
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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September 30, 2015

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Tuesday, September 22, 2015**

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Affecting Calendar Numbers:

69-15-BZ 245 Page Avenue, Staten Island

DOCKETS

New Case Filed Up to September 22, 2015

222-15-BZ

86-09 Roosevelt Avenue, Located on the north side of Roosevelt Avenue between 86th and 87th Street, Block 1474, Lot(s) 037, Borough of **Queens, Community Board: 3**. Special Permit (§73-36) to allow the operation of a physical culture establishment(fitness center) on a portion of the existing building's ground and cellar floors, located within an C2-3/R6 zoning district. C2-3/R6 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

OCTOBER 27, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, October 27, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

183-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Dynasty 23 Street Realty, Incorporated, owner; Horizon 881 LLC, lessee.
SUBJECT – Application February 25, 2015 – Extension of Term of a previously approved Special Permit (§73-36) permitting the operation of physical culture establishment on the second floor of a five story commercial building, which expired on October 26, 2014; Amendment to permit the change in operation as well as minor deviations from the previously approved plans; Waiver of the Rules. C6-3X zoning district.

PREMISES AFFECTED – 206 West 23rd Street, southside of West 23rd Street between 7th Avenue and 8th Avenue, Block 00772, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #4M

266-04-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Gwynne Five LLC, owner; TSI Cobble Hill, LLC dba NY Sports Club, lessee.

SUBJECT – Application February 17, 2015 – Extension of the Term and Amendment (73-11) to request an extension of the term of a previously granted special permit to allow the operation of a physical culture establishment at the premises and also request an Amendment to change the hours of operation. C2-3 zoning district.

PREMISES AFFECTED – 96 Boreum Place, southwesterly corner of Boerum Place and Pacific Street, Block 00279, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #2M

340-05-BZ

APPLICANT – The Law Office Fredrick A. Becker, for Chelsea Eighth Realty LLC, owner; TSI West 16, LLC dba NY Sports Club, lessee.

SUBJECT – Application November 19, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the legalization of a physical culture establishment (PCE), located in the portions of the cellar and first floor of an existing 22-story mixed-use building, which expired on October 25, 2014. C1-6A, C6-2A, R8B zoning districts.

PREMISES AFFECTED – 270 West 17th Street aka 124-128 Eight Avenue, east side of 8th Avenue, with additional frontage, between West 16th Street and West 17th Street, Block 00766, Lot(s) 1101, 1102, Borough of Manhattan.

COMMUNITY BOARD #4M

47-10-BZ

APPLICANT – Eric Palatnik, P.C., for 2352 Story Avenue Realty, owner; Air Gas Use, LLC, lessee.

SUBJECT – Application April 13, 2015 – Extension of Time to Complete Construction of a previously approved Variance (§72-21) permitting manufacturing use on a residential portion of a split zoning lot, which expired on April 12, 2011; Waiver of the Rules. M1-1/R3-2 zoning district.

PREMISES AFFECTED – 895 Zerega Avenue aka 2351 Story Avenue, Block 03698, Lot 36, Borough of Bronx.

COMMUNITY BOARD #9BX

89-10-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for Mercer Sunshine LLC, owner.

SUBJECT – Application June 30, 2015 – Extension of Time to Complete Construction of a previously approved variance allowing the conversion of the first floor and cellar level of an existing three-story building to a commercial retail use (UG6); Waiver of the Rules. M1-5B zoning district.

PREMISES AFFECTED – 53 Mercer Street, West side of Mercer Street, between Grand and Broome Street, Block 0474, Lot 014, Borough of Manhattan.

COMMUNITY BOARD #2M

16-12-BZ

APPLICANT – Eric Palatnik, P.C., for Congregation Adas Yereim, owner.

SUBJECT – Application April 2, 2015 – Amendment of a previously approved Special Permit (§73-19) permitting a school (*Congregation Adas Yereim*) contrary to use regulations (§42-00). The amendment seeks changes to the interior, an increase in the height of the building. M1-2 zoning district.

PREMISES AFFECTED – 184 Nostrand Avenue, northwest corner of Nostrand Avenue and Willoughby Avenue, Block 01753, Lot 0042, Borough of Brooklyn.

COMMUNITY BOARD #3BK

CALENDAR

APPEALS CALENDAR

12-15-A & 13-15-A

APPLICANT – Prospect Place Development, LLC, for Prospect Place Development LLC, by Leonid Loyfman, owner.

SUBJECT – Application January 21, 2015 – Proposed construction of one family detached dwelling does not front on a legally mapped street contrary to Section 36, of the General City Law. R3X zoning district.

PREMISES AFFECTED – 53 Prospect Place, north side of Prospect Place, 476.88’ from the corner formed by the intersection of the west side of Amboy Road, Block 04306, Lot 27, Borough of Staten Island.

COMMUNITY BOARD #3SI

73-15-A & 74-15-A

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

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

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

COMMUNITY BOARD #3SI

97-15-A

APPLICANT – Rothkrug Rothkrug & Spector LLP., for Douglas Road Development, LLC., owner.

SUBJECT – Application May 5, 2015 – Proposed construction of residential building that does not front on a legally mapped street, pursuant to Article 3, Section 36 of the General city Law. R1-1 NA LDGMA zoning district.

PREMISES AFFECTED – 221 Douglas Road, southeast corner of intersection of Douglas Road and Briggins Lane, Block 0830, Lot 035, Borough of Staten Island.

COMMUNITY BOARD #2SI

132-15-A & 133-15-A

APPLICANT – Joseph Loccisano (Sanna Loccisano Architects, PC), for Selim Rusi, owner.

SUBJECT – Application June 4, 2015 – Proposed construction of a single family home not fronting on a legally mapped street contrary to Section 36 Article 3 of the General City Law. R1-1 zoning district.

PREMISES AFFECTED – 163 Benedict Road, east side of Benedict Road, 167.93’ north of the corner of St. James Avenue and Benedict Road, Block 0868, Lot 030, Borough of Staten Island.

COMMUNITY BOARD #2SI

OCTOBER 27, 2015, 1:00 P.M.

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

ZONING CALENDAR

228-14-BZ

APPLICANT – Eric Palatnik, P.C., for Henry Trost, owner.
SUBJECT – Application September 22, 2014 – Special Permit (§73-622) for the enlargement of an existing two story single family home contrary to floor area, lot coverage and open space (ZR 23-141(b)). R3-1 zoning district.

PREMISES AFFECTED – 149 Hasting Street, Hastings Street, between Hampton Avenue and Oriental Boulevard, Block 08751, Lot 466, Borough of Brooklyn.

COMMUNITY BOARD #15BK

245-14-BZ

APPLICANT – Stroock & Stroock & Lavan, LLP., for Two Fulton Square, LLC., owner.

SUBJECT – Application October 9, 2014 – Special Permit (§73-66) to permit the penetration of the flight obstruction area of LaGuardia Airport contrary to §61-20. C4-2 zoning district.

PREMISES AFFECTED – 133-31 39th Avenue, 37th Avenue, Prince Street, 39th Avenue and College Point Boulevard, Block 04972, Lot 65, Borough of Queens.

COMMUNITY BOARD #7Q

24-15-BZ

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

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

PREMISES AFFECTED – 71-17 Roosevelt Avenue, frontage on Roosevelt Avenue and 72nd Street, Block 01282, Lot (s) 137,138,141,151,160, Borough of Queens.

COMMUNITY BOARD #3Q

CALENDAR

62-15-BZ

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

SUBJECT – Application March 20, 2015 – Variance (§72-21) enlargement of a mixed use building contrary floor area regulations, lot coverage, balconies below third story, distance from legally required windows, lot line and side yard regulation, located within an C4-2/SG zoning district.

PREMISES AFFECTED – 139 Bay Street, Bay Street between Slosson terrace and Central Avenue, Block 00001, Lot(s) 10,17,18,19, Borough of Staten Island.

COMMUNITY BOARD #1SI

MINUTES

**REGULAR MEETING
TUESDAY MORNING, SEPTEMBER 22, 2015
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

705-81-BZ

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

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

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

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

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

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

173-92-BZ

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

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

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

COMMUNITY BOARD #8M

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

131-93-BZ

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

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

Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for continued hearing.

318-06-BZ

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

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

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

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for continued hearing.

526-76-BZ

APPLICANT – Vito J Fossella, P.E., for 1492 Victory Blvd. LLC., owner.

SUBJECT – Application May 19, 2014 – Amendment of a previously approved variance which permitted the conversion of a three story building consisting of two family residence and a store into a three story office building which expired on December 21, 1981. The Amendment seeks to eliminate the term. R2 zoning district.

PREMISES AFFECTED – 1492 Victory Boulevard, south side of Victory Boulevard, Block 00681, Lot 33, Borough of Staten Island.

COMMUNITY BOARD #3SI

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

27-91-BZ

APPLICANT – Land Planning and Engineering Consultants, P.C., for Eldar Blue, LLC, owner.

SUBJECT – Application July 14, 2014 – Extension of Term of a previously approved variance for a two-story commercial building which expired June 14, 2014; Amendment to eliminate the length of term of variance due to the recently zoning change. C1-2/R3 zoning district.

PREMISES AFFECTED – 1931 Richmond Avenue, Block 02030, Lot 8, Borough Staten Island.

COMMUNITY BOARD #5SI

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for continued hearing.

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156-92-BZ

APPLICANT – Eric Palatnik, P.C., for Parisi Patel, Inc., owner.

SUBJECT – Application December 22, 2014 – Extension of Term of the variance (§72-21) which permitted medical office use in an existing building contrary to side yard regulation at the basement and first floor levels, which expired March 1994; Waiver. R5 zoning district.

PREMISES AFFECTED – 1835 Bay Ridge Parkway, between 18th Avenue and 19th Avenue, Block 06216, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #11BK

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

199-14-A

APPLICANT – Alfonso Duarte, for Hector Florimon, owner.

SUBJECT – Application August 20, 2014 – Proposed legalization of accessory parking in open portion of site that lies within a bed of mapped street pursuant to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED – 102-11 Roosevelt Avenue, North side 175.59' west of 103rd Street, Block 01770, Lot 47, Borough of Queens.

COMMUNITY BOARD #4Q

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

67-13-A

APPLICANT – Board of Standards and Appeals
OWNER OF PREMISES – OTR MEDIA GROUP, INC & OTR 945 Zerega.

SUBJECT – Application August 13, 2014 – Reopening by court remand for supplemental review of whether a sign at the subject site was a permitted non-conforming advertising sign in light of the Board's decision in BSA Cal. No. 96-12-A. M1-1 zoning district.

PREMISES AFFECTED – 945 Zerega Avenue, between Quimby Avenue and Bruckner Boulevard, Block 3700, Lot 31, Borough of Bronx.

COMMUNITY BOARD #9BX

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

ZONING CALENDAR

182-14-BZ

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

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

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

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – 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 New York City Department of Buildings ("DOB"), dated July 8, 2014, acting on DOB Application No. 320931328, reads in pertinent part:

1. Proposed plans are contrary to ZR § 23-141(b) in that the proposed Floor Area Ratio (FAR) exceeds the maximum permitted;
2. Proposed plans are contrary to ZR § 23-461(a) in that the proposed side yard is less than the minimum required;
3. Proposed plans are contrary to ZR § 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R5 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio ("FAR"), side yards, and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on April 14, 2015, after due notice by publication in *The City Record*, with a continued hearing on July 21, 2015, and then to decision on September 22, 2015; and

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

WHEREAS, the subject site is located on the east side of Homecrest Avenue, between Avenue S and Avenue T, within an R5 zoning district; and

WHEREAS, the site has 40 feet of frontage along Homecrest Avenue, a depth of 100 feet, and 4,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with attic and cellar, single-family residence with approximately 2,140 sq. ft. of floor area (0.53 FAR); and

WHEREAS, ZR § 73-622 provides that:

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

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

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

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

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

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

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

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

WHEREAS, the applicant initially sought to increase the floor area of the structure from 2,140 sq. ft. (.53 FAR) to 5,156.9 sq. ft. (1.28 FAR); maintain the degree of non-compliance of the northern side yard (which has a width of 2'-1.2") and reduce the southern side yard from a width of 9'-3.6" to a width of 8'-0"; and reduce the existing 43'-0" rear yard to 20'-0"; and

WHEREAS, in response to the Board's concerns that the initially proposed enlargement was not compatible with, and would therefore alter, the essential character of the neighborhood in which the building is located, the applicant modified the proposed enlargement; and

WHEREAS, specifically, at hearing, the Board expressed concern about the impact of the proposed 20'-0" rear yard on the open space at the interior of the subject block; and

WHEREAS, the Board rejected the applicant's proposal to reduce the width of the southern side yard because, notwithstanding that the reduction from 9'-3.6" to 8'-0" would comply with the ZR § 23-461(a) required minimum width of any single side yard, it would result in an increase in the degree of non-compliance with the ZR § 23-461(a) required total width of side yards on the subject lot; and

WHEREAS, thus, the applicant now seeks to enlarge the subject building as follows: (1) increase the floor area of the structure from 2,140 sq. ft. (.53 FAR) to 4,861 sq. ft. (1.22 FAR) (the maximum permitted floor area ratio is 1.25 FAR pursuant to ZR § 23-141(b)); (2) maintain the non-complying northern side yard (which has a width of 2'-1.2") and extend it along the length of the building and maintain the existing 9'-3.6" width of the southern side yard (two side yards with a minimum width of 5'-0" are required, with a total width of 13'-0" pursuant to ZR § 23-461(a)); and (3) reduce the existing rear yard to 20'-0" at the ground floor and 25'-0" at the second floor of the building (a 30'-0" rear yard is required pursuant to ZR § 23-47); and

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

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, on a site within an R5 zoning district, the proposed enlargement of a single-family residence which does not comply with the zoning requirements for floor area ratio ("FAR"), side yards, and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the

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objections above-noted, filed with this application and marked "Received September 2, 2015" –(11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,861 sq. ft. (1.22 FAR), side yards of 2'-1" and 9'-3", and a rear yard with a minimum depth of 20'-0" at the ground floor and 25'-0" at the second floor, all as illustrated on the BSA-approved plans;

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

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by September 22, 2019; and

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

Adopted by the Board of Standards and Appeals, September 22, 2015.

61-15-BZ

CEQR #15-BSA-178M

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

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

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

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings ("DOB"), dated March 10, 2015, acting on Department of Buildings Application No. 121184690, reads in pertinent part:

The proposed Use Group 3A school is not permitted within M1-5 districts, contrary to ZR 42-12; and

WHEREAS, this is an application under ZR §§ 73-19 and 73-03 to permit, on a site within an M1-5 zoning district, within the Special West Chelsea District, the operation of a Use Group 3A school within a nine-story commercial building,

contrary to ZR § 42-10; and

WHEREAS, the application is filed on behalf of 540 West 26th Street Property Investors IIA, LLC (the "Owner"), the owner of the subject site, in order to permit Avenues: The World School (the "School") to operate a portion of its program on the site pursuant to a triple net lease for a term of 28 years¹; and

WHEREAS, a public hearing was held on this application on July 21, 2015, after due notice by publication in the *City Record*, and then to decision on September 22, 2015; and

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

WHEREAS, Community Board 4, Manhattan, recommends approval of this application; and

WHEREAS, the subject site has 200 feet of frontage along the south side of West 26th Street, between 10th Avenue and 11th Avenue, within an M1-5 zoning district, within the Special West Chelsea District, in Manhattan; and

WHEREAS, the site has a lot area of 19,750 sq. ft., and is bounded, to the west, by a Metropolitan Transportation Authority ("MTA") vent structure, to the east, by a 10-story commercial building, and to the south, by three mixed-use commercial and residential buildings of six, one, and 20 stories; and

WHEREAS, the site is currently occupied by a two-story building which will be demolished and replaced with a nine-story building (the "Proposed Building"), which will contain galleries, office space, and the School's proposed use; and

WHEREAS, the Owner represents that the Proposed Building will comply with all applicable bulk regulations, and that all non-School uses within the Proposed Building will comply with all applicable use regulations, both of the M1-5 zoning district as well as the Special West Chelsea District; and

WHEREAS, the School's primary facility is located at 259 Tenth Avenue, approximately 400 feet from the subject site, within the West Chelsea Historic District (the "School Building"); and

WHEREAS, while the School's initial enrollment was 749 students, its current enrollment is approximately 1,375 students, and its projected enrollment within the next ten years is 2,120 students; and

WHEREAS, the School represents that the School Building was designed to accommodate a target enrollment of 1,600 students, necessitating the expansion of the School into the Proposed Building; and

WHEREAS, the School is divided into four component divisions: the Early Learning Center ("ELC"), which is comprised of nursery and pre-kindergarten classes; the "Lower School," comprised of kindergarten through grade 4; the "Middle School," comprised of grades 5 through 8, and the "Upper School," comprised of grades 9 through 12; and

WHEREAS, that portion of the Proposed Building which the School will lease from the Owner (the "School Space") will

¹ Counsel for the Owner of the site is referred to herein as the "Applicant."

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consist of five stories, of which the School will be the only occupant, and will contain approximately 64,437 sq. ft. of floor area; it has been designed to accommodate the School's programmatic needs and will include a devoted entrance, lobby, and elevator bank so that students of the School will be able to move throughout the School Space without accessing any other portion of the Proposed Building; and

WHEREAS, the Owner represents that the School Space will include three floors designed for the ELC and kindergarten classrooms, and one floor of new Science, Technology, Engineering, Arts and Mathematics Program ("STEAM Program") facilities for the Upper School; and

WHEREAS, the Owner notes that the School is not required to secure a permit as a child care service provider under §47.03 of the Health Code; and

WHEREAS, the applicant represents that the proposal meets the requirements of the special permit under ZR § 73-19 to permit a school in an M1-5 zoning district; and

WHEREAS, ZR § 73-19 states that:

In C8 or M1 Districts, the Board of Standards and Appeals may permit *schools* which have no *residential* accommodations except *accessory* accommodations for a caretaker, provided that the following findings are made:

- (a) that within the neighborhood to be served by the proposed *school* there is no practical possibility of obtaining a site of adequate size located in a district wherein it is permitted as of right, because appropriate sites in such districts are occupied by substantial improvements;
- (b) that such *school* is located not more than 400 feet from the boundary of a district wherein such *school* is permitted as of right;
- (c) that an adequate separation from noise, traffic and other adverse effects of the surrounding *non-residential districts* is achieved through the use of sound-attenuating exterior wall and window construction or by the provision of adequate open areas along *lot lines* of the *zoning lot*;
- (d) that the movement of traffic through the *street* on which the *school* is located can be controlled so as to protect children going to and from the *school*. The Board shall refer the application to the Department of [Transportation] for its report with respect to vehicular hazards to the safety of children within the block and in the immediate vicinity of the proposed site.

The Board may prescribe additional appropriate conditions and safeguard to minimize adverse effects on the character of the surrounding area; and

WHEREAS, as to the threshold issue of whether the School qualifies as a School for purposes of ZR § 73-19, the Applicant states that the School meets the ZR § 12-10 definition of "school" because it provides full-time day instruction and a course of study that meets the requirements of Sections 3204, 3205 and 3210 of the New York State Education Law; and

WHEREAS, further, the Applicant submitted copies of the School's Certificate of Amendment (amending its Certificate of Organization) as well as a letter of acknowledging the School's Basic Educational Data System Code number; and

WHEREAS, thus, the Board finds that the School is a school for purposes of ZR § 73-19; and

WHEREAS, with respect to ZR § 73-19(a), an applicant must demonstrate its inability to obtain a site for the development of a school within the neighborhood to be served, and with a size sufficient to meet the programmatic needs of the school, within a district where the school is permitted as-of-right; and

The Neighborhood to be Served

WHEREAS, with respect to the neighborhood to be served, the Applicant maintains, and the Board accepts, that the proposed school use must be in proximity to the existing School Building; and

The School's Programmatic Needs

WHEREAS, the Applicant submits that the School's programmatic needs have changed with the increased enrollment at the School; and

WHEREAS, specifically, with respect to the ELC students, the School maintains that current ELC and kindergarten students spend a significant portion of the school day in transit throughout the existing School Building in order to access, among other things, the rooftop playground, which is only accessible by elevators which serve the entire school population; and

WHEREAS, the School further maintains that that ELC and kindergarten classrooms in the School Building do not have bathrooms connected to said classrooms, and that accompanying three, four and five year old students to restroom facilities requires a significant devotion of staff and time; and

WHEREAS, with respect to the STEAM Program, an interdisciplinary program with a lab and studio-based model in which students complete project-based work, the Applicant states that existing facilities within the School Building are not purpose-built for STEAM Program activities and, as such, are inadequate; and

WHEREAS, in addition to asserting that it is inadequate, the Applicant states that most of the classroom space in the School Building which is currently devoted to the STEAM Program will have to be used to accommodate basic classroom requirements for the expanding student body; and

WHEREAS, the Applicant states that the ELC space within the School Space at the Proposed Building will occupy floors 2 through 4, and will be used by nursery, pre-kindergarten and kindergarten students, each with eight sections of 15, 16 and 20 students; and

WHEREAS, the proposed second floor will contain ELC offices, a reception area, common space for nursery students, approximately eight nursery classrooms, and a rear terrace that will serve as a play area and outdoor classroom; and

WHEREAS, the proposed third floor will contain

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approximately eight pre-kindergarten classrooms, common spaces, a pantry, and a teaching kitchen; and

WHEREAS, the proposed fourth floor will contain approximately eight kindergarten classrooms, common space, a pantry, and a teacher resource area; and

WHEREAS, all of the classrooms within the ELC dedicated space will have bathrooms accessible from within such classrooms; and

WHEREAS, the Applicant submits that, at full enrollment, utilization of homerooms within the ELC and kindergarten dedicated space would range from 77.7% to 83.8% and utilization of programmed space would average 71.3%, with all required movement between floors accomplished via School-devoted elevators or stairs; and

WHEREAS, the Applicant states that, in addition to the foregoing ELC and kindergarten specific space, queuing space will be provided at the lobby of the Proposed Building to meet the School's need to provide safe entry for School students; and

WHEREAS, with respect to the STEAM Program space, the Applicant notes that STEAM programs are increasingly deemed to be essential components of a high school education, and that the STEAM Program floor of the Proposed Building will contain approximately 15,300 gross sq. ft. in order to house a fabrication laboratory, a design studio, three art studios, and three seminar rooms within two science laboratories; and

WHEREAS, the Applicant submits that, at full enrollment, the School will utilize 100% of the classrooms and other sections of the STEAM Program; and

WHEREAS, thus, the Applicant has demonstrated that its stated requirements related to size and configuration are justified by its programmatic needs; and

The Search for an Adequate Site Within a District Where

the School is Permitted As-of-Right

WHEREAS, the Applicant represents that the School has conducted an exhaustive search for potential expansion sites using the following criteria: (1) suitability of the site for educational use; (2) the size (between 60,000 and 80,000 sq. ft. of floor area) and configuration of available space; (3) the ability of the property owner to timely prepare the site for the School's use; (4) distance from the School Building; and (5) cost; and

WHEREAS, the Applicant represents that the School considered 28 sites in Manhattan, 14 of which were located in commercial or residential districts where the school use is permitted as-of-right, including: (1) 210 Eleventh Avenue; (2) 279 10th Avenue; (3) 260 Eleventh Avenue; (4) 251-255 10th Avenue; (5) 550 West 20th Street; (6) 90 Fifth Avenue; (7) 140 West Street; (8) 287 Park Avenue South; (9) 109 East 16th Street; (10) 276 Fifth Avenue; (11) 450 West 41st Street; (12) 500 West 41st Street; (13) 360 West 33rd Street; (14) 13-17 Laight Street; and

WHEREAS, the Applicant represents that each of the foregoing 14 sites was unsuitable for the School's use, in that: (1) 210 Eleventh Avenue did not have sufficient space for the School; (2) 279 10th Avenue was prohibitively

expensive and could not be made available fast enough to meet the School's urgent need; (3) 260 Eleventh Avenue was too large a space and the owner of the site would not divide the space; (4) 251-255 10th Avenue was unavailable because the owner of those parcels was unable to coordinate their availability; (5) 550 West 20th Street is too far from the School Building and unsuitable for educational use; (6) 90 Fifth Avenue is too far from the School Building and cannot be configured to suit the School's programmatic requirements; (7) 140 West Street is too far from the School Building and cannot be configured to suit the School's programmatic requirements; (8) 287 Park Avenue South is too far from the School Building and is prohibitively expensive; (9) 109 East 16th Street is too far from the School Building and could not be made available fast enough to meet the School's urgent need; (10) 276 Fifth Avenue is too far from the School Building and cannot be configured to suit the School's programmatic requirements; (11) 450 West 41st Street is too far from the School Building and unsuitable for educational use; (12) 500 West 41st Street is too far from the School Building and unsuitable for educational use; (13) 360 West 33rd Street is too far from the School Building and could not be made available fast enough to meet the School's urgent need; (14) 13-17 Laight Street is too far from the School Building, prohibitively expensive, and unsuitable for educational use because of traffic and access concerns; and

WHEREAS, thus, the Applicant maintains that the site search establishes that there is no practical possibility of obtaining a site of adequate size in a nearby zoning district where a school would be permitted as-of-right; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (a) are met; and

WHEREAS, ZR § 73-19 (b) requires an applicant to demonstrate that the proposed school is located no more than 400 feet from the boundary of a district in which such a school is permitted as-of-right; and

WHEREAS, the Applicant states that the Proposed Building is immediately adjacent to a C6-3 zoning district boundary line and that the entire site is within 400 feet of said C6-3 zoning district, and notes that school uses are permitted as-of-right in C6-3 zoning districts; and

WHEREAS, the Applicant submitted a radius diagram which reflects that the subject site is adjacent to a C6-3 zoning district; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (b) are met; and

WHEREAS, ZR § 73-19 (c) requires an applicant to demonstrate how it will achieve adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district; and

WHEREAS, the Applicant states that the Proposed Building has been designed for the School's use, and represents that sound will be attenuated by the Proposed Building's curtain wall system and 8'-10" concrete slabs between floors; and

WHEREAS, the Applicant states that peak exterior noise levels at the site are below 70 dBA, and notes that the

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CEQR Technical Manual recommends that buildings with school uses should be designed to maintain interior noise levels of 45 dBA or lower; and

WHEREAS, the Applicant states that the windows in the Proposed Building will be made of at least one-inch insulated glass and that the Proposed Building will consist of nearly 100% glazing with minimal framing and with no features that will allow for substantial noise transmission, thus, the Applicant maintains, the interior noise level of the Proposed Building will be 45 dBA or lower (specifically, the Applicant maintains that the interior noise level of the Proposed Building will be between 21.7 dBA and 27.5 dBA); and

WHEREAS, as discussed in greater detail, below, the Applicant represents that students at the Proposed Building will be separated from traffic on West 26th Street; specifically, the Applicant notes that ELC students will be accompanied by parents or School employees at all times during their arrival and departure from the Proposed Building, and that designated School faculty and staff will be deployed along the Proposed Building's West 26th Street frontage to ensure that ELC students are within designated drop-off and pick-up zones as they enter and exit vehicles; and

WHEREAS, the Applicant notes that neither ELC, kindergarten, nor Upper School students will have to cross any street when traveling between the Proposed Building and the School Building; and

WHEREAS, the Board finds that the conditions surrounding the site and the Proposed Building's use will adequately separate the proposed school use from noise, traffic and other adverse effects of any of the uses within the surrounding M1-5 zoning district; thus, the Board finds that the requirements of ZR § 73-19 (c) are met; and

WHEREAS, ZR § 73-19 (d) requires an applicant to demonstrate how the movement of traffic through the street on which the school will be located can be controlled so as to protect children traveling to and from the school; and

WHEREAS, with respect to ELC and kindergarten students, the School represents that all will be escorted into and away from the Proposed Building, either by their parents or by School personnel, and further represents that because there is adequate space within the School Space, no students will have to wait on the street when they arrive at the Proposed Building; and

WHEREAS, with respect to the Upper School students accessing the School Space to use the STEAM Program classrooms, the School represents that all such students will be able to walk from the School Building to the Proposed Building without crossing any streets, and notes that students are familiar with this route as they currently travel past the subject site when walking from the School Building to the School's physical education classes at Chelsea Piers; and

WHEREAS, the Applicant notes that the incremental increase in vehicular traffic on West 26th Street caused by the School's expansion will not be significant; and

WHEREAS, the Board referred the application to the School Safety Engineering Office of the Department of

Transportation ("DOT"); and

WHEREAS, by letter dated June 1, 2015, DOT states that it has no objection to the proposed construction and will, upon approval of the application, prepare a safe route plan; and

WHEREAS, by letter dated September 18, 2015, DOT, as an interested agency in the Board's CEQR review of the subject application, makes the following recommendations which the Board hereby incorporates as conditions to this approval:

- (1) Once the School is operating in the School Space, it must, if needed based on field conditions, contact in writing, with a copy to BSA and DOT, the parties responsible for the packages located in front of the stairs at 516 and 526 West 26th Street to relocate the packages to an area not directly fronting the stairs of each property so that a wider sidewalk width is provided;
- (2) The Applicant must petition DOT to designate the existing curbside regulations applicable to the West 26th Street frontage of the subject site "NO STANDING 7:00 AM-6:30 PM SCHOOL DAYS";
- (3) The School must work with DOT to develop a comprehensive transportation management plan ("TMP") to enhance pedestrian safety and minimize potential pedestrian/vehicle conflicts, which (a) will be in effect on school days from 7:30 AM to 4:00 PM when School faculty and staff escort students from the proposed pick-up and drop-off zone to their classrooms, (b) will be at the sole cost and expense of the School, and (c) will require (i) that the School provide two monitors to supervise drop-off and pick-up, and to ensure the smooth flow of traffic by minimizing the instance of double or illegal parking in front of the Proposed Building; (ii) for each bus, a designated faculty member to be in charge of transferring students to their classrooms; (iii) that during departure time, upon the arrival of each bus, a traffic monitor communicate via radio to a designated faculty member that said faculty member must prepare to transfer students to said bus; (iv) that after 4:00 PM, ESL students will be picked up inside the Proposed Building and escorted away by a parent or approved guardian bearing a school-issued identification badge; (v) that no busses will pick up students from after-school programs; (vi) that parents of after-school students will be informed that they are not permitted to double-park or illegally park in front of the Proposed Building;
- (4) School security guards must be present at the Proposed Building as well as the School Building during School hours and that there

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will be an open line for radio communication between guards at all times and that (a) when students utilizing the STEAM Program classrooms in the Proposed Building exit either the Proposed Building or the School Building, the guard at such building will alert the guard at the other building that students are travelling between the two buildings, and a guard will go out onto the street to monitor the students' travel; and (b) if a delivery truck is blocking a sidewalk, School personnel must stand next to the truck and monitor students' safe passage around it; and

- (5) The School must reevaluate the pedestrian management and safety needs in the future conditions after the School becomes operational in the Proposed Building as described in the Environmental Assessment Statement to assess the pedestrian safety for the student population at the Proposed Building as well as any increase in student population at the School Building; and

WHEREAS, the Board finds that the above-mentioned measures will control traffic so as to protect children going to and from the proposed school; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (d) are met; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-19; 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, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-03; and

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

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement ("EAS") CEQR No. No. 15-BSA-178M, dated September 22, 2015; and

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

WHEREAS, 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, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-19 and 73-03 and grants a special permit, to allow, on a site within an M1-5 zoning district, within the Special West Chelsea District, the operation of a Use Group 3A school within a nine-story commercial building, contrary to ZR § 42-10; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 19, 2015" – Seventeen (17) sheets; 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);

THAT once the School is operating in the School Space, it must, if needed based on field conditions, contact in writing, with a copy to BSA and DOT, the parties responsible for the packages located in front of the stairs at 516 and 526 West 26th Street to relocate the packages to an area not directly fronting the stairs of each property so that a wider sidewalk width is provided;

THAT the Applicant must petition DOT to designate the existing curbside regulations applicable to the West 26th Street frontage of the subject site "NO STANDING 7:00 AM-6:30 PM SCHOOL DAYS";

THAT the School must work with DOT to develop a comprehensive transportation management plan ("TMP") to enhance pedestrian safety and minimize potential pedestrian/vehicle conflicts, which (a) will be in effect on school days from 7:30 AM to 4:00 PM when School faculty and staff escort students from the proposed pick-up and drop-off zone to their classrooms, (b) will be at the sole cost and expense of the School, and (c) will require (i) that the School provide two monitors to supervise drop-off and pick-up, and to ensure the smooth flow of traffic by minimizing the instance of double or illegal parking in front of the Proposed Building; (ii) for each bus, a designated faculty member to be in charge of transferring students to their classrooms; (iii) that during departure time, upon the arrival of each bus, a traffic monitor communicate via radio to a designated faculty member that said faculty member must prepare to transfer students to said bus; (iv) that after 4:00 PM, ESL students will be picked up inside the Proposed Building and escorted away by a parent or approved guardian bearing a school-issued identification badge; (v) that no busses will pick up students from after-school programs; (vi) that parents of after-school students will be informed that they are not permitted to double-park or illegally park in front of the Proposed Building;

THAT School security guards must be present at the

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Proposed Building as well as the School Building during School hours and that there will be an open line for radio communication between guards at all times and that (a) when students utilizing the STEAM Program classrooms in the Proposed Building exit either the Proposed Building or the School Building, the guard at such building will alert the guard at the other building that students are travelling between the two buildings, and a guard will go out onto the street to monitor the students' travel; and (b) if a delivery truck is blocking a sidewalk, School personnel must stand next to the truck and monitor students' safe passage around it; and

THAT the School must reevaluate the pedestrian management and safety needs in the future conditions after the School becomes operational in the Proposed Building as described in the Environmental Assessment Statement to assess the pedestrian safety for the student population at the Proposed Building as well as any increase in student population at the School Building; and

THAT any change in the operator of the school requires review and approval by the Board;

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

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

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

Adopted by the Board of Standards and Appeals, September 22, 2015.

72-15-BZ

CEQR #15-BSA-187K

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Florence Polizzotto, owner; Blink Flatlands Avenue, Inc., lessee.

SUBJECT – Application March 31, 2015 – Special Permit (§73-36) to permit a physical culture establishment (*Blink Fitness*) within an existing commercial building under alteration. C2-3(R5D+R4-1) zoning district.

PREMISES AFFECTED – 9029 Flatlands Avenue, northeast corner of intersection of Flatlands Avenue and East 92nd Street, Block 08179, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated March 26, 2015, acting on DOB Application No. 321096452, reads, in pertinent part:

Proposed physical culture establishment in C2-3

zoning district is contrary to section 32-10 ZR and requires a special permit from BSA (73-36); and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site partially within an R5D (C2-3) zoning district, partially within an R4-1 (C2-3) zoning district, partially within an R4-1 zoning district, and partially within an R5D zoning district, a physical culture establishment (the “PCE”) on the first and second floors of a proposed two-story building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on September 18, 2015, after due notice by publication in the *City Record*, and then to decision on September 22, 2015; and

WHEREAS, Commissioner Ottley-Brown performed a site and neighborhood inspection of the premises and surrounding area; and

WHEREAS, Community Board 18, Brooklyn, recommends that the Board approve this application; and

WHEREAS, the subject site is a corner lot with approximately 100 feet of frontage along East 92nd Street and approximately 160 feet of frontage along Flatlands Avenue, in Brooklyn; and

WHEREAS, the site contains approximately 16,695 sq. ft. of lot area and is located partially within an R5D (C2-3) zoning district, partially within an R4-1 (C2-3) zoning district, partially within an R4-1 zoning district, and partially within an R5D zoning district; and

WHEREAS, the applicant states more than 50 percent of the lot area of the site is located within the C2-3 overlay, and that the greatest distance from the C2-3 district boundary to a lot line not within the C2-3 overlay does not exceed 25 feet, thus the C2-3 use and bulk regulations may apply to the entire site; and

WHEREAS, the site is occupied by a vacant one-story building; the owner of the subject site has filed an application to add a second floor to the existing one-story building; and

WHEREAS, the PCE shall occupy a total of 15,101 sq. ft. of floor area in the proposed two-story building; 5,962 sq. ft. of floor area on the first floor and 9,139 sq. ft. of floor area on the second floor; and

WHEREAS, the PCE shall operate as Blink Fitness; and

WHEREAS, the PCE will operate Monday through Saturday, from 5:30 a.m. to 11:00 p.m., and on Sunday from 7:00 a.m. through 9:00 p.m.; and

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

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

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

WHEREAS, 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

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

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

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

WHEREAS, the Board has conducted a review of the proposed Type II action discussed in the CEQR Checklist No. 15-BSA-187K, dated March 31, 2015; 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 partially within an R5D (C2-3) zoning district, partially within an R4-1 (C2-3) zoning district, partially within an R4-1 zoning district, and partially within an R5D zoning district, a physical culture establishment (the "PCE") on the first and second floors of a proposed two-story building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received September 4, 2015" - Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant shall expire on September 22, 2025;

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

THAT the PCE will operate Monday through Saturday, from 5:30 a.m. to 11:00 p.m., and on Sunday from 7:00 a.m. through 9:00 p.m.;

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

THAT sound and vibration attenuation measures shall be installed and/or maintained as shown on the BSA-approved plans;

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by September 22, 2019;

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

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

THAT DOB must ensure compliance with all 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, September 22, 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 December 1, 2015, at 10 A.M., for continued hearing.

30-12-BZ

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

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

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

COMMUNITY BOARD #7Q

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

193-13-BZ

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

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

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

COMMUNITY BOARD #12BX

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

264-13-BZ

APPLICANT – Francis R. Angelino, Esq., for David Lowenfeld, owner; BB Fitness dba Brick Crossfit NYC, lessee.

SUBJECT – Application September 6, 2013 – Special Permit (§73-36) to legalize a physical culture establishment

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(Brick CrossFit) on the ground floor and cellar of an existing 10-story building. C6-2A zoning district.

PREMISES AFFECTED – 257 West 17th Street, north side, West 17th Street, between 7th & 8th Avenues, Block 767, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

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

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

303-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for SoBro Development Corporation, owner.

SUBJECT – Application November 15, 2013 – Variance (§72-21) to allow a new mixed use building with 36 residential units and community facility space. R6 & C1-4 zoning districts.

PREMISES AFFECTED – 506-510 Brook Avenue, east side of Brook Avenue between 147th and 148th Street, Block 2274, Lot(s) 6, 7 and 8, Borough of Bronx.

COMMUNITY BOARD #1BX

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

5-14-BZ

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

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

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

COMMUNITY BOARD #15BK

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

29-14-BZ

APPLICANT – Lewis Garfinkel for Leon Goldenberg, owner.

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

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

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to

November 17, 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 November 17, 2015, at 10 A.M., for continued hearing.

59-14-BZ

APPLICANT – Caroline G. Harris, for School Settlement Association Inc., owner.

SUBJECT – Application April 10, 2014 – Variance (§72-21) to permit the construction of a four-story plus penthouse community facility (UG 4), contrary to (24-11). R6B zoning district.

PREMISES AFFECTED – 114-122 Jackson Street, located on the SW corner of the Intersection of Jackson Street and Manhattan Avenue. Block 2748, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #1BK

THE VOTE TO CLOSE HEARING –

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

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

173-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 244 Madison Realty Corp., owner; Coban's Muay Thai Camp NYC, lessee.

SUBJECT – Application July 22, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Evolution Muay Thai Camp*) in the cellar of an existing 16-story mixed-used residential and commercial building, located within an C5-2 zoning district.

PREMISES AFFECTED – 20 East 38th Street aka 244 Madison Avenue, southwest corner of Madison Avenue and East 38th Street, Block 867, Lot 57, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for decision, hearing closed.

MINUTES

219-14-BZ

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

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

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

COMMUNITY BOARD #6BK

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for decision, hearing closed.

220-14-BZ and 221-14-BZ

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

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

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

COMMUNITY BOARD #8K

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for decision, hearing closed.

319-14-BZ

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

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

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

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to December 1, 2015, at 10 A.M., for decision, hearing closed.

REGULAR MEETING

TUESDAY AFTERNOON, SEPTEMBER 22, 2015

1:00 P.M.

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

ZONING CALENDAR

69-15-BZ

APPLICANT – Glenn V. Cutrona, AIA, for Murray Page 74 LLC, owner.

SUBJECT – Application March 30, 2015 – Variance (§72-21) a proposed eating and drinking establishment with accessory drive through facility, located within an R3X/C1-1/SRD zoning district.

PREMISES AFFECTED – 245 Page Avenue, between Richmond Valley Road and Amboy Road, Block 08008, Lot 74, Borough of Staten Island.

COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to October 16, 2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director