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# BULLETIN

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

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Tuesday, August 20, 2013**

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608-70-BZ	351-361 Neptune Avenue, Brooklyn
139-92-BZ	52-15 Roosevelt Avenue, Queens
199-00-BZ	76-19 Roosevelt Avenue, Queens
228-00-BZ	28/32 Locust Street, Brooklyn
220-07-BZ	847 Kent Avenue, Brooklyn
220-10-BZY	77, 79, 81 Rivington Street, Manhattan
317-12-A	40-40 27 <sup>th</sup> Street, Queens
166-13-A	945 Madison Avenue, Manhattan
127-13-A	332 West 87 <sup>th</sup> Street, Manhattan
126-13-A	65-70 Austin Street, Queens
134-13-A	538 10 <sup>th</sup> Avenue, Manhattan
143-11-A thru 146-11-A	20, 25, 35, 40 Harborlights Court, Staten Island
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59-12-BZ	240-27 Depew Avenue, Queens
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50-12-BZ	177-60 South Conduit Avenue, Queens
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109-13-BZ	80 John Street, Manhattan
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211-13-BZ	346 Broadway, Manhattan

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# DOCKETS

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New Case Filed Up to August 20, 2013  
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## **234-13-BZ**

1653 Ryder Street, Located on the northeast side of Ryder Street between Quentin road and Avenue P., Block 7863, Lot(s) 18, Borough of **Brooklyn, Community Board: 18**. Variance (§72-21) to permit the enlargement of an existing two-family detached residence contrary to §23-45(a) (minimum required front yard) and §23-47 minimum rear yard. R3-2 zoning district. R3-2 district.  
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## **235-13-BZ**

132 West 31st Street, south side of West 31st Street, 350 Ft. East of 7th Avenue and West 31st Street., Block 806, Lot(s) 58, Borough of **Manhattan, Community Board: 5**. Special Permit (§73-36) to permit the operation of a physical culture establishment within an existing commercial building. M1-6 zoning district. M1-6 district.  
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## **236-13-BZ**

423 West 55th Street, Located on the north side of west 55th street approximately 275 feet east of the intersection formed by 10th avenue and west 55th street., Block 1065, Lot(s) 12, Borough of **Manhattan, Community Board: 4**. Special Permit (§73-36) to permit the operation of a physical culture establishment (Fitness center) on the first and the mezzanine floors of the existing building; Special Permit (§73-52) to allow the fitness center use to extend twenty-five feet into the R8 portion of a zoning lot that is spilt by district boundaries. C6-2 & R8 zoning district. C6-2; R8 district.  
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## **237-13-A**

11 Nino Court, 128.75 ft. south of intersection of Bedell Avenue and Hylan Boulevard., Block 7780, Lot(s) 22, Borough of **Staten Island, Community Board: 3**. Appeals from decisions of Borough Commissioner denying permission for proposed construction of eight buildings that do not front on a legally mapped street. R3X(SRD) district.  
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## **238-13-A**

12 Nino court, 128.75 ft. south of intersection of Bedell Avenue and Hylan Boulevard., Block 7780, Lot(s) 30, Borough of **Staten Island, Community Board: 3**. Appeals from decisions of Borough Commissioner denying permission for proposed construction of eight buildings that do not front on a legally mapped street. R3X(SRD) district.  
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## **239-13-A**

15 Nino Court, 128.75 ft. south of intersection of Bedell Avenue and Hylan Boulevard., Block 7780, Lot(s) 24, Borough of **Staten Island, Community Board: 3**. Appeals from decisions of Borough Commissioner denying permission for proposed construction of eight buildings that do not front on a legally mapped street. R3X(SRD) district.  
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## **240-13-A**

16 Nino Court, 128.75 ft. south of intersection of Bedell and Hylan Boulevard., Block 7780, Lot(s) 32, Borough of **Staten Island, Community Board: 3**. Appeals from decisions of Borough Commissioner denying permission for proposed construction of eight buildings that do not front on a legally mapped street. R3X(SRD) district.  
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## **241-13-A**

19 Nino Court, 128.75 ft. south of intersection of Bedell Avenue and Hylan Boulevard., Block 7780, Lot(s) 26, Borough of **Staten Island, Community Board: 3**. Appeals from decisions of Borough Commissioner denying permission for proposed construction of eight buildings that do not front on a legally mapped street. R3X(SRD) district.  
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## **242-13-A**

20 Nino Court, 128.75 ft. south of intersection of Bedell Avenue and Hylan Boulevard., Block 7780, Lot(s) 34, Borough of **Staten Island, Community Board: 3**. Appeals from decisions of Borough Commissioner denying permission for proposed construction of eight buildings that do not front on a legally mapped street. R3X(SRD) district.  
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**DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.**

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# CALENDAR

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**SEPTEMBER 17, 2013, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, September 17, 2013, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

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**SPECIAL ORDER CALENDAR**

**519-57-BZ**

APPLICANT – Eric Palatnik, P.C., for BP Amoco Corporation, owner.

SUBJECT – Application June 19, 2013 – Extension of Term Special Permit (§11-411) of an approved variance which permitted the operation and maintenance of a gasoline service station( Use Group 16B) and accessory uses which expired on June 19, 2013. R3-1/C2-1 zoning district.

PREMISES AFFECTED – 2071 Victory Boulevard, northwest corner of Bradley Avenue and Victory Boulevard, Block 462, Lot 35, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

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**189-96-BZ**

APPLICANT – John C Chen, for Ping Yee, owner; Club Flamingo, lessee.

SUBJECT – Application May 14, 2013 – Extension of Term for a previously granted Special Permit (§73-244) of a UG12 Eating and Drinking establishment with entertainment and dancing which expires on May 19, 2013. C2-3/R6 zoning district.

PREMISES AFFECTED – 85-10/12 Roosevelt Avenue, south side of Roosevelt Avenue, 58’ east side of Forley Street, Block 1502, Lot 4, Borough of Queens.

**COMMUNITY BOARD #4Q**

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**APPEALS CALENDAR**

**41-11-A**

APPLICANT – Eric Palatnik, P.C., for Sheryl Fayena, owner.

SUBJECT – Application April 12, 2011 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development under the prior R-6 zoning district. R4 Zoning District.

PREMISES AFFECTED – 1314 Avenue S, between East 13th and East 14th Streets, Block 7292, Lot 6, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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**70-13-A**

APPLICANT – Goldman Harris LLC, for JIM Trust (c/o Esther Freund), owners; OTR Media Group, Inc., lessee.

SUBJECT – Application February 13, 2013 – Appeal of DOB determination that the subject advertising sign is not entitled to non-conforming use status.M1-2/R6(MX-8) zoning districts.

PREMISES AFFECTED – 84 Withers Street, between Meeker Avenue and Leonard Street on the south side of Withers Street, Block 2742, Lot 15, Borough of Bronx.

**COMMUNITY BOARD #1BX**

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**71-13-A**

APPLICANT – Goldman Harris LLC, for Tuck-It-Away Associates-Deegan, LLC, owners; OTR Media Group, Inc., lessee.

SUBJECT – Application February 13, 2013 – Appeal of DOB determination that the subject advertising sign is not entitled to non-conforming use status. M1-4/R6A (MX-13) zoning districts.

PREMISES AFFECTED – 261 Walton Avenue, through-block lot on block bounded by Gerard and Walton Avenues and East 138th and 140th Streets, Block 2344, Lot 60, Borough of Bronx.

**COMMUNITY BOARD #1BX**

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**ZONING CALENDAR**

**299-12-BZ**

APPLICANT – Goldman Harris LLC, for 544 Hudson Street, owner.

SUBJECT – Application October 18, 2012 – Variance (§72-21) to waive the required FAR, height and setback, and rear yard requirements to facilitate the construction of a twelve-story office building with the first and second stories devoted to retail uses. M1-5 zoning district.

PREMISES AFFECTED – 40-56 Tenth Avenue, east side of Tenth Avenue between West 13th and West 14th Streets, Block 646, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #2M**

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**6-13-BZ**

APPLICANT – Sheldon Lobel, P.C., for Yeshiva Ohr Yisrael, owner.

SUBJECT – Application January 11, 2013 – Variance (§72-21) to permit the construction of a synagogue and school (Yeshiva Ohr Yisrael) at the premises, which is contrary to bulk regulations for community facility in the residential use districts. R3-2 zoning district.

PREMISES AFFECTED – 2899 Nostrand Avenue, east side of Nostrand Avenue, Avenue P and Marine Parkway, Block 7691, Lot 13, Brooklyn of Brooklyn.

**COMMUNITY BOARD #18BK**

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# CALENDAR

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## 105-13-BZ

APPLICANT – Law Office of Fred A Becker, for Nicole Orfali and Chaby Orfali, owners.

SUBJECT – Application April 18, 2013 – Special Permit (§73-622) for the enlargement of an existing single home contrary to floor area, open space and lot coverage (ZR 23-141); side yard (ZR 23-461); perimeter wall height (ZR 23-631) and less than the minimum rear yard (ZR 23-47). R3-2 zoning district.

PREMISES AFFECTED – 1932 East 24th street, west side of East 24th street, between Avenue S and Avenue T, Block 7302, Lot 19, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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## 133-13-BZ

APPLICANT – Sheldon Lobel, PC, for Evangelical Church Letting Christ Be known, Inc., owner.

SUBJECT – Application May 10, 2013 – Variance (§72-21) to permit the construction of a new two-story community facility (UG 4A house of worship) (*Evangelical Church*) building is contrary to rear yard (§24-33(b) & §24-36), side yard (§24-35(a)) and front yard requirements (§25-34) zoning requirements. R4 zoning district.

PREMISES AFFECTED – 1915 Bartow Avenue, northwest corner of Bartow Avenue and Grace Avenue, Block 4799, Lot 16, Borough of Bronx.

**COMMUNITY BOARD #12BX**

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## 169-13-BZ

APPLICANT – Greenberg Traurig, for Joseph Schottland, owner.

SUBJECT – Application June 5, 2013 – Special Permit (§73-621) to permit the legalization of an enlargement of a two-family residence in an R-6 zoning district which; would allow the floor area on the property to exceed the floor area permitted under the district regulations by no more than 10%; contrary to §23-145. R6 (LH-1) zoning district.

PREMISES AFFECTED – 227 Clinton Street, east side of Clinton Street, 100' north of the corner formed by the intersection of Congress Street and Clinton Street, Block 297, Lot 5, Borough of Brooklyn.

**COMMUNITY BOARD #6BK**

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*Jeff Mulligan, Executive Director*

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# MINUTES

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**REGULAR MEETING  
TUESDAY MORNING, AUGUST 20, 2013  
10:00 A.M.**

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

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**SPECIAL ORDER CALENDAR**

**608-70-BZ**

APPLICANT – Walter T. Gorman, P.E., P.C., for Neptune Avenue Property LLC, owner. Dunkin Donuts Corporate Office, lessee.

SUBJECT – Application January 22, 2013 – Amendment (§11-413) to convert the previously granted UG16B automotive service station to a UG6 eating and drinking establishment (*Dunkin' Donuts*). R6 zoning district.

PREMISES AFFECTED – 351-361 Neptune Avenue, north west corner Brighton 3rd Street, Block 7260, Lot 101, Borough of Brooklyn.

**COMMUNITY BOARD #13BK**

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**THE RESOLUTION:**

WHEREAS, this is an application for a reopening and a change in use from an automotive service station (Use Group 16) to an eating and drinking establishment (Use Group 6); and

WHEREAS, a public hearing was held on this application on June 4, 2013, after due notice by publication in the *City Record*, with a continued hearing on July 16, 2013, and then to decision on August 20, 2013; and

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

WHEREAS, Community Board 13, Brooklyn, recommends approval of the application; and

WHEREAS, the site is located on the northwest corner of Neptune Avenue and Brighton 3<sup>rd</sup> Street, in an R6 zoning district within the Special Ocean Parkway District; and

WHEREAS, the site is currently occupied by a vacant one-story building constructed for gasoline service station use; and

WHEREAS, on November 15, 1949, under BSA Cal. No. 632-49-BZ, the Board granted a variance to permit the site to be operated as a storage garage for more than five motor vehicles, gasoline service station, lubrication, motor vehicle repair shop, and offices; the grant did not include a

term; and

WHEREAS, on December 15, 1970, under the subject calendar number, the Board granted an application to permit the reconstruction and reduction in area of the building and the use of the site as an automotive service station with accessory parking and other accessory use; the grant did not include a term; and

WHEREAS, most recently, on May 7, 2002, the Board amended the approval to permit the conversion of three service bays to an accessory convenience store and the installation of a new canopy over the existing pump islands; and

WHEREAS, the applicant states that the work approved under the 2002 amendment was never performed and the service station no longer operates at the site; and

WHEREAS, the applicant states that the storage tanks associated with the gasoline service station have been closed and removed in accordance with New York State Department of Environmental Conservation requirements; and

WHEREAS, the applicant now proposes to renovate the existing building to accommodate the proposed Use Group 6 eating and drinking establishment, to be operated as Dunkin' Donuts open 24 hours, daily; and

WHEREAS, pursuant to ZR § 11-413, the Board may grant a request for a change in use from one non-conforming use to another non-conforming use which would be permitted under one of the provisions applicable to non-conforming uses as set forth in ZR §§ 52-31 to 52-36; and

WHEREAS, the applicant represents that its request for a change in use from a Use Group 16 use to a Use Group 6 use is permitted pursuant to ZR § 52-34; and

WHEREAS, the applicant states that the change in use will not alter the essential character of the neighborhood, as a Use Group 16 use operated at the site for more than 40 years, and the surrounding area has a number of ground floor commercial uses; and

WHEREAS, at hearing, the Board questioned whether (1) the parking spaces were all functional and necessary to accommodate the demand, particularly the two spaces adjacent to the dumpster enclosure; (2) the exhaust and air condensers could be located further from residential uses to mitigate any sound impacts; (3) the lighting could be softened to reduce the impact on adjacent residential uses; and (4) the garbage pickup could be restricted to hours that are compatible with adjacent residential uses; and

WHEREAS, in response, the applicant (1) stated that all parking spaces are functional and necessary to accommodate the peak demand of 10-12 spaces and that it will post signage at the two spaces adjacent to the dumpster stating that parking is prohibited there during garbage collection hours; (2) proposes a split system which allows the condenser to be located on the ground, rather than the roof and provided revised plans showing the relocation of the condenser units to the walkway adjacent to the building on the Brighton 3<sup>rd</sup> Street side and the exhaust fans in a different location on the roof; (3) provided specifications on

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shielded lighting, which is directed down and away from residential uses; and (4) agreed to restrict the garbage pickup hours to times between 8:00 a.m. and 6:00 p.m.; and

WHEREAS, the applicant also submitted a plan sheet which reflects the traffic flow designed to allow maneuverability; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 11-413.

*Therefore it is Resolved*, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated December 15, 1970, so that as amended this portion of the resolution shall read: "to permit a change in use from gasoline service station (Use Group 16) to an eating and drinking establishment (Use Group 6); *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 July 31, 2013"-(7) sheets; and *on further condition*:

THAT garbage pickup will be limited to times between the hours of 8:00 a.m. and 6:00 p.m.;

THAT the signage will comply with C1 zoning district regulations;

THAT that a sign be posted outside of the dumpster enclosure prohibiting parking there between the hours of 8:00 a.m. to 6:00 p.m.

THAT all lighting include shields and be directed downward and away from adjacent residential uses;

THAT the above conditions will be listed on the certificate of occupancy;

THAT all construction will be completed and a certificate of occupancy will be obtained by August 20, 2015;

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

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, August 20, 2013.

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## 228-00-BZ

APPLICANT – Sheldon Lobel, P.C. for Hoffman & Partners LLC, owner.

SUBJECT – Application August 10, 2012 – Extension of time to complete construction of a previously approved variance (§72-21) which permitted the conversion of a vacant building in a manufacturing district for residential use (UG 2), which expired on May 15, 2005; Amendment for

minor modifications to approved plans; Waiver of the Rules. M1-1 zoning district.

PREMISES AFFECTED – 28/32 Locust Street, southeasterly side of Locust Street between Broadway and Beaver Street. Block 3135, Lot 16. Borough of Brooklyn.  
**COMMUNITY BOARD #4BK**

**ACTION OF THE BOARD** – Laid over to September 10, 2013, at 10 A.M., for deferred decision.

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## 139-92-BZ

APPLICANT – Samuel H. Valencia

SUBJECT – Application May 20, 2013 – Extension of term for a previously granted special permit (§73-244) for the continued operation of a UG12 eating and drinking establishment with dancing (*Deseos*) which expired on March 7, 2013; Waiver of the Rules. C2-2/R6 zoning district.

PREMISES AFFECTED – 52-15 Roosevelt Avenue, North side 125.53' east of 52<sup>nd</sup> Street, Block 1316, Lot 76, Borough of Queens.

**COMMUNITY BOARD #2Q**

**ACTION OF THE BOARD** – Laid over to September 24, 2013, at 10 A.M., for continued hearing.

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## 199-00-BZ

APPLICANT – Alfonso Duarte, P.E., for EN PING C/O Baker, Esq., owner; KAZ Enterprises Inc., lessee.

SUBJECT – Application March 28, 2013 – Extension of term of a previously granted special permit (§73-244) for the continued operation of a UG 12 eating and drinking establishment without restrictions on entertainment (*Club Atlantis*) which expired on March 13, 2013. C2-3/R6 zoning district.

PREMISES AFFECTED – 76-19 Roosevelt Avenue, northwest corner of Roosevelt Avenue and 77th Street, Block 1287, Lot 37, Borough of Queens.

**COMMUNITY BOARD #3Q**

THE VOTE TO CLOSE HEARING –  
Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 17, 2013, at 10 A.M., for decision, hearing closed.

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## 220-07-BZ

APPLICANT – Eric Palatnik, P.C., for Kornst Holdings, LLC, owner.

SUBJECT – Application July 11, 2013 – Extension of time to complete construction of a previously granted variance (§72-21) which permitted the construction of a new four-story residential building containing four dwelling units, which expires on November 10, 2013. M1-1 zoning district.

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PREMISES AFFECTED – 847 Kent Avenue, East side of Kent Avenue, between Park Avenue and Myrtle Avenue, Block 1898, Lot 10, Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 17, 2013, at 10 A.M., for decision, hearing closed.

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## APPEALS CALENDAR

**220-10-BZY**

APPLICANT – Goldman Harris LLC, Orchard Hotel LLC,c/o Maverick Real Estate Partners, vendee ,DAB Group LLC, owner.

SUBJECT – Application March 11, 2013 – Extension of time to complete construction (§11-332) and obtain a Certificate of Occupancy of a previous vested rights approval, which expired on March 15, 2013. Prior zoning district C6-1. C4-4A zoning district.

PREMISES AFFECTED – 77, 79, 81 Rivington Street, a/k/a 139 , 141 Orchard Street , northern p/o block bounded by Orchard Street to the east, Rivington Street to the north, Allen Street to the west, and Delancy Street to the south, Block 415, Lot 61-63, 66, 67, Borough of Manhattan.

**COMMUNITY BOARD #3M**

**ACTION OF THE BOARD** – Application granted  
THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application under ZR § 11-332, to permit an extension of time to complete construction and obtain a certificate of occupancy for a minor development currently under construction at the subject site; and

WHEREAS, a public hearing was held on this application on July 23, 2013, after due notice by publication in *The City Record*, and then to decision on August 20, 2013; and

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

WHEREAS, the subject site is a through-block site with frontages on the west side of Orchard Street, the south side of Rivington Street, and the east side of Allen Street; and

WHEREAS, the site has a width of 87'-9" and a depth of 127'-3", and a total lot area of approximately 9,828 sq. ft.; and

WHEREAS, the subject site is a single zoning lot comprising five separate tax lots (Lots 61, 62, 63, 66 and 67); and

WHEREAS, the applicant proposes to construct a 16-story transient hotel (Use Group 5) building (the "Building") on Lots 61, 66 and 67, utilizing development rights transferred from Lots 62 and 63; the existing building located on Lot 62 will remain; and

WHEREAS, the Building is proposed to have a total floor area of approximately 39,064 sq. ft., which contributes to a total FAR of 6.0 for the entire zoning lot, and a building height of 191'-0"; and

WHEREAS, the site was formerly located within a C6-1 zoning district; and

WHEREAS, on September 29, 2008, Alteration Type 2 Permit No. 110251361-EW-OT (the "Foundation Permit") was issued by the Department of Buildings ("DOB") permitting excavation of the premises and the construction of the foundation of the Building, and work commenced on October 14, 2008; on November 19, 2008, New Building Permit No. 104870392-01-NB (the "New Building Permit") was issued by DOB permitting the construction of the Building (collectively, the "Permits"); and

WHEREAS, on November 19, 2008 (hereinafter, the "Enactment Date"), the City Council voted to enact the East Village/Lower East Side Rezoning, which changed the zoning district to C4-4A; and

WHEREAS, as of that date, the applicant had obtained the Permits for the development and completed excavation, but had not completed the foundations for the property; and

WHEREAS, on June 16, 2009 the Board granted a renewal of all permits necessary to complete construction under BSA Cal. No. 311-08-BZY, pursuant to ZR § 11-331; and

WHEREAS, the foundation was completed within six months and construction proceeded until November 19, 2010; on that date, two years after the Enactment Date, the Permits lapsed pursuant to ZR § 11-331; and

WHEREAS, one day prior to the lapse, on November 18, 2010, the applicant's predecessor filed an application under the subject calendar number pursuant to ZR § 11-332, seeking a two-year extension to complete construction and obtain a certificate of occupancy; and

WHEREAS, on March 15, 2011, under the subject calendar number, the Board granted a two-year extension of the Permits, to expire on March 15, 2013; and

WHEREAS, the applicant represents that, on March 1, 2011—two weeks before the Board's initial grant under the subject calendar—the developer's loan matured, and the applicant, as lender, commenced a foreclosure proceeding against the developer-borrower in Supreme Court; since the filing of that action, construction work at the site has been limited to maintenance of site safety and the construction of a sidewalk; and

WHEREAS, accordingly, because the two-year time limit has expired and construction has not been completed, the applicant seeks relief pursuant to ZR § 11-30 *et seq.*,



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which sets forth the regulations that apply to a reinstatement of a permit that lapses due to a zoning change; and

WHEREAS, first, the Board notes that ZR § 11-31(c)(1) defines construction such as the proposed development, which involves the construction of a single building which is non-complying under an amendment to the ZR, as a “minor development”; and

WHEREAS, for “minor development,” an extension of time to complete construction, previously authorized under a grant for an extension made pursuant to ZR § 11-331, may be granted by the Board pursuant to ZR § 11-332; and

WHEREAS, ZR § 11-332 reads, in pertinent part: “In the event that construction permitted in Section 11-331 (Right to construct if foundations completed) has not been completed and a certificate of occupancy including a temporary certificate of occupancy, issued therefore within two years after the effective date of any applicable amendment . . . the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew such building permit for two terms of not more than two years each for a minor development . . . In granting such an extension, the Board shall find that substantial construction has been completed and substantial expenditures made, subsequent to the granting of the permit, for work required by any applicable law for the use or development of the property pursuant to the permit.”; and

WHEREAS, the applicant noted that ZR § 11-332 requires only that there be substantial completion and substantial expenditures subsequent to the issuance of building permits and that the Board has measured this completion by looking at time spent, complexity of work completed, amount of work completed, and expenditures; and

WHEREAS, as a threshold issue, the work must have been performed pursuant to a valid permit; and

WHEREAS, the applicant represents that all of the relevant DOB permits were lawfully issued to the owner of the subject premises; and

WHEREAS, in the context of the prior renewal, DOB issued a letter, dated December 22, 2010, in which it stated that the Permits were lawfully issued, authorizing construction of the proposed Building prior to the Enactment Date; and

WHEREAS, accordingly, the Board accepts that the Permits were lawfully issued to the owner of the subject premises prior to the Enactment Date; and

WHEREAS, the Board also notes that, based on the record, the Permits have been timely renewed since issuance, including the two-year renewal pursuant to the Board’s March 15, 2011 grant; however, no work has been performed and no expenditures undertaken since November 19, 2010; and

WHEREAS, turning to the substantive findings of ZR § 11-332, the Board notes that there is no fixed standard in

an application made under this provision as to what constitutes substantial construction or substantial expenditure in the context of new development; and

WHEREAS, the applicant notes that, due to the foreclosure proceeding, the only work that has been performed since the prior two-year extension of the Permits by the Board is related to maintenance of site safety and the construction of a sidewalk; as such, the applicant seeks to rely on construction performed and expenditures undertaken as of November 19, 2010, when the Permits initially lapsed; and

WHEREAS, the Board observes that the work to be measured under ZR § 11-332 must be performed after the issuance of the Permits; and

WHEREAS, similarly, the expenditures to be assessed under ZR § 11-332 are those incurred after the Permits are issued; and

WHEREAS, accordingly, as is reflected below, the Board only considered post-permit work and expenditures, as submitted by the applicant; and

WHEREAS, in written statements and testimony, the applicant represents that, since the issuance of the Permits, substantial construction has been completed and substantial expenditures were incurred; and

WHEREAS, the applicant states that work on the proposed development subsequent to the issuance of the Permits and prior to the expiration of the Board’s most recent two-year extension of time to complete construction on November 19, 2010, includes: 100 percent of the foundation and completion of seven floors of the superstructure, with partial construction of the eighth floor; and

WHEREAS, in support of this statement, the applicant has submitted the following: an affidavit from the owner enumerating the completed work; construction contracts, copies of cancelled checks, copies of lien waivers evidencing payments made by the applicant, and photographs of the site; and

WHEREAS, the Board has reviewed all documentation and agrees that it establishes that the aforementioned work was completed subsequent to the issuance of the Permits; and

WHEREAS, as to costs, the applicant represents that the total expenditure paid for the development subsequent to the issuance of the Permits through November 19, 2010 is \$4,826,511, or 32 percent, out of the approximately \$15,249,467 cost to complete; and

WHEREAS, the applicant has submitted financial records, construction contracts, copies of cancelled checks, and copies of lien waivers evidencing payments made by the applicant; and

WHEREAS, the applicant contends that this percentage constitutes a substantial expenditure sufficient to satisfy the finding in ZR § 11-332; and

WHEREAS, based upon its review of all the submitted evidence, the Board finds that substantial construction was completed and that substantial expenditures were made since

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the issuance of the initial permits; and

WHEREAS, therefore, the Board finds that the applicant has adequately satisfied all the requirements of ZR § 11-332, and that the owner is entitled to the requested reinstatement of the Permits, and all other permits necessary to complete the proposed development; and

WHEREAS, accordingly, the Board, through this resolution, grants the owner of the site a two-year extension of time to complete construction, pursuant to ZR § 11-332.

*Therefore it is Resolved*, that this application made pursuant to ZR § 11-332 to renew New Building Permit No. 104870392-01-NB and Alteration Type 2 Permit No. 110251361-EW-OT, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed development and obtain a certificate of occupancy for one term of two years from the date of this resolution, to expire on August 20, 2015.

Adopted by the Board of Standards and Appeals, August 20, 2013.

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## 317-12-A

APPLICANT – Eric Palatnik, P.C., for 4040 Management, LLC, owner.

SUBJECT – Application November 29, 2012 – Appeal seeking common law vested rights to continue construction commenced under the prior M1-3D zoning district regulations. M1-2/R5B zoning district.

PREMISES AFFECTED – 40-40 27th Street, between 40th Avenue and 41st Avenue, Block 406, Lot 40, Borough of Queens.

### COMMUNITY BOARD #1Q

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application requesting a Board determination that the owner of the premises has obtained the right to complete construction of a five-story commercial building under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on May 7, 2013, after due notice by publication in *The City Record*, with continued hearings on June 18, 2013, and July 23, 2013, and then to decision on August 20, 2013; and

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

WHEREAS, the site is located on the west side of 27th Street, between 40th Avenue and 41st Avenue; and

WHEREAS, the site has a lot area of 5,009 sq. ft. and approximately 50 feet of frontage along 27th Street; and

WHEREAS, the applicant proposes to construct a new ten-story commercial building at the site; the proposal would result in 24,938.84 sq. ft. of floor area (4.98 FAR) occupied by a hotel (Use Group 5) (the “Building”); and

WHEREAS, the subject site is currently located within an M1-2/R5B zoning district within the Special Long Island City Mixed Use District, but was formerly located within an M1-3D zoning district; and

WHEREAS, the Building complies in all respects with the former M1-3D zoning district parameters; and

WHEREAS, however, on October 7, 2008 (the “Enactment Date”), the City Council voted to adopt the Dutch Kills Rezoning, which rezoned the site to M1-2/R5B; and

WHEREAS, as a result of the rezoning, the Building does not comply with the district parameters regarding maximum floor area and sky exposure plane; and

WHEREAS, a threshold matter for the vested rights analysis is that a permit be issued lawfully prior to the Enactment Date and that the work was performed pursuant to such lawful permit; and

WHEREAS, the applicant states that New Building Permit No. 410116422-01-NB (the “Permit”) was issued to the owner by the Department of Buildings (“DOB”) on June 27, 2008; and

WHEREAS, by letter dated May 31, 2013, DOB confirmed that the Permit was lawfully issued; and

WHEREAS, the applicant notes that ZR § 11-31(c)(1) classifies the construction authorized under the Permit as a “minor development”; and

WHEREAS, the applicant notes that, per ZR §§ 11-331 and 11-332, where all work on foundations for a minor development has been completed prior to the effective date of an applicable amendment to the Zoning Resolution, work may continue for two years, and if after two years, construction has not been completed and a certificate of occupancy has not been issued, the permit shall automatically lapse and the right to continue construction shall terminate; and

WHEREAS, the applicant states that, as of the Enactment Date, the entire foundation for the Building was completed; and

WHEREAS, accordingly, the applicant represents that the applicant’s predecessor acquired a vested right to continue construction under the Permit for two years from the Enactment Date (until October 7, 2010), pursuant to ZR § 11-331; nevertheless, construction under the Permit did not continue at the site after October 7, 2008 due to the owner’s inability to obtain construction financing, and the only work performed was site safety-related maintenance, including the installation of the cellar concrete slab and first-story concrete deck to stabilize the unbraced foundation walls, and maintenance of the construction fence; and

WHEREAS, accordingly, as of October 7, 2010, construction was not complete and a certificate of

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occupancy had not been issued; therefore, on that date the Permit lapsed by operation of law; and

WHEREAS, the applicant notes that it did not, pursuant to ZR § 11-332, seek renewal of the Permit from the Board within 30 days of such lapse; and

WHEREAS, accordingly, the applicant now seeks to proceed pursuant to the common law doctrine of vested rights; and

WHEREAS, the Board notes that when work proceeds under a valid permit, a common law vested right to continue construction after a change in zoning generally exists if: (1) the owner has undertaken substantial construction; (2) the owner has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, specifically, as held in Putnam Armonk, Inc. v. Town of Southeast, 52 A.D.2d 10 (2d Dept. 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner's rights under the prior ordinance are deemed vested "and will not be disturbed where enforcement [of new zoning requirements] would cause 'serious loss' to the owner," and "where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance"; and

WHEREAS, however, notwithstanding this general framework, as discussed by the court in Kadin v. Bennett, 163 A.D.2d 308 (2d Dept. 1990) "there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess 'a vested right'. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action"; and

WHEREAS, as to substantial construction, the applicant states that prior to October 7, 2008, the owner had completed the following work: excavation, underpinning, and the entire foundation; between October 7, 2008 and October 7, 2010, the owner completed the cellar concrete slab and first-story concrete deck; no work has been performed at the site since October 7, 2010, aside from site safety-related maintenance; and

WHEREAS, the Board only considers work performed between June 27, 2008 and October 7, 2010, when the permit lapsed; and

WHEREAS, in support of this appellant's assertions regarding completed work, the applicant submitted the following evidence: invoices, concrete delivery slips, construction contracts, plans highlighting the work completed, and photographs of the site showing certain aspects of the completed work; and

WHEREAS, the Board has reviewed the representations as to the amount and type of work completed before and after the Enactment Date and the documentation submitted in support of these representations, and agrees that it establishes that substantial work was performed; and

WHEREAS, the Board concludes that, given the size of the site, and based upon a comparison of the type and

amount of work completed in this case with the type and amount of work discussed by New York State courts, a significant amount of work was performed at the site during the relevant period; and

WHEREAS, as to expenditure, the Board notes that unlike an application for relief under ZR § 11-30 *et seq.*, soft costs and irrevocable financial commitments can be considered in an application under the common law and accordingly, these costs are appropriately included in the applicant's analysis; and

WHEREAS, the applicant states that prior to the Enactment Date, the owner expended \$773,384, including hard and soft costs and irrevocable commitments, out of \$6,519,616 budgeted for the entire project; and WHEREAS, as proof of the expenditures, the applicant has submitted construction contracts, copies of cancelled checks, invoices, and accounting tables; and WHEREAS, thus, the expenditures to date represent approximately 12 percent of the projected total cost; and

WHEREAS, the Board considers the amount of expenditures significant, both for a project of this size, and when compared with the development costs; and

WHEREAS, again, the Board's consideration is guided by the percentages of expenditure cited by New York courts considering how much expenditure is needed to vest rights under a prior zoning regime; and

WHEREAS, as to serious loss, the Board examines not only whether certain improvements and expenditures could not be recouped under the new zoning, but also considerations such as the diminution in income that would occur if the new zoning were imposed and the reduction in value between the proposed building and the building permitted under the new zoning; and

WHEREAS, the applicant states that if the owner is not permitted to vest the Building under the former M1-3D zoning and must comply with the M1-2/R5B zoning, the maximum permitted floor area ratio would be reduced from 5.0 FAR to 2.0 FAR, representing a loss of 14,920.84 sq. ft., which is approximately 60 percent of the development; and

WHEREAS, the applicant also states that reduction in floor area will result in a reduction in hotel rooms from 78 to 30, which will significantly reduce the market value of the hotel; to support this assertion, the applicant represented that the nearby Comfort Inn located at 42-24 Crescent Street, Queens (an 80-room economy hotel) was recently purchased for \$22,500,000, which results in an average value-per-room of \$250,000; even assuming the subject hotel will be valued at only \$220,000 per room, the reduction in the number of rooms represents a loss of \$10,560,000 of market value (or \$12,000,000, if the rooms are valued at \$250,000 per room); and

WHEREAS, further, the applicant represents that the loss of 48 rooms would jeopardize its agreement with Super 8 Worldwide, and that financing will become more difficult to obtain and more expensive without a franchise-backed development; and

WHEREAS, the applicant also states that redesigning

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the Building in compliance with the M1-2/R5B regulations will cost an estimated \$160,000; and

WHEREAS, the Board agrees with the applicant that the owner would incur substantial additional costs in reconstructing the Building to comply with the current zoning; and

WHEREAS, the Board also agrees with the applicant that the reduction in the floor area and hotel rooms results in a significant decrease in the market value of the Building; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed and the expenditures made both before and after the Enactment Date, the representations regarding serious loss, and the supporting documentation for such representations, and agrees that the applicant has satisfactorily established that a vested right to complete construction of the Building has accrued to the owner of the premises.

*Therefore it is Resolved*, that this application made pursuant to the common law of vested rights requesting a reinstatement of Permit No. 410116422-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for two years from the date of this grant.

Adopted by the Board of Standards and Appeals, August 20, 2013.

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## 166-13-A

APPLICANT – Sheldon Lobel, PC, for Whitney Museum of American Art, owner.

SUBJECT – Application May 21, 2013 – Appeal of NYC Department of Buildings’ determination that a public assembly permit is required, pursuant to Building Code Sections 28-117, 28-102,4,3 and C2-116.0. C5-1/R8B zoning districts.

PREMISES AFFECTED – 945 Madison Avenue, southeast intersection of Madison Avenue and East 75th Street, Block 1389, Lot 50, Borough of Manhattan.

### COMMUNITY BOARD #8M

**ACTION OF THE BOARD** – Application withdrawn.

THE VOTE TO WITHDRAW –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5  
Negative:.....0

Adopted by the Board of Standards and Appeals, August 20, 2013.

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## 143-11-A thru 146-11-A

APPLICANT – Philip L. Rampulla, for Joseph LiBassi, owner.

SUBJECT – Application September 16, 2011 – Appeal challenging the Fire Department’s determination that the grade of the fire apparatus road shall not exceed 10 percent, per NYC Fire Code Section FC 503.2.7. R2 zoning district. PREMISES AFFECTED – 20, 25, 35, 40 Harborlights Court, east side of Harborlights Court, east of Howard Avenue, Block 615, Lot 36, 25, 35, 40, Borough of Staten Island.

### COMMUNITY BOARD #1SI

**ACTION OF THE BOARD** – Laid over to September 24, 2013, at 10 A.M., for continued hearing.

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## 126-13-A

APPLICANT – Sheldon Lobel, PC, for Woodmere Development LLC, owner.

SUBJECT – Application April 30, 2013 – Appeal of NYC Department of Buildings’ determination that a rear yard is required at the boundary of a block coinciding with a railroad right-of-way. R7B Zoning District.

PREMISES AFFECTED – 65-70 Austin Street, 65th Road and 66th Avenue, Block 3104, Lot 101, Borough of Queens.

### COMMUNITY BOARD # 6Q

**ACTION OF THE BOARD** – Laid over to October 8, 2013, at 10 A.M., for continued hearing.

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## 127-13-A

APPLICANT – Law Offices of Marvin B. Mitzner, LLC, for Brusco Group, Inc., owner.

SUBJECT – Application May 1, 2013 – Appeal under Section 310 of the Multiple Dwelling Law to vary MDL Sections 171-2(a) and 2(f) to allow for a vertical enlargement of a residential building. R8 zoning district.

PREMISES AFFECTED – 332 West 87th Street, south side of West 87th Street between West end Avenue and Riverside Drive, Block 1247, Lot 48 Borough of Manhattan.

### COMMUNITY BOARD #7M

**ACTION OF THE BOARD** – Laid over to September 24, 2013, at 10 A.M., for deferred decision.

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## 134-13-A

APPLICANT – Bryan Cave, for Covenant House, owner.

SUBJECT – Application May 9, 2013 – Appeal of NYC Department of Buildings’ determination regarding the right to maintain an existing advertising sign. C2-8/HY zoning district.

PREMISES AFFECTED – 538 10th Avenue aka 460 West 41st Street, Tenth Avenue between 41st and 42nd Streets, Block 1050, Lot 1, Borough of Manhattan.

### COMMUNITY BOARD #4M

**ACTION OF THE BOARD** – Laid over to October 8, 2013, at 10 A.M., for continued hearing.

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## ZONING CALENDAR

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### 227-13-A

APPLICANT – St. Ann’s Warehouse by Chris Tomlan, for Brooklyn Bridge Park Development Corp., owner; St. Ann’s Warehouse, lessee.

SUBJECT – Application July 26, 2013 – Variance pursuant to the NYC Building Code (Appendix G, Section G304.1.2) to allow for the redevelopment of an historic structure (*Tobacco Warehouse*) within Brooklyn Bridge Park to be located below the flood zone. M3-1 zoning district.

PREMISES AFFECTED – 45 Water Street, (*Tobacco Warehouse*) north of Water Street between New Dock Street and Old Dock Street, Block 26, Lot 1, Borough of Brooklyn.

### COMMUNITY BOARD #2BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 24, 2013, at 10 A.M., for decision, hearing closed.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

### 59-12-BZ

### CEQR #12-BSA-092Q

APPLICANT – Mitchell S. Ross, Esq., for Ian Schindler, owner.

SUBJECT – Application March 15, 2012 – Variance (§72-21) to allow the enlargement of an existing home, contrary to front yard (§23-45) regulations.

PREMISES AFFECTED – 240-27 Depew Avenue, north side of Depew Avenue, 106.23' east of 40th Avenue, Block 8103, Lot 25, Borough of Queens.

### COMMUNITY BOARD #11Q

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated November 15, 2012, and acting on Department of Buildings Application No. 420317614 reads, in pertinent part:

1. Proposed reconstruction of an existing landmarked building in the bed of a mapped street;
2. Proposed existing east side yard of 7.54 feet is existing non-complying; building is proposed to be raised and to maintain this existing non-complying side yard . . . contrary to ZR 23-461(a);
3. Proposed existing front yard of 6.23 feet is existing non-complying; building is proposed to be raised and to maintain this existing non-complying front yard . . . contrary to ZR 23-45; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R1-2 zoning district within the Douglaston Hill Historic District, the enlargement of an existing, non-complying single-family detached home that does not provide the required side yard or front yard, contrary to ZR §§ 23-461 and 23-45; and

WHEREAS, a public hearing was held on this application on April 16, 2013, after due notice by publication in *The City Record*, and then to decision on August 20, 2013; and

WHEREAS, a companion case, BSA Cal. No. 60-12-A, has been filed in accordance with General City Law § 35, seeking authorization from the Board to construct in the bed of a mapped street; and

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

WHEREAS, Community Board 11, Queens, recommends approval of this application; and

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WHEREAS, the subject site is located on the north side of Depew Avenue between Prospect Avenue and Willow Place; and

WHEREAS, the site is a triangular lot with a width of 93.77 feet, a depth of 93.23 feet, and a total lot area of 4,371 sq. ft.; the hypotenuse of the triangle is formed by the boundary of a property occupied by the North Side Branch of the Long Island Railroad; and

WHEREAS, the site is located within an R1-2 district within the Douglaston Hill Historic District and has 93.77 feet of frontage along Depew Avenue; and

WHEREAS, the site is currently occupied by a two-story, detached, single-family home with 846.5 sq. ft. of floor area (0.19 FAR); the applicant notes that the home was built approximately 150 years ago as an “oyster house”; and

WHEREAS, the applicant states that because Depew Avenue has been re-graded and raised over the years, the building is now located approximately three feet below curb level; and

WHEREAS, the applicant states that the building has one non-complying side yard with a width of 7.54 feet (a minimum width of 8 feet is required), and a non-complying front yard with a depth of 6.23 feet (a minimum of depth of 20 feet is required); and

WHEREAS, the applicant proposes to elevate the building to street level and vertically and horizontally enlarge it, while maintaining the existing yard non-compliances, which will result in a home with the following parameters: a floor area of 1,789.39 sq. ft. (0.41 FAR) (a maximum floor area of 2,185.50 sq. ft. (0.50 FAR) is permitted); a side yard with a width of 7.54 feet (a minimum width of 8 feet is required); a front yard with a depth of 6.23 feet (a minimum depth of 20 feet is required); and an open space ratio of 187 percent (an open space ratio of 150 percent is required); and

WHEREAS, because the proposed enlargement does not comply with the R1-2 district regulations, a variance is requested; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying zoning regulations: the significantly underbuilt existing building, the location of the building at three feet below curb level due to the elevation of Depew Avenue, the site’s location within a historic district, the triangular shape of the lot, and the building’s orientation and location on the lot; and

WHEREAS, the applicant states that the existing building at the site is significantly underbuilt with 846.05 sq. ft. of floor area (0.19 FAR) in the subject R1-2 district, which allows a maximum 0.50 FAR; and

WHEREAS, the applicant represents that, according to a survey of the 54 homes within a 400-foot radius of the subject site, the building is the smallest; and

WHEREAS, further, the applicant notes that, according to the survey, the nearby homes range in size from 1,213 sq. ft. to 6,680 sq. ft. and the average home size is 2,300 sq. ft.; and

WHEREAS, the applicant states that, owing to its small size and below-grade placement, the building is unsuitable for modern residential occupancy, in that the existing ceiling heights are less than seven feet on both the first and second stories, the two bedrooms are only 48 sq. ft. and 110 sq. ft. in area, there is only one bathroom, and there is neither adequate closet space, nor a usable cellar; and

WHEREAS, the applicant states that the building is a contributing structure to the Douglaston Hill Historic District and that such designation effectively prohibits the building’s demolition and curtails the applicant’s ability to modify the structure in a complying fashion; and

WHEREAS, the applicant represents that providing complying side and front yards is neither feasible—due to the lot’s triangular shape and the building’s existing orientation on the lot—nor desirable, because the existing orientation contributes to the integrity of the historic district; and

WHEREAS, the applicant explored the feasibility of enlarging the building as-of-right in the rear with no elevation of the existing non-complying yards; and

WHEREAS, the applicant states that the as-of-right enlargement requires a split-level configuration, which is architecturally complicated and creates inefficient layouts; in addition, the split-level scenario is costly, does not adequately address the existing rubble foundations (which are crumbling), and does not address the current drainage problems imposed by the building being three feet below curb level; and

WHEREAS, accordingly, the applicant asserts that an as-of-right enlargement is infeasible; and

WHEREAS, based upon the above, the Board finds that the cited unique physical conditions create practical difficulties in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board has determined that because of the subject lot’s unique physical conditions, there is no reasonable possibility that compliance with applicable zoning regulations will result in a habitable home; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, or impact adjacent uses; and

WHEREAS, the applicant states that the proposal maintains existing non-complying yards, which, though deficient according to the Zoning Resolution, help contribute to the historic character of the area; since no increase in the degree of such non-compliances is proposed, the impact of the enlargement from a bulk perspective is negligible; and

WHEREAS, the applicant states that the proposed enlargement will result in a home that is more in character with the larger, more stately homes in the surrounding area; to support this statement the applicant submitted an analysis of the floor area of surrounding homes, which reflects that the proposed enlargement results in a home that is still below the average size; and

WHEREAS, the applicant notes that the existing front yard is unchanged and that the enlargement is oriented toward the Long Island Railroad property, rather than toward any nearby existing homes; and

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WHEREAS, the Landmarks Preservation Commission has approved the enlargement by Certificate of Appropriateness, dated August 14, 2013; and

WHEREAS, therefore, the Board finds that this action will neither alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is a result of the lot shape, the peculiar conditions of the existing building and the constraints imposed by the site's being within a historic district; and

WHEREAS, the applicant represents that the proposal is the minimum variance necessary to afford relief; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

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

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Type II under 6 NYCRR Part 617.5 and 617.13, §§ 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 § 72-21 to permit, within an R1-2 zoning district within the Douglaston Hill Historic District, the enlargement of an existing, non-complying single-family detached home that does not provide the required side yard or front yard, contrary to ZR §§ 23-461 and 23-45; *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 February 25, 2013"- (3) sheets and "March 13, 2013"- (1) sheet; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: a maximum floor area of 1,789.39 sq. ft. (0.41 FAR), a side yard with a width of 7.54 feet, a front yard with a depth of 6.23 feet, and an open space ratio of 187 percent, as per the BSA-approved plans;

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

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

THAT significant construction shall proceed in accordance with ZR § 72-23; and

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

Adopted by the Board of Standards and Appeals, August 20, 2013.

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## 60-12-A

APPLICANT – Mitchell S. Ross, Esq., for Ian Schindler, owner.

SUBJECT – Application March 15, 2012 – Proposed construction is also located within a mapped but unbuilt portion of a street, contrary to General City Law Section 35. R1-2 zoning district.

PREMISES AFFECTED – 240-27 Depew Avenue, north side of Depew Avenue, 106.23' east of 40th Avenue, Block 8103, Lot 25, Borough of Queens.

### COMMUNITY BOARD #11Q

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

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated August 29, 2012, acting on Department of Buildings Application No 420317614 which reads in pertinent part:

1. Proposed reconstruction of an existing landmarked building in the bed of a mapped street contrary to GCL 35; and
2. Proposed existing East side yard is 7.54 feet is existing non-complying, building is proposed to be raised and to maintain this existing non-complying side yard and is contrary to ZR 461(a); and
3. Proposed existing front yard is 6.23 feet is existing non-complying, building is proposed to be raised and to maintain this existing non-complying front yard and is contrary to ZR 23-45; and

WHEREAS, this is an application to permit, in an R1-2 zoning district within the Douglaston Hill Historic District, the enlargement of a single-family home which lies partially in the bed of a mapped unbuilt street, contrary to Section 35 of the General City Law; and

WHEREAS, the applicant concurrently filed a companion application under BSA Cal. No. 59-12-BZ for a variance to permit the enlargement of the existing non-complying single-family with non-complying front and side yards, contrary to ZR § 461(a) and ZR § 23-45; and

WHEREAS, the Board granted the companion variance application by separate decision, dated August 20, 2013; and

WHEREAS, a public hearing was held on this application on April 16, 2013, after due notice by publication in the *City Record*, and then to decision on August 20, 2013; and

WHEREAS, Community Board 11, Queens, recommends approval of this application; and

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

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WHEREAS, the applicant proposes to enlarge an existing historic single-family located within the bed of a mapped unbuilt street contrary to General City Law 35; and

WHEREAS, by letter dated April 11, 2013, the Fire Department states that it has reviewed the site plan and has no objections; and

WHEREAS, by letter dated June 27, 2012, the Department of Transportation (“DOT”) states that it has reviewed the proposal and has no objections; and

WHEREAS, DOT states that the subject lot is not currently included in the agency’s Capital Improvement Program; and

WHEREAS, by letter dated April 16, 2012, the Department of Environmental Protection advises the Board that there are no existing City sewers or existing City water mains within the referenced location; and

WHEREAS, the Landmarks Preservation Commission has approved the enlargement by Certificate of Appropriateness, dated August 14, 2013; and

WHEREAS, based upon the above, the Board has determined that the applicant has submitted adequate evidence to warrant this approval.

*Therefore it is Resolved*, that the decision of the Queens Borough Commissioner, dated August 29, 2012, acting on Department of Buildings Application No. 420317614, are modified by the power vested in the Board by Section 35 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 drawings filed with the application marked “Received March 13, 2013” - (1) sheet; that the proposal shall 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) only;

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, August 20, 2013.

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## 86-13-BZ

### CEQR #13-BSA-110Q

APPLICANT – Eric Palatnik, P.C., for Yefim Portnov, owner.

SUBJECT – Application March 6, 2013 – Special Permit (§73-621) to allow the enlargement of an existing single-family home, contrary to open space ratio and floor area (§23-141) regulations. R2 zoning district.

PREMISES AFFECTED – 65-43 171st Street, between 65th Avenue and 67th Avenue, Block 6912, Lot 14, Borough of Queens.

### COMMUNITY BOARD #8Q

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

#### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5

Negative:.....0

#### THE RESOLUTION –

WHEREAS, the decision of the Executive Zoning Specialist, dated February 22, 2013, acting on Department of Buildings Application No. 420364956, reads in pertinent part:

1. Proposed enlargement exceeds maximum permitted zoning floor area, which is contrary to ZR 23-141(a);
2. Proposed enlargement does not have minimum required (150%) open space, which is contrary to ZR 23-141(a); and

WHEREAS, this is an application under ZR §§ 73-621 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”) and open space, contrary to ZR § 23-141; and

WHEREAS, a public hearing was held on this application on July 23, 2013, after due notice by publication in *The City Record*, and then to decision on August 20, 2013; and

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

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

WHEREAS, the Queens Borough President recommends disapproval of this application; and

WHEREAS, the subject site is located on the east side of 171st Street, between 65th Avenue and 66th Avenue, within an R2 zoning district; and

WHEREAS, the site has a total lot area of 4,000 sq. ft. and is occupied by a single-family home with a floor area of 1,233.19 sq. ft. (0.31 FAR); and

WHEREAS, the applicant proposes to vertically and horizontally enlarge the first and second stories of the building, and construct an attic level; and

WHEREAS, the applicant seeks an increase in the



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floor area from 1,233.19 sq. ft. (0.308 FAR) to 2,020.22 sq. ft. (0.505 FAR); the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant seeks a decrease in open space from 224 percent to 135 percent; the minimum required open space is 150 percent; and

WHEREAS, the special permit authorized by ZR § 73-621 is available to enlarge buildings containing residential uses that existed on December 15, 1961, or, in certain districts, on June 20, 1989; therefore, as a threshold matter, the applicant must establish that the subject building existed as of that date; and

WHEREAS, the applicant represents, and the Board accepts, that the building has existed in its pre-enlarged state since January 22, 1951, the date on which Certificate of Occupancy No. 70333 was issued; and

WHEREAS, ZR § 73-621 permits the enlargement of a residential building such as the subject single-family home if the following requirements are met: (1) the proposed open space ratio is at least 90 percent of the required open space; (2) in districts where there are lot coverage limits, the proposed lot coverage does not exceed 110 percent of the maximum permitted; and (3) the proposed floor area ratio does not exceed 110 percent of the maximum permitted; and

WHEREAS, as to the floor area ratio, the applicant represents that the proposed floor area is 101 percent of the maximum permitted; and

WHEREAS, as to the open space ratio, the applicant represents that the proposed reduction in the open space results in an open space that is 90 percent of the minimum required; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 73-621; 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, the Board finds that the proposed project will not interfere with any pending public improvement project; 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 findings required to be made under ZR §§ 73-621 and 73-03.

*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 §§ 73-621 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home,

which does not comply with the zoning requirements for FAR and open space, contrary to ZR § 23-141; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received August 2, 2013"– (11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: two stories and an attic, a maximum floor area of 2,020.22 sq. ft. (0.505 FAR) and a minimum open space of 135 percent, as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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

THAT substantial construction be completed in accordance with ZR § 73-70; 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 the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 20, 2013.

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## 101-13-BZ

### CEQR #13-BSA-121K

APPLICANT – Dennis D. Dell'Angelo, for Meira N. Sussman, owner.

SUBJECT – Application April 10, 2013 – Special Permit (§73-622) to allow the enlargement of an existing single family home, contrary to open space and floor area (§23-141), side yards (§23-461), and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1271 East 23rd Street, East side 190' north of Avenue "M", Block 7641, Lot 15, Borough of Brooklyn.

### COMMUNITY BOARD #14BK

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

#### THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5

Negative:.....0

#### THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 18, 2013, acting on Department of Buildings Application No. 320525614, reads in pertinent part:

1. Proposed FAR and OSR constitutes an increase in the degree of existing non-compliance, contrary to ZR 23-141;

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2. Proposed horizontal enlargement provides less than the required side yards, contrary to ZR § 23-46 and less than the required rear yard, contrary ZR 23-47; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), open space, side yards, and rear yard, contrary to ZR §§ 23-141, 23-46, and 23-47; and

WHEREAS, a public hearing was held on this application on July 23, 2013, after due notice by publication in *The City Record*, and then to decision on August 20, 2013; and

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

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

WHEREAS, the subject site is located on the east side of East 23rd Street, between Avenue L and Avenue M, within an R2 zoning district; and

WHEREAS, the site has a total lot area of 3,000 sq. ft. and is occupied by a single-family home with a floor area of 1,986.23 sq. ft. (0.66 FAR); and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from 1,986.23 sq. ft. (0.66 FAR) to 2,941.9 sq. ft. (0.98 FAR); the maximum permitted floor area is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the applicant also proposes to reduce its rear yard depth from 28'-6" to 20'-0" (a minimum rear yard depth of 30'-0" is required), maintain its existing side yards with widths of 2'-11¼" and 6'-8" (the general requirement in this district is two side yards with a minimum total width of 13'-0" and a minimum width of 5'-0" each; however, because the lot is an existing narrow lot, per ZR § 23-48, two side yards with minimum widths of 5'-0" are required), and reduce its open space from 101 percent to 55 percent (a minimum open space of 150 percent is required); and

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

WHEREAS, in particular, the applicant represents that the proposed 0.98 FAR is in keeping with the bulk in the surrounding area; and

WHEREAS, to support this representation, the applicant submitted a study of the 33 single-family homes within 200 feet of the site; based on the study, seven homes (21 percent) have an FAR of 0.98 or greater; and

WHEREAS, accordingly, the Board agrees with the applicant that the proposed bulk is in keeping with the character of the neighborhood; 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, the Board finds that the proposed project will not interfere with any pending public improvement project; 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 findings required to be made under ZR §§ 73-622 and 73-03.

*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 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), open space, side yards, and rear yard, contrary to ZR §§ 23-141, 23-46, 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 April 10, 2013"- (8) sheets and "August 2, 2013"-(2) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 2,941.9 sq. ft. (0.98 FAR), a minimum open space of 55 percent, side yards with minimum widths of 2'-11¼" and 6'-8", and a minimum rear yard depth of 20'-0", as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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; 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 the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 20, 2013.

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## 50-12-BZ

APPLICANT – Gerald J. Caliendo, R.A., AIA, for 177-90 Holding LLC/Donald McLoughlin, owner.

SUBJECT – Application March 5, 2012 – Variance (§72-21) to allow for the construction of a commercial building, contrary to use regulations (§22-00). R3-2 zoning district.

PREMISES AFFECTED – 177-60 South Conduit Avenue, south side of South Conduit Avenue, 229/83' west of corner of South Conduit Avenue and Farmers Boulevard, Block 13312, Lot 146, Borough of Queens.

### COMMUNITY BOARD #12Q

**ACTION OF THE BOARD** – Laid over to September 24, 2013, at 10 A.M., for adjourned hearing.

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## 279-12-BZ

APPLICANT – Akerman Senterfitt LLP, for Bacele Realty, owner.

SUBJECT – Application September 20, 2012 – Variance (§72-21) to permit a bank (UG 6) in a residential zoning district, contrary to §22-00. R4/R5B zoning district.

PREMISES AFFECTED – 27-24 College Point Boulevard, northwest corner of the intersection of College Point Boulevard and 28th Avenue, Block 4292, Lot 12, Borough of Queens.

### COMMUNITY BOARD #7Q

**ACTION OF THE BOARD** – Laid over to September 17, 2013, at 10 A.M., for continued hearing.

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## 78-13-BZ

APPLICANT – Sheldon Lobel, P.C., for S.M.H.C. LLC, owner.

SUBJECT – Application February 22, 2013 – Variance (§72-21) to permit a new four-story, four-unit residential building (UG 2), contrary to use regulations, ZR §42-00. M1-1& R7A/C2-4.

PREMISES AFFECTED – 876 Kent Avenue, located on the west side of Kent Avenue, approximately 91' north of Myrtle Avenue. Block 1897, Lot 56, Borough of Brooklyn.

### COMMUNITY BOARD #3BK

**ACTION OF THE BOARD** – Laid over to September 24, 2013, at 10 A.M., for adjourned hearing.

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## 81-13-BZ

APPLICANT – Nasir J. Khanzada, for Aqeel Klan, owner.

SUBJECT – Application February 28, 2013 – Re-Instatement (§11-411) of a variance which permitted an auto service station (UG16B), with accessory uses, which expired on November 6, 1992; Amendment (§11-413) to permit the change of use from auto service station to auto repair (UG 16B) with accessory auto sales; Waiver of the Rules. R2 zoning district.

PREMISES AFFECTED – 264-12 Hillside Avenue, Block 8794, Lot 22, Borough of Queens.

### COMMUNITY BOARD # 13Q

**ACTION OF THE BOARD** – Laid over to September 24, 2013, at 10 A.M., for adjourned hearing.

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## 97-13-BZ

APPLICANT – Lewis E. Garfinkel, for Elky Ogorek Willner, owner.

SUBJECT – Application April 8, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (§23-141) and less than the required rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 1848 East 24th Street, west side of East 24th St, 380' south of Avenue R, Block 6829, Lot 26, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 10, 2013, at 10 A.M., for decision, hearing closed.

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## 109-13-BZ

APPLICANT – Goldman Harris LLC, for William Achenbaum, owner; 2nd Round KO, LLC, lessee.

SUBJECT – Application April 22, 2013 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*UFC Gym*). C5-5 (Special Lower Manhattan) zoning district.

PREMISES AFFECTED – 80 John Street, Lot bounded by John Street to the north, Platt Street to south, and Gold Street to the west, Block 68, Lot 7501, Borough of Manhattan.

### COMMUNITY BOARD #1M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 17, 2013, at 10 A.M., for decision, hearing closed.

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## 161-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Bennco Properties, LLC, owner; Soul Cycle West 19th street, lessee.

SUBJECT – Application May 28, 2013 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Soul Cycle*) within a portion of an existing building. C6-4A zoning district.

PREMISES AFFECTED – 8 West 19th Street, south side of

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W. 19th Street, 160' west of intersection of W. 19th Street and 5th Avenue, Block 820, Lot 7503, Borough of Manhattan.

**COMMUNITY BOARD #5M**

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 17, 2013, at 10 A.M., for decision, hearing closed.

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**211-13-BZ**

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for NYC Department of Citywide Administrative Services, owner; Civic Center Community Group Broadway LLC, lessee.

SUBJECT – Application July 9, 2013 – Re-instatement (§11-411) of a previously approved variance, which permitted the use of the cellar and basement levels of a 12-story building as a public parking garage, which expired in 1971; Amendment to permit a change to the curb-cut configuration; Waiver of the rules. C6-4A zoning district.

PREMISES AFFECTED – 346 Broadway, Block bounded by Broadway, Leonard and Lafayette Streets & Catherine Lane, Block 170, Lot 6 Manhattan,

**COMMUNITY BOARD #1M**

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

**ACTION OF THE BOARD** – Laid over to September 24, 2013, at 10 A.M., for decision, hearing closed.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*