cedar Grove Avenue, within an R3X zoning district; Millbank Road is an unmapped access road; and

WHEREAS, the site is occupied by a flood-damaged one-story, single-family home with 720 sq. ft. of floor area (0.30 FAR); and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.53 FAR);

WHEREAS, because the site is located along an unmapped access road, the applicant request a waiver of General City Law § 36; and

WHEREAS, by letter dated December 2, 2014, the Fire Department states that it has reviewed the proposal and has no objections, provided that: (1) the entire building is fully-sprinklered in conformity 2014 Building Code; (2) combination Smoke/Carbon Monoxide detectors as well NFPA 13D fire sprinklers are installed; (3) exterior walls and floors are constructed of eight-inch Autoclaved Aerated Concrete (AAC) panels (or an approved equivalent), which provide a four-hour fire-resistance rating; (4) penetrations through the AAC floor over parking are firestopped per required the occupancy separation; and (5) the height of the highest window does not exceed 30 feet from grade level below such window; and

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

*Therefore it is Resolved*, the appeal is granted by the power vested in the Board by Section 36 of the General City Law and on condition that construction shall substantially conform to the drawing filed with the application marked “December 15, 2014”- one (1) sheet, and on further condition:

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

THAT the entire building shall be fully-sprinklered in conformity with provisions of 2014 Building Code;

THAT combination Smoke/Carbon Monoxide detectors and NFPA 13D fire sprinklers shall be installed;

THAT the exterior walls and floors shall be constructed of eight-inch autoclaved AAC panels (or an approved equivalent), which provide a four-hour fire-resistance rating;

THAT the penetrations through the AAC floor over parking shall be firestopped per required the occupancy separation;

THAT the height of the highest window sill shall not exceed 30 feet from grade level below such window;

THAT this approval shall be limited to the Build to Back program; and

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

THAT changes to the use or occupancy of the building will be subject to Board review and approval; 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.

---

# MINUTES

---

Adopted by the Board of Standards and Appeals,  
December 16, 2014.

\*The resolution has been amended to correct the PREMISES AFFECTED which read “19 Milbank Road, Block 0409, Lot 10027, Borough of Staten Island” **now read** “19 Milbank Road, Block 04091, Lot 0027, Borough of Staten Island”. **Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

## \*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 293-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

### 293-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 23 Neutral Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04092, Lot 0026, Borough of Staten Island.

### COMMUNITY BOARD #2SI

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

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

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the north side of Neutral Avenue, west of Cedar Grove Avenue, within an R3X zoning district; and

WHEREAS, the site has 40 feet of frontage along Neutral Avenue and 2,880 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 1,055 sq. ft. of floor

---

# MINUTES

---

area (0.36 FAR); the existing site has the following yard non-compliances: a front yard depth 6'-5" (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); a rear yard depth of 3'-4" (a minimum rear yard depth of 20'-0" is required, per ZR §§ 23-47 and 23-52); side yards with widths of 5'-6" (western side yard) and 4'-6" (eastern side yard) the requirement is two side yards with minimum widths of 5'-0", and a minimum distance between adjacent buildings along a side lot line of 8'-0", per ZR § 23-461); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-52; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.44 FAR); the new building will provide a front yard depth of 18'-0", a rear yard depth of 16'-1", an eastern side yard width of 16'-0", and western side yard width of 7'-5"; and

WHEREAS, in addition, the applicant states that the proposed building may be less than 8'-0" from the building directly east of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 16'-1", and a minimum distance of less than 8'-0" from the buildings directly east of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the

proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from a non-complying 6'-5" to a complying 18'-0", and increase in the widths of both side yards beyond the minimum requirement, and increase in the depth of the rear yard from 3'-4" to 16'-1"; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement

---

# MINUTES

---

satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, 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 § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received December 15, 2014”- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,272 sq. ft. of floor area (0.44 FAR) and a minimum rear yard depth of 16’-1”, as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8’-0” from the building directly east of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

Adopted by the Board of Standards and Appeals, December 16, 2014.

\*The resolution has been amended to correct the PREMISES AFFECTED which read “23 Neutral Avenue, between Roma Avenue and Cedar Grove Avenue, Block 0409, Lot 20026, Borough of Staten Island” **now read** “23 Neutral Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04092, Lot 0026, Borough of Staten Island”. **Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

## \*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 294-14-A and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

### 294-14-A

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 23 Neutral Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04092, Lot 0026, Borough of Staten Island.

### COMMUNITY BOARD #2SI

**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 to permit the construction of a single-family home that does not front a mapped street, contrary to General City Law § 36; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

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

WHEREAS, this application is applicant is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, this site is also the subject of a companion application filed under BSA Cal. No. 293-14-BZ, to permit pursuant to ZR § 64-92, to permit, on a site within an R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461 and 23-47; and

WHEREAS, the subject site is located on the north side of Neutral Avenue, west of Cedar Grove Avenue, within an R3X zoning district; Neutral Avenue is an

---

# MINUTES

---

unmapped access road; and

WHEREAS, the site has 40 feet of frontage along Neutral Avenue and 2,880 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 1,055 sq. ft. of floor area (0.36 FAR); and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.44 FAR); and

WHEREAS, because the site is located along an unmapped access road, the applicant requests a waiver of General City Law § 36; and

WHEREAS, by letter dated December 2, 2014, the Fire Department states that it has reviewed the proposal and has no objections, provided that: (1) the entire building is fully-sprinklered in conformity 2014 Building Code; (2) combination Smoke/Carbon Monoxide detectors as well NFPA 13D fire sprinklers are installed; (3) exterior walls and floors are constructed of eight-inch Autoclaved Aerated Concrete (AAC) panels (or an approved equivalent), which provide a four-hour fire-resistance rating; (4) penetrations through the AAC floor over parking are firestopped per required the occupancy separation; and (5) the height of the highest window does not exceed 30 feet from grade level below such window; and

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

*Therefore it is Resolved*, the appeal is granted by the power vested in the Board by Section 36 of the General City Law and on condition that construction shall substantially conform to the drawing filed with the application marked "December 15, 2014"- one (1) sheet, and on further condition:

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

THAT the entire building shall be fully-sprinklered in conformity with provisions of 2014 Building Code;

THAT combination Smoke/Carbon Monoxide detectors and NFPA 13D fire sprinklers shall be installed;

THAT the exterior walls and floors shall be constructed of eight-inch autoclaved AAC panels (or an approved equivalent), which provide a four-hour fire-resistance rating;

THAT the penetrations through the AAC floor over parking shall be firestopped per required the occupancy separation;

THAT the height of the highest window sill shall not exceed 30 feet from grade level below such window;

THAT this approval shall be limited to the Build to Back program; and

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

THAT changes to the use or occupancy of the building will be subject to Board review and approval; 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, December 16, 2014.

\*The resolution has been amended to correct the PREMISES AFFECTED which read "*23 Neutral Avenue, between Roma Avenue and Cedar Grove Avenue, Block 0409, Lot 20026, Borough of Staten Island*" **now read** "*23 Neutral Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04092, Lot 0026, Borough of Staten Island*". **Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

---

# MINUTES

---

## \*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 295-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

### 295-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 58 Seafoam Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04081, Lot 0068, Borough of Staten Island.

### COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

### THE VOTE TO GRANT –

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

### THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-2 (C1-1) zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

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

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the south side of Seafoam Street, west of Cedar Grove Avenue, within an R3-2 (C1-1) zoning district; and

WHEREAS, the site comprises Lots 68 and 69; it has 40 feet of frontage along Seafoam Street and 2,400 sq. ft. of lot area; historically, Lot 68 was developed independent of

Lot 69, which is vacant; and

WHEREAS, the site is occupied by a one-story, single-family home with 642 sq. ft. of floor area (0.27 FAR); the existing site has the following yard non-compliances: a front yard depth 8’-0” (a minimum front yard depth of 15’-0” is required, per ZR § 23-45); no rear yard (a minimum rear yard depth of 20’-0” is required, per ZR § 23-47); side yards with widths of 2’-0” (western side yard) and 22’-5” (eastern side yard) the requirement is two side yards with minimum widths of 5’-0”, a minimum combined width of 13’-0”, and a minimum distance between adjacent buildings along a side lot line of 8’-0”, per ZR § 23-461); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 816 sq. ft. of floor area (0.34 FAR); the new building will provide a front yard depth of 12’-6”, a rear yard depth of 10’-0”, an western side yard width of 11’-8”, and eastern side yard width of 5’-0”; and

WHEREAS, in addition, the applicant states that the proposed building will be less than 8’-0” from the building directly east of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 12’-6”, a rear yard depth of 10’-0”, and a minimum distance of less than 8’-0” from the building directly east of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of

---

# MINUTES

---

the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front, rear, and side yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, rear, and side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 8'-0" to 12'-6", an increase in rear yard depth from 0'-0" to 10'-0", and increase in the widths of both side yards; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, 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 § 64-92, to permit, on a site within an R3-2 (C1-1) zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received December 15"-four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 816 sq. ft. of floor area (0.34 FAR), a minimum front yard depth of 12'-6", a minimum rear yard depth of 10'-0", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the building directly east of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

Adopted by the Board of Standards and Appeals, December 16, 2014.

\*The resolution has been amended to correct the PREMISES AFFECTED which read "58 Seafoam Avenue, between Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 10068, Borough of Staten Island" **now read** "58 Seafoam Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04081, Lot 0068, Borough of Staten Island". **Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

---

# MINUTES

---

## \*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 296-14-A and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

### 296-14-A

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 58 Seafoam Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04081, Lot 0068, Borough of Staten Island.

### COMMUNITY BOARD #2SI

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 to permit the construction of a single-family home that does not front a mapped street, contrary to General City Law § 36; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

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

WHEREAS, this application is applicant is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the site is also the subject of a companion application filed under BSA Cal. No. 295-14-BZ, for a special permit pursuant to ZR § 64-92, to permit, on a site within an R3-2 (C1-1) zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, and 23-47; and

WHEREAS, the subject site is located on the south side of Seafoam Street, west of Cedar Grove Avenue, within an R3-2 (C1-1) zoning district; and

WHEREAS, the site comprises Lots 68 and 69; it has 40 feet of frontage along Seafoam Street and 2,400 sq. ft. of lot area; historically, Lot 68 was developed independent of Lot 69, which is vacant; and

WHEREAS, Seafoam Street is an unmapped access road; and

WHEREAS, the site is occupied by a flood-damaged, single-family home with a 642 sq. ft. of floor area (0.27); and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 816 sq. ft. of floor area (0.34 FAR); and

WHEREAS, because the site is located along an unmapped access road, the applicant request a waiver of General City Law § 36; and

WHEREAS, by letter dated December 2, 2014, the Fire Department states that it has reviewed the proposal and has no objections, provided that: (1) the entire building is fully-sprinklered in conformity 2014 Building Code; (2) combination Smoke/Carbon Monoxide detectors as well NFPA 13D fire sprinklers are installed; (3) exterior walls and floors are constructed of eight-inch Autoclaved Aerated Concrete (AAC) panels (or an approved equivalent), which provide a four-hour fire-resistance rating; (4) penetrations through the AAC floor over parking are firestopped per required the occupancy separation; and (5) the height of the highest window does not exceed 30 feet from grade level below such window; and

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

*Therefore it is Resolved*, the appeal is granted by the power vested in the Board by Section 36 of the General City Law and on condition that construction shall substantially conform to the drawing filed with the application marked “December 15, 2014”- one (1) sheet, and on further condition:

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

THAT the entire building shall be fully-sprinklered in conformity with provisions of 2014 Building Code;

THAT combination Smoke/Carbon Monoxide detectors and NFPA 13D fire sprinklers shall be installed;

THAT the exterior walls and floors shall be constructed of eight-inch autoclaved AAC panels (or an approved equivalent), which provide a four-hour fire-resistance rating;

THAT the penetrations through the AAC floor over parking shall be firestopped per required the occupancy separation;

THAT the height of the highest window sill shall not exceed 30 feet from grade level below such window;

THAT this approval shall be limited to the Build to Back program; and

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

THAT changes to the use or occupancy of the building

---

# MINUTES

---

will be subject to Board review and approval; 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, December 16, 2014.

\*The resolution has been amended to correct the PREMISES AFFECTED which read “58 Seafoam Avenue, between Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 10068, Borough of Staten Island” **now read** “58 Seafoam Avenue, between Roma Avenue and Cedar Grove Avenue, Block 04081, Lot 0068, Borough of Staten Island”. **Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

## \*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 303-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

### 303-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 1032 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 03808, Lot 0016. Borough of Staten Island.

### COMMUNITY BOARD #2SI

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**THE RESOLUTION** –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

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

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the west side of Olympia Boulevard between Hempstead Avenue and Mapleton Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Olympia Boulevard and 1,980 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 583 sq. ft. of floor area

---

# MINUTES

---

(0.29 FAR); the existing site has the following yard non-compliances: no front yard (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); a rear yard depth of 20'-4" (a minimum rear yard depth of 30'-0" is required, per ZR § 23-47); and side yards with widths of 3'-7" (northern side yard) and 1'-10" (southern side yard) (the requirement is two side yards with minimum widths of 5'-0", per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,082 sq. ft. of floor area (0.55 FAR); the new building will provide a front yard depth of 18'-0", a rear yard depth of 21'-0", a northern side yard width of 3'-5", and southern side yard width of 3'-0"; and

WHEREAS, in addition, the applicant represents that the proposed building will be less than 8'-0" from the building directly south of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8'-0" is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5'-0"; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 21'-0", a minimum distance of less than 8'-0" from the building directly south of the site, and side yard widths of 3'-5" and 3'-0"; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from a non-complying 0'-0" to a complying 18'-0", and an increase in open space ratio from 71 percent to 73 percent; and

---

# MINUTES

---

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, 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 § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; *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 December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,082 sq. ft. of floor area (0.55 FAR), a minimum rear yard depth of 21'-0", and side yards with minimum widths of 3'-0" and 3'-5", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the building directly south of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

Adopted by the Board of Standards and Appeals, December 16, 2014.

*Borough of Staten Island*". Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.

\*The resolution has been amended to correct the PREMISES AFFECTED which read "1032 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 0380, Lot 80016. Borough of Staten Island" **now read** "1032 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 03808, Lot 0016.

# MINUTES

## \*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 304-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

### 304-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 1034 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 03808, Lot 0015 Borough of Staten Island.

### COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

### THE VOTE TO GRANT –

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

Negative:.....0

### THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

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

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the west side of Olympia Boulevard between Hempstead Avenue and Mapleton Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Olympia Boulevard and 1,860 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 756 sq. ft. of floor area

(0.40 FAR); the existing site has the following yard non-compliances: no front yard (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); a rear yard depth of 26’-9” (a minimum rear yard depth of 30’-0” is required, per ZR § 23-47); and side yards with widths of 1’-7” (northern side yard) and 3’-1” (southern side yard) (the requirement is two side yards with minimum widths of 5’-0”, per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,082 sq. ft. of floor area (0.58 FAR); the new building will provide a front yard depth of 15’-0”, a rear yard depth of 20’-9”, a northern side yard width of 3’-5”, and southern side yard width of 3’-0”; and

WHEREAS, in addition, the applicant represents that the proposed building will be less than 8’-0” from the buildings directly north and south of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8’-0” is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5’-0”; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 15’-0”, a rear yard depth of 20’-9”, a minimum distance of less than 8’-0” from the buildings directly north and south of the site, and side yard widths of 3’-5” and 3’-0”; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk

---

# MINUTES

---

regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for

an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front, rear and side yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, rear, and side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 0'-0" to 15'-0", and an increase in open space ratio from 60 percent to 71 percent; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, 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 § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; *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 December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,082 sq. ft. of floor area (0.58 FAR), a minimum rear yard depth of 20'-9", and side yards with minimum widths of 3'-0" and 3'-5", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly north and south of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

Adopted by the Board of Standards and Appeals, December 16, 2014.

\*The resolution has been amended to correct the PREMISES AFFECTED which read "1034 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 0380, Lot 80015 Borough of Staten Island" **now read** "1034 Olympia Boulevard, between Mapleton Avenue and Hempstead Avenue, Block 03808, Lot 0015

---

# MINUTES

---

*Borough of Staten Island*". Corrected in Bulletin Nos. 1-3,  
Vol. 100, dated January 14, 2015.

## \*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 305-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

### **305-14-BZ**

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 296 Adams Avenue, between Mapleton Avenue and Hempstead Avenue, Block 03673, Lot 0011 Borough of Staten Island.

### **COMMUNITY BOARD #2SI**

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**THE RESOLUTION** –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

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

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the south side of Adams Avenue between Boundary Avenue and Haven Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Adams Avenue and 1,700 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 1,059 sq. ft. of floor

---

# MINUTES

---

area (0.62 FAR); the existing site has the following yard non-compliances: floor area (a maximum FAR of 0.60 is permitted); no front yard (a minimum front yard depth of 18'-0" is required, per ZR § 23-45); a rear yard depth of 14'-0" (a minimum rear yard depth of 30'-0" is required, per ZR § 23-47); and side yards with widths of 3'-0" (eastern side yard) and 1'-2" (western side yard) (the requirement is two side yards with minimum widths of 5'-0", per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,020 sq. ft. of floor area (0.60 FAR); the new building will provide a front yard depth of 15'-0", a rear yard depth of 12'-10", an eastern side yard width of 3'-5", and western side yard width of 3'-0"; and

WHEREAS, in addition, the applicant represents that the proposed building will be less than 8'-0" from the buildings directly east and west of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8'-0" is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5'-0"; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a front yard depth of 15'-0", a rear yard depth of 12'-10", a minimum distance of less than 8'-0" from the buildings directly east and west of the site, and side yard widths of 3'-5" and 3'-0"; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying

Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front, side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested front, rear, and side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a reduction in FAR, a smaller footprint, an increase in front yard depth from 0'-0" to 15'-0", increases

---

# MINUTES

---

in the width of both side yards, an increase in open space ratio from 38 percent to 70 percent; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, 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 § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for front, rear, and side yards, contrary to ZR §§ 23-45, 23-461, 23-47, and 54-313; *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 December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,020 sq. ft. of floor area (0.60 FAR), a minimum front yard depth of 15'-0", a minimum rear yard depth of 12'-10", and side yards with minimum widths of 3'-0" and 3'-5", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly east and west of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

Adopted by the Board of Standards and Appeals, December 16, 2014.

*0367, Lot 30011 Borough of Staten Island" now read "296 Adams Avenue, between Mapleton Avenue and Hempstead Avenue, Block 03673, Lot 0011 Borough of Staten Island".*  
**Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

\*The resolution has been amended to correct the PREMISES AFFECTED which read "296 Adams Avenue, between Mapleton Avenue and Hempstead Avenue, Block

---

# MINUTES

---

## \*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 306-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

### 306-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 156 Baden Place, Block 03810, Lot 0018 Borough of Staten Island.

### COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

### THE VOTE TO GRANT –

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

### THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for side yards, contrary to ZR §§ 23-461 and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

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

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the south side of Baden Place between Hempstead Avenue and Mapleton Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Baden Place and 2,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 580 sq. ft. of floor area (0.29 FAR); the existing site has the following yard non-compliances: no front yard (a minimum front yard depth of

18’-0” is required, per ZR § 23-45); a rear yard depth of 25’-7” (a minimum rear yard depth of 30’-0” is required, per ZR § 23-47); and no northern side yard and a southern side yard with a width of 2’-0” (the requirement is two side yards with minimum widths of 5’-0”, per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,082 sq. ft. of floor area (0.54 FAR); the new building will provide a front yard depth of 18’-0”, a rear yard depth of 35’-10”, a northern side yard width of 3’-2½”, and a southern side yard width of 3’-2½”; and

WHEREAS, in addition, the applicant represents that the proposed building may be less than 8’-0” from the buildings directly north and south of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8’-0” is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5’-0”; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a minimum distance of less than 8’-0” from the buildings directly north and south of the site and two side yards with widths of 3’-2½”; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

---

# MINUTES

---

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from 0'-0" to 18'-0", an increase in rear yard depth from 25'-7" to 35'-10", increases in the widths of both side yards, an increase in open space ratio from 71 percent to 73 percent; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the

neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, 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 § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for side yards, contrary to ZR §§ 23-461 and 54-313; *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 December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,082 sq. ft. of floor area (0.54 FAR), a minimum front yard depth of 18'-0", a minimum rear yard depth of 35'-10", and side yards with minimum widths of 3'-2½" and 3'-2½", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly north and south of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2014;

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

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

Adopted by the Board of Standards and Appeals, December 16, 2014.

\*The resolution has been amended to correct the PREMISES AFFECTED which read "156 Baden Place, Block 0381, Lot 00018, Borough of Staten Island" **now read** "156 Baden Place, Block 03810, Lot 0018, Borough of Staten Island". **Corrected in Bulletin Nos. 1-3, Vol. 100, dated January 14, 2015.**

---

# MINUTES

---

## \*CORRECTION

This resolution adopted on December 16, 2014, under Calendar No. 309-14-BZ and printed in Volume 99, Bulletin No. 51, is hereby corrected to read as follows:

### 309-14-BZ

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 10, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 55 Hempstead Avenue, Block 03809, Lot 0003 Borough of Staten Island.

### COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

### THE VOTE TO GRANT –

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

### THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on that same date; and

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

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

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the north side of Hempstead Avenue between Baden Place and Colony Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Hempstead Avenue and 1,900 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with a 960 sq. ft. of floor area (0.50 FAR); the existing site has the following yard non-

compliances: 50 percent open space ratio (a minimum open space ratio of 65 percent is required, per ZR § 23-141); a front yard depth 0’-5” (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); a rear yard depth of 14’-6” (a minimum rear yard depth of 30’-0” is required, per ZR § 23-47); no side yards (the requirement is two side yards with minimum widths of 5’-0”, per ZR § 23-461 and 23-48; however, non-complying side yards may be reconstructed, per ZR § 54-41); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, in addition, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-48; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,134 sq. ft. of floor area (0.60 FAR); the new building will provide a front yard depth of 18’-0”, a rear yard depth of 23’-1”, an eastern side yard width of 3’-0”, and western side yard width of 3’-5”; and

WHEREAS, in addition, the applicant represents that the proposed building will be less than 8’-0” from the buildings directly east and west of the site; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8’-0” is maintained between the non-complying side yards and the building on the adjoining zoning lot; in addition, as noted above, per ZR §§ 23-461 and 23-48, side yards must have a minimum width of 5’-0”; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 23’-1”, a minimum distance of less than 8’-0” from the buildings directly east and west of the site, and side yard widths of 3’-5” and 3’-0”; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

---

# MINUTES

---

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings:

(a) that there would be a practical difficulty in complying with flood-resistant construction standards without such modifications, and that such modifications are the minimum necessary to allow for an appropriate building in compliance with flood-resistant construction standards; (b) that any modification of bulk regulations related to height is limited to no more than ten feet in height or ten percent of the permitted height as measure from the flood-resistant construction elevation, whichever is less; and (c) the proposed modifications will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the Board may also prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the side and rear yard requirements, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side and rear yard waivers; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, an increase in front yard depth from a non-complying 0'-5" to a complying 18'-0", an increase in open space ratio from 50 percent to 70 percent, and increase in the widths of both side yards, and

increase in the depth of the rear yard from 14'-6" to 23'-1"; and

WHEREAS, the Board finds that the proposed modification will not alter the essential character of the neighborhood in which the building is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 64-92; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, 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 § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 54-313; *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 December 9, 2014"- four (4) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 1,134 sq. ft. of floor area (0.60 FAR), a minimum rear yard depth of 23'-1", and side yards with minimum widths of 3'-0" and 3'-5", as illustrated on the BSA-approved plans;

THAT the building may be less located less than 8'-0" from the buildings directly east and west of the site;

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

THAT this approval shall be limited to the Build it Back program;

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 December 16, 2018;

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

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

Adopted by the Board of Standards and Appeals, December 16, 2014.

\*The resolution has been amended to correct the PREMISES AFFECTED which read "55 Hempstead Avenue, Block 0380, Lot 90003 Borough of Staten Island" **now read** "55 Hempstead Avenue, Block 03809, Lot 0003

---

# MINUTES

---

*Borough of Staten Island*". Corrected in Bulletin Nos. 1-3,  
Vol. 100, dated January 14, 2015.