
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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CONTENTS

DOCKET	572
CALENDAR of September 11, 2012	
Morning	573
Afternoon	573/574

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, August 14, 2012**

Morning Calendar575

Affecting Calendar Numbers:

292-55-BZ	239-15 Jamaica Avenue, Queens
579-78-BZ	236-238 East 58 th Street, Manhattan
51-06-BZ	188-02/22 Union Turnpike, Queens
294-06-BZ	31-11 Broadway, Queens
39-65-BZ	2701-2711 Knapp Street, Brooklyn
365-79-BZ	90-02 Queens Boulevard, Queens
406-82-BZ	2411 86 th Street, Brooklyn
25-89-BZ	58-04 Hoffman Drive, Queens
68-94-BZ	2100 Bartow Avenue, Bronx
53-01-BZ	6 West 48 th Street, Manhattan
164-07-BZ	The Crossings @ Staten Island Mall (280 Marsh Avenue), Staten Island
83-11-A	159 West 78 th Street, Manhattan
146-12-A	15 Beach 220 th Street, Queens
80-11-A, 84-11-A	331, 333, 335, 329 East 9 th Street, Manhattan
85-11-A & 103-11-A	
46-12-A	4215 Park Avenue, Bronx
172-11-A	119-43 197 th Street, Queens
21-12-A	55 Louise Lane, Staten Island

Afternoon Calendar584

Affecting Calendar Numbers:

193-11-BZ	215 Exeter Street, Brooklyn
70-12-BZ	78 Franklin Street, Manhattan
87-12-BZ	1720-28 Sheepshead Bay Road, Brooklyn
147-11-BZ	24-47 95 th Street, Queens
165-11-BZ	1561 50 th Street, Brooklyn
10-12-BZ	114-01 95 th Avenue, Queens
65-12-BZ	1140 East 28 th Street, Brooklyn
66-12-BZ	223-237 Nicholas Avenue, Manhattan
73-12-BZ	41-19 Bell Boulevard, Queens
80-12-BZ	140 East 63 rd Street, Manhattan
104-12-BZ	178-21 & 179-19 Hillside Avenue, Queens
160-12-BZ	820 Concourse Village West, Bronx
163-12-BZ	435 East 30 th Street, Manhattan

DOCKET

New Case Filed Up to August 14, 2012

244-12-BZ

600 Washington Street, west side of Washington Street between Morton and Leroy Streets, Block 602, Lot(s) 10, Borough of **Manhattan, Community Board: 2**. Special Permit (§73-36) to permit a physical culture establishment. M1-5 zoning district. M1-5 district.

245-12-A

515 East 5th Street, north side of East 5th Street, between Avenue A and Avenue B., Block 401, Lot(s) 56, Borough of **Manhattan, Community Board: 3**. Appeal pursuant to Section 310(2) of the Multiple Dwelling Law, requesting that the Board vary several requirements of the MDL. R7B Zoning District R7B district.

246-12-A

515 East 5th Street, north side of East 5th Street, between Avenue A and Avenue B., Block 401, Lot(s) 56, Borough of **Manhattan, Community Board: 3**. Appeal seeking a determination that the owner of the property has acquired a common law vested right to complete construction under the prio R7-2 zoning .R7B Zoning District . R7B district.

247-12-A

659 Highland Place, east side of Highland Place, 222.5' north of 12th Avenue., Block 16350, Lot(s) 300, Borough of **Queens, Community Board: 14**. Proposed construction of a single family home that does not front on a legally mapped street, contrary to General City Law Section 36. R4 Zoning District. R4 district.

248-12-A

45 Tioga Walk, east side of Tioga Walk, 68' south of West End Avenue., Block 16350, Lot(s) 400, Borough of **Queens, Community Board: 14**. Proposed building is not fronting a mapped street, contrary to § 36 General City Law and in the bed of a mapped street, contrary to Art. §35 of the General City Law. Private disposal system in the bed of a mapped street contrary to Department of Buildings' policy. R4 zoning district. R4 district.

249-12-BZ

1320 East 27th Street, west side of East 27th Street, 140' south of Avenue M, Block 7662, Lot(s) 60, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) to permit the enlargement of an existing one family, three story dwelling. R2 zoning district. R2 district.

250-12-BZ

2410 Avenue S, south side of Avenue S between East 24th and Bedford Avenue., Block 7303, Lot(s) 4, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to permit the enlargement of a single family residence. R3-2 zoning district. R3-2 district.

251-12-A

330 West 59th Street, west of southwest corner of 1st Avenue and East 59th Street, Block 1351, Lot(s) 36, Borough of **Manhattan, Community Board: 8**. Appeal from Department of Buildings' determination that sign is not entitled to continued non-conforming use status as advertising sign. C2-5 Zoning District C2-5 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

SEPTEMBER 11, 2012, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, September 11, 2012, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

739-76-BZ

APPLICANT – Eric Palatnik, P.C., for Cord Meyer Development, LLC, owner; Peter Pan Games of Bayside, lessee.

SUBJECT – Application June 1, 2012 – Extension of Term of a Special Permit (§73-35) for the continued operation of an Amusement arcade (*Peter Pan Games*) which expired on April 10, 2012; Waiver of the Rules. C4-1 zoning district. PREMISES AFFECTED – 212-95 26th Avenue, 26th Avenue and Bell Boulevard, Block 5900, Lot 2, Borough of Queens. **COMMUNITY BOARD #7Q**

93-97-BZ

APPLICANT – Eric Palatnik, P.C., for Pi Associates, LLC, owner.

SUBJECT – Application March 13, 2012 – Amendment to a previously granted Variance (72-21) to permit the change in use of a portion of the existing second floor (5902sf) which is currently occupied by 13 off street accessory parking spaces to UG 6 office use. C4-3 zoning district. PREMISES AFFECTED – 136-21 Roosevelt Avenue, between Main Street and Union Street, Block 4980, Lot 11, Borough of Queens.

COMMUNITY BOARD #7Q

194-02-BZ

APPLICANT – Sheldon Lobel, P.C., for Shore Plaza LLC, owner; Staten Island Fitness Group, LLC, lessee.

SUBJECT – Application May 16, 2012 – Extension of Term of a previously granted Special permit (§73-36) for the continued operation of a Physical Culture Establishment (*Planet Fitness*) which expired on December 1, 2011; Waiver of the Rules. C4-3 zoning district. PREMISES AFFECTED – 1775 South Avenue, southeast corner of the intersection formed by Meredity and South Avenues, Block 2800, Lot 37, Borough of Staten Island.

COMMUNITY BOARD #2SI

330-05-BZ

APPLICANT – Vito J. Fossella, P.E., LPEC, for Frank Bennett, owner.

SUBJECT – Application February 29, 2012 – Extension of Term of a previously granted Special Permit (§73-36) for the continued operation of a Physical Culture Establishment

(AF Bennett Salon and Wellness Spa) which expired on January 30, 2102; Extension of Time to Complete Construction which expired on January 30, 2011; Amendment to further enlarge the PCE into the neighboring cellar; Waiver of the Rules. R3-2/C2-2 zoning district.

PREMISES AFFECTED – 350 New Dorp Lane, south side of New Dorp Lane, 260' east of corner formed by the intersection of New Dorp Lane and Clawson Avenue, Block 4221, Lot 53, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEALS CALENDAR

194-12-A

APPLICANT – John Sullivan, for Gelu-Durius Musica, owner.

SUBJECT – Application June 15, 2012 – Appeal challenging the Department of Buildings' determination that the proposed Nursery School complies with ZR Section 24-11. R2A Zoning District.

PREMISES AFFECTED – 213-14 Union Turnpike, south side of Union Turnpike at corner of 214th Street, Block 7787, Lot 44, Borough of Queens.

COMMUNITY BOARD #11Q

201-12-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Scott Whalen, owner; TSC Building, LLC, lessee.

SUBJECT – Application June 28, 2012 – Proposed construction of a single family home that does not front a legally mapped street contrary to General City Law Section 36 . R3A Zoning District.

PREMISES AFFECTED – 112 Alberta Avenue, southeast corner of intersection of Wild Avenue and Alberta Avenue, Block 2643, Lot 10, Borough of Staten Island.

COMMUNITY BOARD #2SI

SEPTEMBER 11, 2012, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, September 11, 2012, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

156-11-BZ

APPLICANT – Sheldon Lobel, P.C., for The Rector Church Warden and Vestry Men of St. Simeon's Church owners.

SUBJECT – Application October 5, 2011 – Variance (§72-21) to permit the construction of a 12-story community

CALENDAR

facility (*St. Simeon's Episcopal Church*) (UG4 house of worship) and residential (UG 2 supportive housing) building contrary to setback, floor area, lot coverage and density requirements. R8 zoning district.

PREMISES AFFECTED – 1020 Carroll Place, triangular corner lot bounded by East 165th Street, Carroll Place and Sheridan Avenue, Block 2455, Lot 48, Borough of Bronx.

COMMUNITY BOARD #4BX

82-12-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Miriam Benabu, owner.

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

PREMISES AFFECTED – 2011 East 22nd Street, between Avenue S and Avenue T, Block 7301, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #15BK

86-12-BZ

APPLICANT – Jeremiah H. Candreva, Esq., Troutman Sanders LLP, for Parkwood Realty Associates, LLC c/o Park It Management Co., owner.

SUBJECT – Application April 9, 2012 – Special Permit (§73-63) to allow for an enlargement (1,366 square feet) above the maximum permitted floor area permitted by the underlying district regulations. R8B zoning district regulations.

PREMISES AFFECTED – 158 West 83rd Street, western boundary of the site is 150' east of Amsterdam Avenue on West 83rd Street, Block 1213, Lot 58, Borough of Manhattan.

COMMUNITY BOARD #4BK

189-12-BZ

APPLICANT – Michael T. Sillerman, Kramer Levin et al., for the Wachtower Bible and Tract Society, Inc., owner; Bossert, LLC, lessees.

SUBJECT – Application June 12, 2012 – Variance (§72-21) to permit a transient hotel (Use Group 5), contrary to use regulations. C1-3/R7-1, R6 zoning districts.

PREMISES AFFECTED – 98 Montague Street, east side of Hicks Street, between Montague and Remsen Streets, on block bounded by Hicks, Montague, Henry and Remsen Streets, Block 248, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #2BK

198-12-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for JZS Madison, LLC, owner.

SUBJECT – Application June 22, 2012– Variance (§72-21) to permit the construction of an enlargement to the existing buildings, which would contain Use Group 6 retail and Use Group 2 residential use, and require modification of various bulk and supplementary use regulations. C5-1(MP), R8B zoning district.

PREMISES AFFECTED – 933-943 Madison Avenue, block bounded by Madison and Park Avenues, East 74th and East 75th Streets, Block 1389, Lot 25, Borough of Manhattan.

COMMUNITY BOARD #8M

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, AUGUST 14, 2012
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

292-55-BZ

APPLICANT – Alfonso Duarte, for Narkeet Property Inc., owner.

SUBJECT – Application April 2, 2012 – Extension of Term (§11-411) for the continued operation of an Automotive Service Station (GULF) which expired on April 10, 2011; Waiver of the Rules. R3-2 zoning district.

PREMISES AFFECTED – 239-15 Jamaica Avenue, northwest corner of 240th Street, Block 8001, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Alfonso Duarte.

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 waiver of the Rules of Practice and Procedure, a re-opening, and an extension of term for a previously granted variance to permit the operation of a gasoline service station with accessory uses, which expired on April 10, 2011; and

WHEREAS, a public hearing was held on this application on June 12, 2012, after due notice by publication in *The City Record*, with a continued hearing on July 17, 2012, and then to decision on August 14, 2012; 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 13, Queens, recommends approval of this application; and

WHEREAS, Queens Borough President Helen Marshall recommends approval of this application; and

WHEREAS, the subject site is located on a corner through lot bounded by 93rd Road to the north, 240th Street to the east, and Jamaica Avenue to the south, within an R3-2 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since April 10, 1956 when, under the subject calendar number, the Board granted a variance to permit the construction of a gasoline service station with accessory uses,

for a term of 15 years; and

WHEREAS, subsequently, the grant has been amended and the term extended by the Board at various times; and

WHEREAS, most recently, on February 25, 2003, the Board granted a ten-year extension of term, which expired on April 10, 2011, and an amendment to permit the construction of a new metal canopy over the gasoline pumps; and

WHEREAS, the applicant now requests an additional ten-year extension of term; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term; and

WHEREAS, in response to concerns raised by the Community Board and the Queens Borough President, the applicant submitted revised plans reflecting that (1) the structure that was constructed to store tires has been removed from the site, (2) the ground signs have been removed from the site, (3) the clothing collection bins have been removed from the site, and (4) the landscaping has been updated; and

WHEREAS, the applicant also submitted an affidavit from the owner stating that (1) no outdoor structures or enclosures will be constructed on the site, (2) no clothing bins will be placed on the site, and (3) the site will be kept in a clean and orderly manner and the landscaping will be maintained; and

WHEREAS, at hearing, the Board questioned whether the signage on the site complies with C1 district regulations; and

WHEREAS, in response, the applicant submitted a revised signage analysis reflecting that the signage complies with C1 district regulations, with the exception of a 4.37 sq. ft. overage for the signs facing Jamaica Avenue, which the applicant requests that the Board allow to remain; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated April 3, 1956, so that as amended this portion of the resolution shall read: “to extend the term for ten years from April 10, 2011, to expire on April 10, 2021; *on condition* that all use and operations shall substantially conform to plans filed with this application marked ‘Received June 27, 2012’ - (4) sheets; and *on further condition*:

THAT the term of the grant will expire on April 10, 2021;

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

THAT no outdoor structures or enclosures will be constructed on the site;

THAT no clothing bins will be placed on the site;

THAT landscaping will be maintained as indicated on the BSA-approved plans;

THAT all signage on the site will comply with the BSA-approved plans;

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

MINUTES

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

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

Adopted by the Board of Standards and Appeals August 14, 2012.

579-78-BZ

APPLICANT – Alfonso Duarte, for LEM LEE 58 L.P c/o Mautner-Glick Management, owner.

SUBJECT – Application April 24, 2012 – Extension of Term of a previously-approved variance (§72-21) which permitted retail use on a portion of the first floor and cellar of an existing six story multiple dwelling, which expired on January 30, 2004; Waiver of the Rules. R8B zoning district. PREMISES AFFECTED – 236-238 East 58th Street, south side 160’ west of 2nd Avenue, Block 1331, Lot 31, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Alfonso Duarte.

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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of the term for a previously granted variance for the continued use of a portion of the cellar and first floor of a six-story building for retail use (Use Group 6), which expired on January 30, 2004; and

WHEREAS, a public hearing was held on this application on July 17, 2012, after due notice by publication in *The City Record*, and then to decision on August 14, 2012; and

WHEREAS, Community Board 6, Manhattan, states that it has no objection to this application; and

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

WHEREAS, the subject site is located on the south side of East 58th Street, between Second Avenue and Third Avenue, within an R8B zoning district; and

WHEREAS, the Board has exercised jurisdiction over the site since January 30, 1979 when, under the subject calendar number, the Board granted a variance to permit the conversion of the front portion of the cellar and first floor of an existing six-story residential building into retail stores, for a term of five years; and

WHEREAS, subsequently, the grant was amended and

the term extended at various times; and

WHEREAS, most recently, on May 17, 1994, the Board granted a ten-year extension of term, which expired on January 30, 2004; and

WHEREAS, the applicant now seeks an additional ten-year extension of the term; and

WHEREAS, at hearing, the Board questioned whether the signage on the site complies with C1 district signage regulations; and

WHEREAS, in response, the applicant states that the signage complies with C1 district regulations with the exception of the projection of the canopy, which it requests that the Board allow to remain; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated January 30, 1979, so that as amended this portion of the resolution shall read: “to extend the term for ten years from the date of this grant, to expire on August 14, 2022; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked ‘Received April 24, 2012’-(3) sheets and ‘July 31, 2012’-(2) sheets; and *on further condition*:

THAT the term of the grant will expire on August 14, 2022;

THAT all signage on the site will comply with the BSA-approved plans;

THAT the above condition will appear on the certificate of occupancy;

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

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

Adopted by the Board of Standards and Appeals August 14, 2012.

51-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Rivoli Realty Corporation, owner.

SUBJECT – Application February 4, 2010 – Amendment of a variance (§72-21) which permitted a Physical Culture Establishment and a dance studio (Use Group 9), contrary to use regulations. The amendment seeks to enlarge the floor area of the PCE; Extension of Time to obtain a Certificate of Occupancy which expired on May 25, 2011; Waiver of the Rules. C1-2/R2 zoning district.

PREMISES AFFECTED – 188-02/22 Union Turnpike, Located on the south side of Union Turnpike between 188th and 189th Streets, Block 7266, Lot 1, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

MINUTES

For Applicant: Elizabeth Bennett.

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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of time to obtain a certificate of occupancy, which expired on May 25, 2011, and an amendment to a previously granted variance for a physical culture establishment (“PCE”) and dance studio, to permit a 2,332 sq. ft. enlargement of the first floor; and

WHEREAS, a public hearing was held on this application on July 10, 2012, after due notice by publication in *The City Record*, and then to decision on August 14, 2012; 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 approval of this application, with the condition that any future advertisement not indicate any place to park in the community; and

WHEREAS, the site is located on the south side of Union Turnpike, between 188th Street and 189th Street, within a C1-2 (R2A) zoning district; and

WHEREAS, the site is occupied by a one-story and cellar commercial building; and

WHEREAS, the PCE occupies a total of 1,072 sq. ft. of floor area on the first floor and an additional 8,647 sq. ft. of floor space in the cellar, and the existing dance studio occupies 1,198 sq. ft. of floor area on the first floor and approximately 3,473 sq. ft. of additional floor space in the cellar; and

WHEREAS, the Board has exercised jurisdiction over the subject site since December 12, 2006 when, under the subject calendar number, the Board granted a variance to permit the operation of a PCE and the legalization of the existing dance studio at the subject site, with certain conditions; and

WHEREAS, on February 10, 2009, the Board granted an extension of time to obtain a certificate of occupancy; and

WHEREAS, most recently, on May 25, 2010, the Board granted an extension of time to obtain a certificate of occupancy and an amendment to permit (1) the expansion of the PCE use to a 1,072 sq. ft. portion of the first floor, and (2) a change in the operator of the PCE; and

WHEREAS, the applicant now seeks an additional extension of time to obtain a new certificate of occupancy; and

WHEREAS, the applicant states that a certificate of occupancy was not obtained by the stipulated date primarily due to open applications at DOB attributed to other tenants of

the subject commercial building; and

WHEREAS, the applicant also seeks an amendment to permit an expansion of the PCE use to add 2,332 sq. ft. of floor area on the first floor, resulting in an increase in the total floor area occupied by the PCE from 1,072 sq. ft. to 3,404 sq. ft., and an increase in the total floor space occupied by the PCE from 9,719 sq. ft. to 12,051 sq. ft.; and

WHEREAS, the applicant proposes to enlarge the PCE by expanding its operations into the adjacent storefront, which it represents has been vacant since November 2009 despite good faith efforts by the owner to find a viable tenant; and

WHEREAS, the applicant states that the proposed extension of the PCE to the adjacent storefront is necessary to alleviate the overcrowded conditions that have developed at the PCE due to the lack of sufficient open and uninterrupted floor space at the site; and

WHEREAS, the applicant further states that the proposed expansion of the PCE will provide additional space for exercise equipment, storage and offices, and additional locker rooms; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may permit an amendment to an existing variance; and

WHEREAS, the applicant represents that it will take between nine and 12 months to complete the proposed renovation of the PCE and obtain a certificate of occupancy; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to obtain a certificate of occupancy and the proposed amendments to the grant are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated December 12, 2006, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy to August 14, 2013, and to permit a 2,332 sq. ft. expansion of the PCE on the first floor; *on condition* that any and all work shall substantially conform to drawings filed with this application marked ‘Received April 26, 2012’-(5) sheets; and *on further condition*:

THAT signage on the site shall comply with C1 district regulations;

THAT the above condition shall be listed on the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by August 14, 2013;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)

MINUTES

and/or configuration(s) not related to the relief granted.”
(DOB Application No. 402279495)

Adopted by the Board of Standards and Appeals, August 14, 2012.

294-06-BZ

APPLICANT – Goldman Harris LLC, owner; Club Fitness NY, lessee.

SUBJECT – Application February 8, 2012 – Amendment of a previously approved special permit (§73-36) which permitted the operation of a physical culture establishment (*Club Fitness*) on the second and third floors in a three-story building. C2-2 zoning district.

PREMISES AFFECTED – 31-11 Broadway, between 31st and 32nd Streets, Block 613, Lots 1 & 4, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Nadia Alexis.

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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously granted variance for a physical culture establishment (“PCE”), to permit a correction to the calculation of the floor area and to permit a 4,700 sq. ft. enlargement of the cellar; and

WHEREAS, a public hearing was held on this application on June 19, 2012, after due notice by publication in *The City Record*, with a continued hearing on July 17, 2012, and then to decision on August 14, 2012; and

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

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

WHEREAS, the site is located on the north side of Broadway, between 31st Street and 32nd Street, partially within a C4-2A zoning district and partially within a C4-3 zoning district; and

WHEREAS, the site is occupied by a three-story and cellar commercial building; and

WHEREAS, the PCE occupies a total of 28,434 sq. ft. of floor area on the first, second, and third floors; and

WHEREAS, the Board has exercised jurisdiction over the subject site since December 20, 1921 when, under BSA Cal. No. 628-21-BZ, the Board granted a variance to permit the construction of a movie theater in what was formerly a residential district; the theater has since been demolished; and

WHEREAS, on October 17, 1967, under BSA Cal. No. 97-67-BZ, the Board granted a variance to permit the use of the cellar to include an eating and drinking

establishment with cabaret; this establishment is still operating at the site; and

WHEREAS, most recently, on April 10, 2007, the Board granted a special permit for the establishment of a PCE at portions of the cellar level and first floor, and the entire second and third floors; and

WHEREAS, the applicant states that the prior approval showed the PCE as occupying 27,271 sq. ft. of floor area, however, the plans have since been corrected to include an additional 1,163 sq. ft. of floor area which had been unintentionally omitted; and

WHEREAS, the applicant now seeks an amendment to permit an expansion of the PCE to include an additional 4,700 sq. ft. of floor space at the cellar level; and

WHEREAS, at hearing, the Board questioned whether the proposed signage was in compliance with the C4 district signage regulations; and

WHEREAS, in response, the applicant submitted a revised signage analysis reflecting that the signage at the site complies with the underlying district signage regulations; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment to the grant is appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens and amends* the resolution, dated April 10, 2007, so that as amended this portion of the resolution shall read: “to permit the noted modifications to the approved plans; *on condition* that any and all work shall substantially conform to drawings filed with this application marked “Received February 8, 2012”-(4) sheets and “Received May 18, 2012”-(1) sheet; and *on further condition*:

THAT signage on the site will comply with C4 district regulations;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.”
(DOB Application No. 402278600)

Adopted by the Board of Standards and Appeals, August 14, 2012.

39-65-BZ

APPLICANT – Eric Palatnik, P.C., for SunCo. Inc. (R & M), owners.

SUBJECT – Application March 13, 2012 – Amendment of a previously-approved variance (§72-01) to convert repair bays to an accessory convenience store at a gasoline service station (*Sunoco*); Extension of Time to obtain a Certificate

MINUTES

of Occupancy, which expired on January 11, 2000; and Waiver of the Rules. C3 zoning district.
PREMISES AFFECTED – 2701-2711 Knapp Street and 3124-3146 Voohries Avenue, Block 8839, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Laid over to September 25, 2012, at 10 A.M., for continued hearing.

365-79-BZ

APPLICANT – Kevin B. McGrath c/o Phillips Nizer LLP, for 89-52 Queens LLC, owner.

SUBJECT – Application February 21, 2012 – Amendment of a variance (§72-21) which allowed a hospital to be built contrary to bulk regulations. The amendment would convert the hospital building to commercial, community facility and residential uses. R6/C1-2 zoning district.

PREMISES AFFECTED – 90-02 Queens Boulevard, Hoffman Drive and Queens Boulevard, block 2857, Lot 36, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Kevin McGrath, David Cuff and Yuriy Bolyshak.

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 25, 2012, at 10 A.M., for decision, hearing closed.

406-82-BZ

APPLICANT – Eric Palatnik, P.C., for Adolf Clause and Theodore Thomas, owners; Hendel Products, lessee.

SUBJECT – Application May 22, 2012 – Extension of Time to obtain a Certificate of Occupancy for a previously-approved special permit (§73-243) for an eating and drinking establishment (*McDonald's*) with accessory drive-thru, which expired on May 3, 2012. C1-3/R5 zoning district.

PREMISES AFFECTED – 2411 86th Street, northeast corner of 24th Avenue and 86th Street, Block 6859, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Todd Dale.

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 11, 2012, at 10 A.M., for decision, hearing closed.

25-89-BZ

APPLICANT – Kevin B. McGrath c/o Phillips Nizer LLP, for St. John's Garage LLC, owner.

SUBJECT – Application February 23, 2012 – Amendment of a variance (§72-21) which allowed for an accessory parking garage to be built for a hospital. The amendment seeks to permit the accessory parking to be used for community facility, commercial and residential uses. R6B zoning district.

PREMISES AFFECTED – 58-04 Hoffman Drive, 58th Avenue and Hoffman Drive, Block 2860, Lot 16, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Kevin McGrath, David Cuff and Yuriy Bolyshak.

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 25, 2012, at 10 A.M., for decision, hearing closed.

68-94-BZ

APPLICANT – Troutman Sanders, LLP, for Bay Plaza Community Center, LLP, owner; Bally's Total Fitness of Greater New York, lessee.

SUBJECT – Application June 26, 2012 – Extension of Time to obtain a certificate of occupancy for a previously granted special permit (§73-36) for the continued operation of a physical culture establishment (*Bally's Total Fitness*) on the first and second floors of the Co-Op City Bay Plaza Shopping Center which expired on June 16, 2012; Waiver of the Rules.C4-3/M1-1 zoning district.

PREMISES AFFECTED – 2100 Bartow Avenue, Baychester Avenue and The Hutchenson River Parkway, Block 5141, Lot 810, Borough of Bronx.

COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Jeremiah Candreva.

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 11, 2012, at 10 A.M., for decision, hearing closed.

MINUTES

53-01-BZ

APPLICANT – Sheldon Lobel, P.C., for Charter Management Group, LLC, owner; Eun Sung, Inc., lessee.

SUBJECT – Application April 27, 2012 – Extension of Term of a previously granted special permit (73-36) for the continued operation of a physical culture establishment (*Silver Star Spa*) in a portion of the first and cellar floors of an existing commercial building which expired on July 10, 2010; Waiver of the Rules. C5-3/C6-4,5 (MID) zoning district.

PREMISES AFFECTED – 6 West 48th Street, located on the south of West 48th Street between Fifth and Sixth Avenues, Block 1263, Lot 43, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Elizabeth Bennett.

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 11, 2012, at 10 A.M., for decision, hearing closed.

164-07-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Rouse SI Shopping Center LLC, owner; ME Clinic Two LLC, lessee.

SUBJECT – Application April 23, 2012 – Amendment of a previously approved special permit (§73-36) which permitted the operation of a physical culture establishment (*Massage Envy*). The amendment seeks to enlarge the use. C4-1 district.

PREMISES AFFECTED – The Crossings @ Staten Island Mall (280 Marsh Avenue), north of Platinum Avenue, west of Marsh Avenue, east of Staten Island Mall Dr., Block 2400, Lot 300, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Todd Dale.

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 11, 2012, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

83-11-A

APPLICANT – Marvin B. Mitzner, Esq., for 159 West 78th Street, Corp., for Felix and Lisa Oberholzer-Gee, owners.

SUBJECT – Application June 9, 2011 – Appeal pursuant to §310 of the Multiple Dwelling Law (MDL) to allow for a one-story enlargement of a four-story building, contrary to Multiple Dwelling Law §171(2)(f). R8B zoning district.

PREMISES AFFECTED – 159 West 78th Street, north side of West 78th Street, between Columbus and Amsterdam Avenues, Block 1150, Lot 8, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES –

For Applicant: Marvin B. Mitzner.

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 Manhattan Borough Commissioner, dated May 10, 2011, acting on Department of Buildings Application No. 120553187 reads, in pertinent part:

Proposed enlargement of a converted dwelling exceeds 25% of the area at the 4th floor which is contrary to MDL 171-2(f) hence it is not permitted; and

WHEREAS, this is an application pursuant to Multiple Dwelling Law (“MDL”) § 310, to vary height and bulk requirements in order to allow for the proposed partial one-story vertical enlargement of the subject four-story and basement residential building from office use, contrary to MDL § 171(2)(f); and

WHEREAS, a public hearing was held on this application on June 5, 2012, after due notice by publication in *The City Record*, with a continued hearing on July 17, 2012, and then to decision on August 14, 2012; and

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

WHEREAS, Community Board 7, Manhattan, recommends approval of the proposed partial one-story enlargement, but objects to the design of the proposed replacement windows for the front of the fourth floor; and

WHEREAS, the subject site is located on the north side of West 78th Street, between Amsterdam Avenue and Columbus Avenue, in an R8B zoning district within the Upper West Side Historic District; and

WHEREAS, the site has 19 feet of frontage along West 78th Street, a depth of approximately 102 feet, and a total lot area of 1,941 sq. ft.; and

WHEREAS, the site is occupied by a four-story and basement non-fireproof residential building; and

WHEREAS, the applicant states that the existing

MINUTES

building was constructed in approximately 1900 and is currently occupied by five residential units, with one unit on each floor; and

WHEREAS, the subject building has a floor area of approximately 5,597 sq. ft. (2.88 FAR) and a height of 58'-3"; and

WHEREAS, the applicant proposes to enlarge the building by constructing a partial fifth floor containing an additional 646 sq. ft. of floor area; and

WHEREAS, the applicant states that the proposed fifth floor will be used in conjunction with the existing fourth floor unit and will therefore not increase the number of units within the subject building; and

WHEREAS, the applicant further states that the proposed enlargement will increase the floor area of the subject building from 5,597 sq. ft. (2.88 FAR) to 6,243 sq. ft. (3.22 FAR) (the maximum permitted floor area is 7,764 sq. ft. (4.0 FAR)), and will increase the height of the building from 58'3" to 67'-4" (the maximum permitted height is 75'-0"); and

WHEREAS, the applicant notes that the proposed fifth floor enlargement will be set back 16'-10" from the building's front façade so as not to be visible from the street; and

WHEREAS, MDL § 171(2)(f) states that it is unlawful to "enlarge or extend any converted dwelling so as to exceed by more than twenty-five per centum the area which such dwelling had on any floor at the time of its conversion..."; and

WHEREAS, because the proposed 646 sq. ft. enlargement at the fifth floor exceeds 25 percent of the area on the fourth floor, the Department of Buildings ("DOB") determined that it does not comply with the requirements of MDL § 171(2)(f); and

WHEREAS, pursuant to MDL § 310(2)(a), the Board has the authority to vary or modify certain provisions of the MDL for multiple dwellings that existed on July 1, 1948, provided that the Board determines that strict compliance with such provisions would cause practical difficulties or unnecessary hardships, and that the spirit and intent of the MDL are maintained, public health, safety and welfare are preserved, and substantial justice is done; and

WHEREAS, as noted above, the subject building was constructed in approximately 1900; therefore the building is subject to MDL § 310(2)(a); and

WHEREAS, specifically, MDL § 310(2)(a) empowers the Board to vary or modify provisions or requirements related to: (1) height and bulk; (2) required open spaces; (3) minimum dimensions of yards or courts; (4) means of egress; and (5) basements and cellars in tenements converted to dwellings; and

WHEREAS, the Board notes that MDL § 171(2)(f) relates to height and bulk; therefore the Board has the power to vary or modify the subject provisions pursuant to MDL § 310(2)(a)(1); and

WHEREAS, the applicant represents that practical difficulty and unnecessary hardship would result from strict compliance with the MDL; and

WHEREAS, the applicant notes that MDL § 171(2)(f) permits the enlargement of a converted dwelling up to 25 percent of the floor area of any floor, as it existed at the time the dwelling was converted; however, since there was no fifth

floor at the time of the building's conversion, it has a calculated floor area of zero; and

WHEREAS, the applicant states that since the fifth floor has a floor area of zero, MDL § 171(2)(f) effectively prevents any vertical enlargement of the subject building¹; and

WHEREAS, the applicant further states that the fourth floor cannot practicably be enlarged horizontally to make up for this deficit because it would require cantilevering over the third floor, which is cost-prohibitive, and would impermissibly diminish the light and air to the rear windows of the third floor unit; and

WHEREAS, the applicant notes that the fourth floor also has less floor area as compared to the basement, first, and second floors, which are benefitted by a 13-ft. extension in the rear of the building, and as a result a horizontal enlargement of the fourth floor that complies with MDL § 171(2)(f) would be substandard in size (a complying enlargement of the fourth floor would be limited to approximately 234 sq. ft.); and

WHEREAS, the applicant represents that because a vertical enlargement is not permitted and a horizontal enlargement is impracticable, the MDL restriction creates practical difficulty and unnecessary hardship in that it prevents the site from utilizing the development potential afforded by the subject zoning district; and

WHEREAS, specifically, the applicant notes that the subject district permits an FAR of 4.0, and the proposed enlargement would increase the FAR of the building from 2.88 to 3.22; and

WHEREAS, the applicant represents that practical difficulties also arise regarding the use and enjoyment of the existing roof space; and

WHEREAS, specifically, the applicant states that although there is currently no habitable structure on the roof there is a usable deck on a portion of the roof, and the abutting properties to the east and west of the subject building both contain rooftop penthouses with large walls extending beyond the penthouse structures, thereby creating a canyon effect on the subject site's roof; and

WHEREAS, the applicant represents that the surrounding conditions cast the subject building's roof deck in shadow and diminish its usefulness; and

WHEREAS, based on the above, the Board agrees that the applicant has established a sufficient level of practical difficulty and unnecessary hardship in complying with the requirements of the MDL; and

WHEREAS, the applicant states that the requested variance of MDL § 171(2)(f) is consistent with the spirit and intent of the MDL, and will preserve public health, safety and welfare, and substantial justice; and

WHEREAS, specifically, the applicant states that the proposal includes numerous fire safety improvements to mitigate the existing fire infirmities inherent in the pre-1929 building; and

WHEREAS, the applicant notes that MDL § 2 ("Legislative Finding") provides that the intent of the law is to

¹ The vertical enlargement is also specifically prohibited pursuant to MDL §171(2)(a).

MINUTES

protect against dangers such as “overcrowding of multiple dwelling rooms, inadequate provision for light and air, and insufficient protection against the defective provision for escape from fire...”; and

WHEREAS, accordingly, the applicant represents that the proposed construction promotes the intent of the law because: (1) it will not increase the number of residents in the building because the proposed fifth floor will be used in conjunction with the existing fourth floor unit, and therefore will not result in overcrowding within the building; (2) it will be modest in size and set back from the front and rear facades, thereby providing sufficient light and air to the proposed fifth floor without diminishing access to light and air for other units in the building; and (3) it will provide a number of significant fire safety improvements; and

WHEREAS, specifically, the applicant proposes to provide the following fire safety improvements: (1) the addition of sprinklers to both the existing fourth floor and the proposed fifth floor, and all common areas of the building will be fully sprinklered and upgraded as necessary; (2) new, non-combustible gypsum cement board cladding will be installed on all stair treads, risers, and exposed stringers; (3) porcelain tile flooring will be installed at hallways, in addition to porcelain tile matching stair treads and risers at all stairs; (4) all existing wood stair rails will be replaced with metal; (5) a new layer of fire resistant gypsum board will be installed to the underside of the existing staircases and landings; and (6) all doors leading to the apartments and cellar will have improved fireproof self-closing doors; and

WHEREAS, the applicant represents that the proposed fire safety measures will result in a substantial increase to the public health, safety, and welfare, which far outweighs any impact from the proposed enlargement; and

WHEREAS, by letter dated July 16, 2012, the Fire Department states that it reviewed the proposed plans as to emergency egress routes and Fire Department emergency access to the building, and has no objection to the proposal; and

WHEREAS, based on the above, the Board finds that the proposed variance to the height and bulk requirements of MDL § 171(2)(f) will maintain the spirit and intent of the MDL, preserve public health, safety and welfare, and ensure that substantial justice is done; and

WHEREAS, the applicant represents that the proposal will not affect the historical integrity of the subject property; and

WHEREAS, the applicant submitted a Certificate of Appropriateness from the Landmarks Preservation Commission (“LPC”) approving work associated with the proposed enlargement, dated June 20, 2012; and

WHEREAS, accordingly, the Board finds that the Appellant has submitted adequate evidence in support of the findings required to be made under MDL § 310(2)(a) and that the requested variance of the height and bulk requirements of MDL § 171(2)(f) is appropriate, with certain conditions set forth below.

Therefore it is Resolved, that the decision of the Manhattan Borough Commissioner, dated May 10, 2011, is

modified and that this appeal is granted, limited to the decision noted above, on condition that construction shall substantially conform to the plans filed with the application marked, “Received January 11, 2012” - five (5) sheets and “July 3, 2012” - one (1) sheet; and on further condition:

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed Department of Buildings objections related to the MDL;

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) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, August 14, 2012.

146-12-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Gayle & Paul Degrazia, lessees. SUBJECT – Application May 8, 2012 – Proposed alteration and enlargement of an existing single family dwelling not fronting a mapped street, contrary to Section 36 of the General City Law, and the proposed upgrade of the existing non-conforming private disposal system partially in the bed of the service road, contrary to Building Department policy. R4 zoning district.

PREMISES AFFECTED – 15 Beach 220th Street, east side of Beach 220th Street, 168.5’ north of 4th Avenue, Block 16350, Lot p/o400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

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 April 30, 2012, acting on Department of Buildings Application No. 420543941, reads in pertinent part:

A1-The street giving access to the existing building to be altered is not duly placed on the map of the City of New York.

a) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law; and

b) Existing dwelling to be altered does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code.

MINUTES

A2- The proposed upgrade of the private disposal system is contrary to the Department of Building policy; and

WHEREAS, a public hearing was held on this application on August 14, 2012, after due notice by publication in the *City Record*, then to closure and decision on the same date; and

WHEREAS, by letter dated July 19, 2012 the Fire Department states that it has no objection to the subject proposal, and that the plans shall state that the building will be fully sprinklered; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated April 30, 2012, acting on Department of Buildings Application No. 420543941, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received May 8, 2012 -one (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 DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

THAT the approved plans will 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 14, 2012.

80-11-A, 84-11-A, 85-11-A & 103-11-A

APPLICANT – Marvin B. Mitzner, Esq., for 327-335 East 9th Realty, LLC, owner.

SUBJECT – Application June 10, 2011 – Appeals pursuant to §310 of the Multiple Dwelling Law (MDL) to allow for enlargement to a five-story building, contrary to MDL §§ 51, 143, 146, 148 and 149. R8B zoning district.

PREMISES AFFECTED – 331, 333, 335, 329 East 9th Street, between 1st and 2nd Avenue, Block 451, Lot 46, 45, 44, 47, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Marvin B. Mitzner.

For Opposition: Sara Romanosky of East Village Commission Coalition and Kevin Shea.

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 11, 2012, at 10 A.M., for decision, hearing closed.

46-12-A

APPLICANT – Eric Palatnik, P.C., for Tremont Three, LLC, owner.

SUBJECT – Application March 1, 2012 – Application to permit a mixed use development located partially within the bed of a mapped but unbuilt street (East Tremont Avenue), contrary to General City Law Section 35. C4-5X/R7X zoning district

PREMISES AFFECTED – 4215 Park Avenue, north side of East Tremont Avenue, between Park and Webster Avenues, Block 3027, Lot 1, Borough of Bronx.

COMMUNITY BOARD #6BX

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Laid over to September 25, 2012, at 10 A.M., for continued hearing.

172-11-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Folarunso Ovalabu, owner.

SUBJECT – Application November 7, 2011 – Appeal seeking determination that the owner of the property has acquired a common law vested right to complete construction under the prior R3-2 zoning. R3A zoning district.

PREMISES AFFECTED – 119-43 197th Street, south of intersection of east side of 197th Street and south side of 119th Avenue, Block 12653, Lot 42, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Todd Dale.

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 11, 2012, at 10 A.M., for decision, hearing closed.

21-12-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Pavel Kogan, owner.

SUBJECT – Application January 30, 2012 – Proposed construction of an accessory swimming pool partially within the bed of a mapped street, contrary to General City Law Section 35. R1-2 (NA-1) Zoning District.

MINUTES

PREMISES AFFECTED – 55 Louise Lane, west of intersection of north side of Louise Lane and west side of Tiber Place, Block 687, Lot 281, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Todd Dale.

ACTION OF THE BOARD – Laid over to September 11, 2012, at 10 A.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: 12:00 P.M.

REGULAR MEETING TUESDAY AFTERNOON, AUGUST 14, 2012 1:30 P.M.

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

ZONING CALENDAR

193-11-BZ

CEQR #12-BSA-054K

APPLICANT – Eric Palatnik, P.C., for Aleksandr Falikman, owner.

SUBJECT – Application December 21, 2011 – Special Permit (§73-622) for an enlargement of an existing single family home, contrary to floor area, open space and lot coverage (§23-141(b)); side yard (§23-461) and rear yard (§23-47) regulations. R3-1 zoning district.

PREMISES AFFECTED – 215 Exeter Street, Oriental Boulevard and Esplanade, Block 8743, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Adam Rothkrug.

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 Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated December 8, 2011, acting on Department of Buildings Application No. 320364146, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141(b) in that the proposed floor area ratio (FAR) exceeds the permitted 50%.

2. Proposed plans are contrary to ZR 23-141(b) in that the proposed open space is less than the required 65%.
3. Proposed plans are contrary to ZR 23-141(b) in that the proposed lot coverage exceeds the maximum required 35%.
4. Proposed plans are contrary to ZR 23-47 in that the proposed existing rear yard is less than 30'-0".
5. Plans are contrary to ZR 23-461(a) in that the existing minimum side yard is less than the required minimum 5'-0"; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R3-1 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, lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on March 27, 2012 after due notice by publication in *The City Record*, with continued hearings on May 1, 2012, June 5, 2012, July 10, 2012, and July 24, 2012, and then to decision on August 14, 2012; and

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

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

WHEREAS, the subject site is located on the east side of Exeter Street, between Oriental Boulevard and Esplanade, within an R3-1 zoning district; and

WHEREAS, the subject site has a total lot area of 8,000 sq. ft., and is occupied by a single-family home with a floor area of 2,511 sq. ft. (0.31 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 2,511 sq. ft. (0.31 FAR) to 7,530 sq. ft. (0.94 FAR); the maximum permitted floor area is 4,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes to provide 4,858 sq. ft. of open space (5,200 sq. ft. of open space is the minimum required); and

WHEREAS, the applicant proposes to provide a lot coverage of 39 percent (35 percent is the maximum permitted); and

WHEREAS, the applicant proposes to maintain the existing side yard along the northern lot line with a width of 4'-7" (a side yard with a minimum width of 5'-0" is required); and

WHEREAS, the applicant proposes to maintain the existing rear yard with a depth of 19'-10½" (a minimum rear yard depth of 30'-0" is required); and

WHEREAS, the applicant initially proposed to construct a home with a floor area of 7,849 sq. ft. (0.98 FAR), 4,716 sq. ft. of open space, and a lot coverage of 41

MINUTES

percent; and

WHEREAS, in response to concerns raised by the Board as to the size of the proposed home, the applicant submitted revised plans for the current proposal, which reflects a reduction in the floor area and lot coverage and an increase in the amount of open space; 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, the applicant submitted a survey of homes within the surrounding area, which reflected that there are 76 homes within a one-quarter mile radius of the site with an FAR greater than 0.8; and

WHEREAS, at the direction of the Board, the applicant narrowed the scope of its survey to include only those homes which exceed 7,000 sq. ft. in floor area and to exclude those homes that are subject to a Stop Work Order or do not have a valid certificate of occupancy; as a result, the survey submitted by the applicant reflects that there are seven homes within a one-quarter mile radius of the site with floor areas that exceed 7,000 sq. ft., and which range in FAR from 0.87 to 1.98; and

WHEREAS, the survey further indicates that of the seven homes with floor areas in excess of 7,000 sq. ft., five of the homes are larger than the proposed home in terms of floor 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, 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 R3-1 zoning district, the enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space, lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; *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 July 17, 2012"-(11) sheets and "July 30, 2012"-(1) sheet; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 7,530 sq. ft. (0.94

FAR); 4,858 sq. ft. of open space; lot coverage of 39 percent; a side yard with a minimum width 4'-7" along the northern lot line; and a rear yard with a minimum depth of 19'-10½", 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 14, 2012.

**70-12-BZ
CEQR #12-BSA-102M**

APPLICANT – Francis R. Angelino, Esq., for C.S. Edward Kang, owner; Aqua Studio NY LLC, lessee.

SUBJECT – Application March 23, 2012 – Special Permit (§73-36) for the operation of a physical culture establishment (*Aqua Studio NY LLC*). C6-2A zoning districts.

PREMISES AFFECTED – 78 Franklin Street, between Broadway and Church Street, Block 175, Lot 4, Borough of Manhattan.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Francis R. Angelino

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 Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated March 2, 2012, acting on Department of Buildings Application No. 120969087, reads in pertinent part:

Proposed Physical Culture Establishment at the subcellar, cellar, and first (1) floors is not permitted as-of-right in a C6-2A zoning district and it is contrary to ZR 33-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C6-2A zoning district within the Tribeca East Historic District, the

MINUTES

operation of a physical culture establishment (PCE) on portions of the sub-cellar, cellar, and ground floor of a five-story mixed-use building, contrary to ZR § 33-10; and

WHEREAS, a public hearing was held on this application on June 19, 2012, after due notice by publication in *The City Record*, with a continued hearing on July 24, 2012, and then to decision on August 14, 2012; and

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

WHEREAS, residents from the adjacent buildings (76 and 80 Franklin Street) provided testimony in opposition to this application (the "Opposition"), citing the following primary concerns: (1) noise related to proposed mechanical systems servicing the PCE; (2) impacts on the structural integrity of the adjacent party walls resulting from the proposed demolition within the PCE space and/or potential leakage of water from the proposed pool; and (3) additional concerns regarding existing filings and approvals at the Department of Buildings ("DOB"); 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 located on Franklin Street between Broadway and Church Street, in a C6-2A zoning district within the Tribeca East Historic District; and

WHEREAS, the site has approximately 25 feet of frontage on Franklin Street, a depth of 100 feet, and a total lot area of 2,508 sq. ft.; and

WHEREAS, the proposed PCE will occupy 1,750 sq. ft. of floor area on a portion of the first floor, with an additional 2,375 sq. ft. of floor space located in portions of the cellar and sub-cellar; and

WHEREAS, the PCE will be operated as Aqua Fitness; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; and

WHEREAS, the applicant states that the hours of operation for the proposed PCE will be: Monday through Friday, from 7:00 a.m. to 10:00 p.m., and Saturday and Sunday, from 9:00 a.m. to 8:00 p.m.; and

WHEREAS, in response to the noise concerns raised by the Opposition, the applicant states that the proposed DOB-approved air compressor unit for the subject PCE will be installed at the sub-cellar level in the rear yard of the PCE and therefore is physically separate from the adjacent residential units; and

WHEREAS, the applicant further states that the proposed PCE will minimize sound transmission to residential units in the two adjacent buildings at 76 Franklin Street and 80 Franklin Street and to the subject building's second floor residential units as follows: (1) the PCE will comply with the NYC Noise Code; (2) the pool area, where music will be played, is separated from the residential units on the second floor by one floor level (street level) where the PCE's lobby will be located; (3) the existing party walls

at the sub-cellar level where the pool is located and the cellar level, will be lined with sound-attenuating wallboard to reduce potential sound transmission to adjoining properties; (4) the stereo system in the pool, intended for local music during the exercise session, will be of a small scale and its speakers will be ceiling-mounted and located a minimum of four feet from any perimeter wall to further isolate sound from any residential units above or adjacent to the PCE space; and (5) the stair connecting the pool area to the street level will have a ceiling six feet below the ceiling of the first floor to further isolate any sound transmission to the residential units above; and

WHEREAS, in response to the Opposition's concerns regarding the structural integrity of the adjacent party walls resulting from demolition and potential leakage of the pool, the applicant represents that the structural engineer has examined the PCE's pool space for structural integrity, that the pool liner and panels will be designed to easily contain the water pressure of the pool, that the pool will be a minimum of 5'-0" from any party or perimeter walls and will be structurally independent of such walls; and that the pool will, as required, will be reviewed and approved by the Department of Health; and

WHEREAS, the Board notes that the applicant is required to follow all codes regarding construction and must obtain any necessary approvals from the relevant agencies; and

WHEREAS, the Board further notes that the neighbor's concerns regarding existing approvals by DOB are outside the purview of the Board's proceedings; and

WHEREAS, the applicant represents that the proposal will not affect the historical integrity of the subject property, which is located within the Tribeca East Historic District; and

WHEREAS, the Landmarks Preservation Commission issued a Certificate of Appropriateness on July 10, 2012 approving of the proposed work for the subject PCE; and

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

WHEREAS, the 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 PCE 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 requisite findings pursuant to ZR §§ 73-36 and 73-03; and

MINUTES

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR Part 617.12; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No.12BSA102M, dated March 6, 2012; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit on a site located in a C6-2A zoning district within the Tribeca East Historic District, the operation of a PCE at portions of the sub-cellar, cellar, and ground floor of a five-story mixed-use building, contrary to ZR § 33-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received June 7, 2012"-Five (5) sheets, and *on further condition*:

THAT the term of this grant will expire on August 14, 2022;

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

THAT all massages must be performed by New York State licensed massage therapists;

THAT the site will be maintained free of graffiti;

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

THAT Local Law 58/87 compliance will be as reviewed and approved by DOB;

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

THAT the sound attenuation measures shall be provided as indicated on the BSA-approved plans;

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

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

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

THAT the Department of Buildings 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, August 14, 2012.

87-12-BZ CEQR #12-BSA-115K

APPLICANT – Troutman Sanders, LLP, for A & J Properties, LLC, owner; Bally’s Total Fitness of Greater New York, lessee.

SUBJECT – Application April 11, 2012 – Special Permit (§73-36) to permit the continued operation of the existing physical culture establishment (*Bally Total Fitness*). C2-2/R4 zoning district.

PREMISES AFFECTED – 1720-28 Sheepshead Bay Road, 123.21’ south of the intersection of Vorhies Avenue, Block 8770, Lot 12, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Jeremiah Candreva.

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 Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated June 27, 2012, acting on Department of Buildings Application No. 320497459, reads in pertinent part:

The existing physical culture establishment (PCE) expired on May 5, 2007. Consequently, seek and obtain from the NYC Board of Standards and Appeals a new special permit, pursuant to Sections 73-36 of the Zoning Resolution of the City of New York, to permit the continuation of the existing PCE at this Site; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C2-2 (R4) zoning district, the operation of a physical culture establishment (PCE) on the first floor, second floor and mezzanine level of an existing two-story and mezzanine commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on July 17, 2012, after due notice by publication

MINUTES

in *The City Record*, and then to decision on August 14, 2012; and

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

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Montanez; and

WHEREAS, the subject site is located on Sheepshead Bay Road, approximately 123 feet south of its intersection with Voorhies Avenue; and

WHEREAS, the site has approximately 109 feet of frontage on Sheepshead Bay Road, 116 feet of frontage on Shore Parkway, and a total lot area of 24,162 sq. ft.; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 3, 1977 when, under BSA Cal. No. 854-76-BZ, the Board granted a variance under ZR § 72-21 to permit an enlargement to the existing building and its conversion to a skating rink (Use Group 12) with accessory uses; and

WHEREAS, on May 5, 1987, under BSA Cal. No. 830-86-BZ, the Board granted a variance under ZR § 72-21 and a special permit under ZR §§ 73-36 to permit the change of use from a skating rink to a PCE, and the enlargement of the existing building to permit construction of a second floor and mezzanine, for a term of ten years; and

WHEREAS, on September 21, 1999, the Board granted an extension of the term for an additional ten years, which expired on May 5, 2007; and

WHEREAS, because the previous special permit expired on May 5, 2007, the applicant now seeks a new special permit for the PCE under ZR § 73-36; and

WHEREAS, the proposed PCE will occupy 37,363 sq. ft. of floor area on the first floor, second floor and mezzanine level; and

WHEREAS, the PCE will be operated as Bally's Total Fitness; and

WHEREAS, the applicant states that the hours of operation for the PCE will be: Monday through Thursday, from 6:00 a.m. to 11:00 p.m.; Friday, from 7:00 a.m. to 10:00 p.m.; Saturday, from 7:00 a.m. to 10:00 p.m.; and Sunday, from 9:00 a.m. to 5:00 p.m.; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; and

WHEREAS, at hearing, the Board questioned whether the existing signage is in compliance with the underlying C2 zoning district regulations, specifically related to the location and height of some of the signs; and

WHEREAS, in response, the applicant provided photographs dating back to 1976 and 1985 indicating painted signs that exceed the height permitted in the C2 district, and further requested that the Board allow them to review the grandfathered status of the existing signs with the Department of Buildings ("DOB"); and

WHEREAS, the Board notes certain existing signs exceed the permitted height and are subject to review and approval by DOB as to whether the signs qualify as legal nonconforming signs; and

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

WHEREAS, the 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 PCE 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 requisite findings pursuant to ZR §§ 73-36 and 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No.12BSA115K, dated April 4, 2012; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit on a site located in a C2-2 (R4) zoning district, the operation of a PCE on the first floor, second floor, and mezzanine level of an existing two-story and mezzanine commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received June 26, 2012" – Four (4) sheets and "Received August 9, 2012" – Three (3) sheets and *on further condition*:

THAT the term of this grant will expire on August 14,

MINUTES

2022;

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

THAT all massages must be performed by New York State licensed massage therapists;

THAT the site will be maintained free of graffiti;

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

THAT Local Law 58/87 compliance will be as reviewed and approved by DOB;

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

THAT the Department of Buildings will review the legality of the PCE's existing signage;

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

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

THAT the Department of Buildings 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, August 14, 2012.

147-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Savita and Neeraj Ramchandani, owners.

SUBJECT – Application September 16, 2011 – Variance (§72-21) to permit the construction of a single-family, semi-detached residence, contrary to floor area (§23-141) and side yard (§23-461) regulations. R3-2 zoning district.

PREMISES AFFECTED – 24-47 95th Street, east side of 95th Street, between 24th and 25th Avenues, Block 1106, Lot 44, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to September 11, 2012, at 1:30 P.M., for continued hearing.

165-11-BZ

APPLICANT – Sheldon Lobel, P.C., for Agudath Israel Youth of Boro Park, owner.

SUBJECT – Application October 19, 2011 – Variance (§72-21) to enlarge an existing Use Group 4A house of worship (*Agudath Israel Youth of Boro Park*) for an educational center on proposed third and fourth floors and to legalize two interior balconies, contrary to rear yard (§24-36) and lot coverage (§24-11) regulations. R6 zoning district.

PREMISES AFFECTED – 1561 50th Street, near the corner of 16th Avenue, Block 5453, Lot 51, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Richard Lobel.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to September 11, 2012, at 1:30 P.M., for decision, hearing closed.

10-12-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Natalie Hardeen, owner.

SUBJECT – Application January 18, 2012– Variance (§72-21) to permit the legalization of an existing cellar and two story, two-family detached dwelling, contrary to front yard (§23-45) and side yard (§23-461) regulations. R5 zoning district.

PREMISES AFFECTED – 114-01 95th Avenue, northeast corner of 95th Avenue and 114th Street, Block 9400, Lot 37, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to September 11, 2012, at 1:30 P.M., for continued hearing.

65-12-BZ

APPLICANT – Lewis E. Garfinkel, for Yisroel Brodt, owner.

SUBJECT – Application March 20, 2012 – Special Permit (§73-622) for the enlargement of existing single family home, contrary to floor area and open space (§23-141(a)); side yard (§23-461(a)) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1140 East 28th Street, west side of East 28th Street, 313' south of Avenue K, Block 7627, Lot 62, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lewis E. Garfinkel.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to September 11, 2012, at 1:30 P.M., for decision, hearing closed.

MINUTES

66-12-BZ

APPLICANT – Bryan Cave LLP/Frank E. Chaney, Esq., for Nicholas Parking Corp./Owner of Lot 30, owner; Ladera, LLC, Owner of Lot 35, lessee.

SUBJECT – Application March 20, 2012 – Variance (§72-21) to permit a new mixed-use building containing a FRESH Program food store, a preschool and 164 residential units, contrary to use (§22-10), lot coverage (§24-11) and parking (§25-23) regulations. R7A,R8A/C2-4 zoning districts.

PREMISES AFFECTED – 223-237 Nicholas Avenue, aka 305 W. 121st Street and W. 122nd Street, Block 1948, Lot 30, 35, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES –

For Applicant: Frank Chaney and Jack Freeman.

ACTION OF THE BOARD – Laid over to September 25, 2012, at 1:30 P.M., for continued hearing.

73-12-BZ

APPLICANT – Jeffrey Chester, Esq./GSHLLP, for 41-19 Bell Boulevard LLC, owner; LRHC Bayside N.Y. Inc., lessee.

SUBJECT – Application March 20, 2012 – Application for a special permit to legalize an existing physical culture establishment (*Lucille Roberts*). C2-2 zoning district.

PREMISES AFFECTED – 41-19 Bell Boulevard between 41st Avenue and 42nd Avenue, Block 6290, Lot 5, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Jeffrey Chester.

For Opposition: Regina A. Matejka and Stanley Matejka.

ACTION OF THE BOARD – Laid over to September 25, 2012, at 1:30 P.M., for continued hearing.

80-12-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Barbizon Hotel Associates, LP, owner; SoulCycle East 63rd Street, LLC, lessee.

SUBJECT – Application April 5, 2012 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*SoulCycle*). C1-8X and R8B zoning districts.

PREMISES AFFECTED – 140 East 63rd Street, southeast corner of intersection of East 63rd Street and Lexington Avenue, Block 1397, Lot 7505, Borough of Manhattan.

COMMUNITY BOARD #4BK

APPEARANCES –

For Applicant: Adam Rothkrug.

For Opposition: Mr. Rizzo, Jeanette Bozzo, Anne Bevis Detivihi and Franci Blassberg.

ACTION OF THE BOARD – Laid over to September 11, 2012, at 1:30 P.M., for continued hearing.

104-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Paula Jacob, owner.

SUBJECT – Application April 12, 2012 – Re-instatement (§11-411) of a previously approved variance which expired on May 20, 2000 which permitted accessory retail parking on the R5 portion of a zoning lot; Extension of Time to obtain a Certificate of Occupancy which expired on April 11, 1994; Waiver of the Rules. C2-4/R6A and R5 zoning district.

PREMISES AFFECTED – 178-21 & 179-19 Hillside Avenue, northside of Hillside Avenue between 178th Street and Midland Parkway, Block 9937, Lot 60, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to September 25, 2012, at 1:30 P.M., for adjourned hearing.

160-12-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for CP Associaes LLC c/o Jeffrey Mgmt., owner; Blink 820 Concourse Inc., lessee.

SUBJECT – Application May 25, 2012 – Special Permit to allow a physical culture establishment (*Blink*) within existing commercial building. C8-3 zoning district.

PREMISES AFFECTED – 820 Concourse Village West, east side of Concourse Village West, 312.29' south of intersection of Concourse Village West and East 161st Street, Block 2443, Lot 91, Borough of Bronx.

COMMUNITY BOARD #4BX

APPEARANCES –

For Applicant: Todd Dale.

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to September 11, 2012, at 1:30 P.M., for decision, hearing closed.

163-12-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for NYU Hospitals Center, owner; New York University, lessee.

SUBJECT – Application May 31, 2012 – Variance (§72-21) to permit the development of a new biomedical research facility on the main campus of the NYU Langone Medical Center, contrary to rear yard equivalent, height, lot coverage, and tower coverage (§§24-382, 24-522, 24-11, 24-54) regulations. R8 zoning district.

PREMISES AFFECTED – 435 East 30th Street, East 34th Street, Franklin D. Roosevelt (FDR) Drive Service Road, East 30th Street and First Avenue, Block 962, Lot 80, 108,

MINUTES

1001-1107, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Elise Wagner, Lois Mate and Claudia Gorun.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to
September 25, 2012, at 1:30 P.M., for decision, hearing
closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.