
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:
40 Rector Street, 9th Floor, New York, N.Y. 10006.

Volume 97, No. 49

December 5, 2012

DIRECTORY

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DOCKET

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316-12-BZ

37-20 Prince Street, west side of Prince Street between 37th Avenue and 39th Avenue, Block 4972, Lot(s) 43, Borough of **Queens, Community Board: 7**. Special permit (73-36) to allow proposed physical culture establishment. C4-2 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

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

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

SPECIAL ORDER CALENDAR

107-06-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Barbizon Hotel Associates, LP, owner; Equinox 63rd Street, Inc. lessee.

SUBJECT – Application September 14, 2012 – Amendment to previously granted Special Permit (73-36) for the increase (693 square feet) of floor area of an existing Physical Culture Establishment (*Equinox*). C10-8X/R8B zoning district.

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 #8M

APPEALS CALENDAR

162-12-A

APPLICANT – Davidoff Hutcher & Citron, LLP, for CBS Outdoor, Inc.

OWNER OF PREMISES: Winston Network, Inc.

SUBJECT – Application May 31, 2012 – Appeal from Department of Buildings' determination that sign is not entitled to continued non-conforming use status as advertising sign, pursuant to Z.R.§52-731. R4 zoning district.

PREMISES AFFECTED – 49-21 Astoria Boulevard North, northwest corner of Astoria Boulevard North and Hazen Street, Block 1000, Lot 19, Borough of Queens.

COMMUNITY BOARD #1Q

167-12-A

APPLICANT – Davidoff Hutcher & Citron, LLP, for Lamar Advertising of Penn LLC.

OWNER OF PREMISES: Flash Inn Inc. c/o Danny Miranda

SUBJECT – Application June 7, 2012 – Appeal from Department of Buildings' determination that sign is not entitled to continued non-conforming use status as advertising sign, pursuant to Z.R.§52-731.

PREMISES AFFECTED – 101-07 Macombs Place, northwest corner of Macombs Place and West 154th Street, Block 2040, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #10M

169-12-A & 170-12-A

APPLICANT – Davidoff Hutcher & Citron LLP, for Lamar Advertising of Penn LLC.

OWNER OF PREMISES – 26-28 Market Street, Inc.

SUBJECT – Application June 7, 2012 – Appeal from Department of Buildings' determination that signs are not entitled to continued non-conforming use status as advertising signs, pursuant to Z.R.§52-731.

PREMISES AFFECTED – 24-28 Market Street, southeast intersection of Market Street and Henry Street, Block 275, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #3M

Jeff Mulligan, Executive Director

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

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

ZONING CALENDAR

57-12-BZ

APPLICANT – Eric Palatnik, P.C., for Mykola Volynsky, owner.

SUBJECT – Application March 13, 2012 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, open space and lot coverage (§23-141); side yards (§23-461); less than the required rear yard (§23-37). R4 zoning district.

PREMISES AFFECTED – 2670 East 12th Street, between Shore Parkway and Gilmore Court, Block 7455, Lot 85, Borough of Brooklyn.

COMMUNITY BOARD #15BK

212-12-BZ

APPLICANT – Gerald J. Caliendo, R.A., AIA, for Conver Realty/Pat Pescatore, owners; Sun Star Services, LLC, lessee.

SUBJECT – Application July 9, 2012 – Special Permit (§73-36) to permit a physical culture establishment (*Massage Envy*) in the cellar and first floor of the existing commercial building. C2-2/R6B zoning district.

PREMISES AFFECTED – 38-03 Bell Boulevard, east side of Bell Boulevard, 50.58' south of intersection formed by Bell Boulevard and 38th Avenue, Block 6238, Lot 18, Borough of Queens.

COMMUNITY BOARD #11Q

CALENDAR

275-12-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Fayge Hirsch and Abraham Hirsch, owners.

SUBJECT – Application September 6, 2012 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area and open space ZR 23-141; side yard ZR 23-461. R-2 zoning district.

PREMISES AFFECTED – 2122 Avenue N, southwest corner of Avenue N and East 22nd Street, Block 7675, Lot 61, Borough of Brooklyn.

COMMUNITY BOARD #14BK

283-12-BZ

APPLICANT – Sheldon Lobel, P.C., for 440 Broadway Realty Associates, LLC, owner.

SUBJECT – Application September 24, 2012 – Variance (§72-21) to permit a UG 6 retail use on the first floor and cellar of the existing building, contrary to Section 42-14D(2)(b). M1-5B zoning district.

PREMISES AFFECTED – 440 Broadway, between Howard Street and Grand Street, Block 232, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #2M

Jeff Mulligan, Executive Director

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REGULAR MEETING TUESDAY MORNING, NOVEMBER 27, 2012 10:00 A.M.

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

SPECIAL ORDER CALENDAR

743-59-BZ

APPLICANT – Peter Hirshman for VM 30 Park, LLC, owner.

SUBJECT – Application June 14, 2012 – Extension of Term of a previously approved variance (Section 7e 1916 zoning resolution and MDL Section 60 (1d)), which permitted 20 attended transient parking spaces, which expired on June 14, 2011; Waiver of the Rules. R10/R9X zoning district.

PREMISES AFFECTED – 30 Park Avenue, southwest corner of East 36th Street and Park Avenue. Block 865, Lot 40. Borough of Manhattan.

COMMUNITY BOARD #6M

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 January 8, 2013, at 10 A.M., for decision, hearing closed.

299-82-BZ

APPLICANT – Bryan Cave LLP/Robert S. Davis, Esq., for 10 Stanton Owners LLC, Chrystie Land Assoc. LLC c/o Sukenik, Segal & Graff, P.C.

SUBJECT – Application May 4, 2012 – Amendment to a previously granted variance (§72-21) which allowed a residential building. Proposed amendment would permit a new mixed use hotel and residential building on the subject zoning lot. C6-1 zoning district.

PREMISES AFFECTED – 207-217 Chrystie Street, northwest corner of Chrystie Street and Stan Street, Block 427, Lot 2,200, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to December 11, 2012, at 10 A.M., for deferred decision.

135-01-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Go Go Leasing Corp., owner.

SUBJECT – Application November 29, 2011 – Extension of Term (§11-411) of an approved variance which permitted a high speed auto laundry (UG 16B) which expired on October 30, 2011; Extension of Time to obtain a Certificate of Occupancy which expired on October 30, 2002; Waiver

of the Rules. C1-2(R5) zoning district.

PREMISES AFFECTED – 1815/17 86th Street, 78'-8.3"northwest 86th Street and New Utrecht Avenue, Block 6344, Lot 69, Borough of Brooklyn.

COMMUNITY BOARD #11BK

ACTION OF THE BOARD – Laid over to January 15, 2013, at 10 A.M., for deferred decision.

197-08-BZ

APPLICANT – Stuart Klein, Esq., for Carroll Gardens Realty, LLC, owner.

SUBJECT – Application April 27, 2012 – Amendment to an approved variance (§72-21) to permit a four-story and penthouse residential building, contrary to floor area and open space (§23-141), units (§23-22), front yard (§23-45), side yard (§23-462), and height (§23-631). Amendment seeks to reduce the number of units and parking and increase the size of the rooftop mechanical equipment. R4 zoning district.

PREMISES AFFECTED – 341-349 Troy Avenue aka 1515 Carroll Street, north east corner of Troy Avenue and Carroll Street, Block 1407, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #9BK

ACTION OF THE BOARD – Laid over to January 8, 2013, at 10 A.M., for adjourned hearing.

APPEALS CALENDAR

85-12-A

APPLICANT – Fried Frank by Richard G. Leland, Esq., for Take Two Outdoor Media LLC c/o Van Wagner Communication LLC.

OWNER OF PREMISES - G.A.L. Manufacturing Company
SUBJECT – Application April 6, 2012 – Appeal from determination of the Department of Buildings regarding right to maintain existing advertising signs. M1-1 zoning district.

PREMISES AFFECTED – 50 East 153rd Street, bounded by Metro North and the Metro North Station; an off ramp to the Major Deegan Expressway, E. 157th Street, E. 153rd Street and the Bronx Terminal Market, Block 2539, Lot 132, Borough of Bronx.

COMMUNITY BOARD #4BX

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 January 15, 2013, at 10 A.M., for decision, hearing closed.

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90-12-A

APPLICANT – Fried Frank by Richard G. Leland, Esq., for Van Wagner Communication LLC.

OWNER OF PREMISES – Robal Arlington Corporation.

SUBJECT – Application April 11, 2012 – Appeal from determination of the Department of Buildings regarding right to maintain existing advertising signs. M1-6 zoning district.

PREMISES AFFECTED – 111 Varick Street, between Broome and Dominick Street, Block 578, Lot 71, Borough of Manhattan.

COMMUNITY BOARD #2M

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 January 15, 2013, at 10 A.M., for decision, hearing closed.

103-12-A

APPLICANT – Sheldon Lobel, P.C., for 74-47 Adelphi Realty LLC, owner.

SUBJECT – Application April 12, 2012 – Appeal seeking a common law vested right to continue development commenced under the prior R6 zoning district. R5B zoning district.

PREMISES AFFECTED – 74-76 Adelphi Street, west side of Adelphi Street, south of Park Avenue with frontage along Adelphi Street, block 2044, Lot 52, 53, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Laid over to January 8, 2013, at 10 A.M., for adjourned hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

REGULAR MEETING

TUESDAY AFTERNOON, NOVEMBER 27, 2012
1:30 P.M.

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

ZONING CALENDAR

5-11-BZ

CEQR #11-BSA-052K

APPLICANT – Akerman Senterfitt, LLP, for Dumbo Development, LLC, owner.

SUBJECT – Application January 14, 2011 – Variance (§72-21) to allow for a new five-story residential development, contrary to use regulations (§42-00). M2-1 zoning district. PREMISES AFFECTED – 9 Old Fulton Street, northeasterly side of Old Fulton Street, Block 35, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #2BK

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 November 13, 2011, acting on Department of Buildings Application No. 320146445, reads, in pertinent part:

BSA Special Permit required for residential use in an M2-1 manufacturing district as per ZR 42-10; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an M2-1 zoning district within the Fulton Ferry Historic District, the construction of a five-story mixed-use residential/commercial building with ground floor retail use and residential use above, which is contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on August 21, 2012, after due notice by publication in the *City Record*, with a continued hearing on October 16, 2012, and then to decision on November 27, 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 2, Brooklyn, recommends approval of this application; and

WHEREAS, New York City Council Member Stephen T. Levin recommends approval of this application; and

WHEREAS, a member of the community provided

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testimony in opposition to the application (the “Opposition”), citing concerns with the proposed height of the building; and

WHEREAS, the site is located on the north side of Old Fulton Street, between Front Street and Water Street, in an M2-1 zoning district within the Fulton Ferry Historic District; and

WHEREAS, the site has 22’-8” of frontage along Old Fulton Street, a depth ranging between 60’-11” and 61’-10”, and a total lot area of 1,396 sq. ft.; and

WHEREAS, the site is currently vacant with the exception of an unoccupied one-story 660 sq. ft. building formerly utilized as an accessory kitchen for the adjacent building at 7 Old Fulton Street; and

WHEREAS, the applicant proposes to demolish the existing building and construct a five-story mixed-use residential/commercial building with ground floor retail and three dwelling units above; and

WHEREAS, the proposed building will have a total floor area of 4,575 sq. ft. (3.28 FAR), a residential floor area of 3,320 sq. ft. (2.38 FAR), a commercial floor area of 1,255 sq. ft. (0.90 FAR), a rear yard with a minimum depth of 16’-0”, and a total building height of 50’-4”; and

WHEREAS, the cellar level will be occupied by commercial storage and mechanicals; and

WHEREAS, the first floor will be occupied by retail use (UG 6) and a small residential entrance; and

WHEREAS, the second and third floors will be occupied by one residential unit each, and the fourth floor and fifth floor will be occupied by a single residential duplex unit with access to outdoor space on the fifth floor; and

WHEREAS, because residential use is not permitted in an M2-1 zoning district, the applicant seeks the subject use variance; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: the subject lot is undersized, with both a narrow width and shallow depth; and

WHEREAS, as to the depth, the applicant states that the site has an irregular and shallow depth ranging between 60’-11” deep on the westerly side and 61’-10” deep on the easterly side, and is considered a shallow interior lot pursuant to ZR § 23-52; and

WHEREAS, the applicant represents that the shallow depth of the site would result in a building with a depth of only approximately 40 feet if an M2-1 compliant rear yard were provided, which, in conjunction with the narrow width of the site of 22’-8”, would result in an inefficient floor plate for the building; and

WHEREAS, the applicant further represents that the size and configuration of the zoning lot is not appropriate for conforming manufacturing or industrial use; and

WHEREAS, specifically, the applicant states that the narrowness and shallowness of the lot precludes the provision of off-street loading docks, freight elevators, and other requirements of a modern manufacturing or industrial use; and

WHEREAS, as to the uniqueness of the site, the applicant submitted a 400-ft. radius diagram which reflects

that the subject site is the smallest vacant lot in the surrounding area;

WHEREAS, the applicant represents that the two most similarly dimensioned zoning lots on the subject block are Lots 11 and 9, which are immediately adjacent to the subject site, and both of which are occupied by four-story mixed-use buildings almost identical in both appearance and bulk to the proposed building; and

WHEREAS, the applicant further represents that the only other interior zoning lots with comparable shallowness are located across Old Fulton Street on Block 200 (Lots 11, 15, and 17), all of which are occupied by one- or two-story dwellings, which are scaled appropriately to the very narrow side streets (Everit Street and Doughty Street) upon which they front; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study analyzing an as-of-right two-story commercial building with a total floor area of 2,782 sq. ft. (1.99 FAR), and the proposed five-story mixed-use residential/commercial building with ground floor retail use and residential use above; and

WHEREAS, the feasibility study concluded that the as-of-right commercial building would not result in a reasonable return, but that the proposed building would result in a reasonable return; and

WHEREAS, based upon its review of the applicant’s submissions, the Board has determined that because of the subject site’s unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant represents that the immediate area is a mix of residential and commercial uses; and

WHEREAS, the applicant states that the proposed residential use, with ground floor retail, is consistent with the character of the area, which includes many other such uses; and

WHEREAS, the Board agrees that the character of the area is mixed-use, and finds that the introduction of three dwelling units and ground floor retail will not impact any nearby conforming uses; and

WHEREAS, further, the applicant represents that the area now known as the Fulton Ferry Historic District was characterized by residential use until the Brooklyn Bridge was built; and

WHEREAS, specifically, the applicant represents that the row of buildings on Old Fulton Street, from numbers 7 through 23 were all designed for commercial use on the

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ground floor and residential use on the floors above at about the same time; the applicant represents that many of them have continually been used for those purposes; and

WHEREAS, additionally, across the street from the site is a large nine-story building occupied by residential use; and

WHEREAS, at hearing, the Board raised concerns about the appropriateness of the proposed rear yard depth of 16'-0" and the partial fifth floor; and

WHEREAS, in response, the applicant states that, although there are not zoning regulations pertaining to minimum rear yards for residential buildings in manufacturing districts, the rear yard depth was calculated starting with the standard 20'-0" rear yard for an M2-1 zoning district and deducting one-inch for every two inches for which the shallow interior lot is less than 70'-0" in depth, in accordance with ZR § 43-27, which results in the proposed rear yard depth of 16'-0"; thus, the proposed rear yard depth would be in compliance with the Zoning Resolution if the underlying M2-1 district regulations were applicable; and

WHEREAS, the applicant further states that the proposed rear yard depth of 16'-0" is more than the existing rear yards at the adjacent buildings located at 7 and 11 Old Fulton Street, which have rear yard depths of 12'-4" and 14'-5", respectively; and

WHEREAS, as to the appropriateness of the partial fifth floor, the applicant submitted a copy of the Landmarks Preservation Commission ("LPC") plans and Certificate of Appropriateness for the neighboring buildings to the east, at 11, 13, and 15 Old Fulton Street, each of which were approved with similar partial fifth floors and range in total height from 51'-7" to 52'-11", and were permitted pursuant to a previous variance granted by the Board under BSA Cal. No. 136-06-BZ; and

WHEREAS, the applicant states that the proposed building, with a total height of 50'-4", therefore fits within the character of the surrounding area; and

WHEREAS, as to the Opposition's concerns that the proposed building could have a negative effect on the light and air of their building at 4 Water Street and should be limited to four stories in height, the applicant notes that the certificate of occupancy for 4 Water Street, located to the northeast of the site, shows that it is a six-story building with a total height of 76'-0"; and

WHEREAS, additionally, the applicant represents that the partial-fifth floor will be setback above the fourth floor so as to minimize its visibility from the street; 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 LPC approving the work associated with the proposed construction, dated October 19, 2012; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board observes that the proposed building of three dwelling units is limited in scope and compatible with nearby development; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 11BSA052K dated November 26, 2012; and

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

WHEREAS, the New York City Department of Environmental Protection's (DEP) Bureau of Environmental Planning and Analysis reviewed the project for potential hazardous materials and air quality impacts; and

WHEREAS, DEP reviewed and accepted the February 2012 Remedial Action Plan and Construction Health and Safety Plan; and

WHEREAS, DEP requested that a Remedial Closure Report be submitted to DEP for review and approval upon completion of the proposed project; and

WHEREAS, DEP reviewed the applicant's stationary source air quality screening analysis and determined that the proposed project is not anticipated to result in significant stationary source air quality impacts; 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, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, in an M2-1 zoning district within the Fulton Ferry Historic District, the construction of a five-story mixed-use residential/commercial building with ground floor retail use and residential use above, which is contrary to ZR § 42-10, *on*

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condition that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 26, 2012" – seven (7) sheet; and on further condition:

THAT the following will be the bulk parameters of the proposed building: five stories; a total floor area of 4,575 sq. ft. (3.28 FAR); a residential floor area of 3,320 sq. ft. (2.38 FAR); a commercial floor area of 1,255 sq. ft. (0.90 FAR); a rear yard with a minimum depth of 16'-0"; and a total building height of 50'-4", as illustrated on the BSA-approved plans;

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

THAT DOB shall not issue a Certificate of Occupancy until the applicant has provided it with DEP's approval of the Remedial Closure Report;

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

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

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

THAT this grant is contingent upon final approval from the Department of Environmental Protection before an issuance of construction permits other than permits needed for soil remediation; 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, November 27, 2012.

71-12-BZ

CEQR #12-BSA-103Q

APPLICANT – Akerman Senterfitt, LLP, for Archer Avenue Partners, LLC, owner; Neighborhood Housing Services of Jamaica, Inc., lessee.

SUBJECT – Application March 23, 2012 – Variance (§72-21) to allow for a new 14-story residential building with ground floor retail, contrary to floor area (§§115-211/23-942), height and setback (§115-233), and accessory off street parking (§115-51). C6-2/Downtown Jamaica Special Zoning District.

PREMISES AFFECTED – 165-10 Archer Avenue, southeast corner of 165th Street and Archer Avenue, Block 10155, Lot 105, Borough of Queens.

COMMUNITY BOARD #12Q

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 Queens Borough Commissioner, dated March 13, 2012, acting on Department of Buildings Application No. 420602618, reads in pertinent part:

1. Proposed mixed use building is non-compliant for gross building area permitted for both residential area and total for the mixed building per ZR 115-211/23-952
2. Proposed mixed-use building is non-compliant for minimum setback above base height per ZR 115-233
3. Proposed mixed-use building is non-compliant for minimum required accessory parking spaces for residential and commercial per ZR 115-51(b)/25-20/25-25/15-51(a)/36-21; and

WHEREAS, this is an application under ZR § 72-21, to permit, within a C6-2 zoning district within the Special Downtown Jamaica District, the construction of a 14-story mixed-use residential/commercial building which does not comply with floor area, height and setback, and accessory off-street parking regulations, contrary to ZR §§ 115-211/23-942, 115-233, and 115-51; and

WHEREAS, a public hearing was held on this application on August 21, 2012 after due notice by publication in *The City Record*, with a continued hearing on October 16, 2012, and then to decision on November 27, 2012; and

WHEREAS, this application is brought on behalf of Neighborhood Housing Services of Jamaica ("NHSJ"), a not-for-profit entity; and

WHEREAS, Community Board 12, Queens, recommends approval of this application; and

WHEREAS, Borough President Helen Marshall submitted a recommendation in support of the proposal; and

WHEREAS, City Council Member Leroy Comrie submitted a letter in support of the proposal; and

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

WHEREAS, the site has a lot area of approximately 9,399 sq. ft., and is on the southeast corner of 165th Street and Archer Avenue within a C6-2 zoning district within the Special Downtown Jamaica District; and

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

WHEREAS, the applicant proposes to construct a 14-story mixed-use building to be occupied by ground floor retail use and 89 workforce housing units on the upper floors; and

WHEREAS, the proposed building reflects the following parameters: (1) a floor area of 93,041 sq. ft. (9.9 FAR) (67,674 sq. ft. (7.2 FAR) is the maximum permitted); (2) setbacks of 3'-0" above a streetwall height of 60'-0" along Archer Avenue and 165th Street (setbacks of 10'-0" along Archer Avenue and 15'-0" along 165th Street are the minimum required); (3) a total height of 132'-6"; and (4) no accessory parking spaces (31 residential parking spaces and seven commercial parking spaces are the minimum required); and

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WHEREAS, the applicant represents that the requested variance is necessitated by unique conditions of the site that create a hardship, specifically: (1) an irregular shape; (2) shallow depth; and (3) adjacency to railroad tracks; and

WHEREAS, the applicant states that the irregular shape and shallowness of the site, which has 116'-10" of frontage along Archer Avenue, an angled 120'-1/2" southern lot line, and a range of lot depths from 94'-2" along its eastern lot line to 66'-8 1/2" at its frontage along 165th Street; and

WHEREAS, the applicant asserts that the irregular shape and shallow depth creates substantial difficulty in designing an efficient residential building in compliance with setback and parking regulations; and

WHEREAS, the applicant notes that the irregular shape and shallow depth constrain the site and compromise floor plates particularly if the requirement for a setback of 15'-0" along the 165th Street frontage and 10'-0" along the Archer Avenue frontage above a maximum streetwall of 60'-0"; the setbacks would result in the upper floors having a maximum floor plate of 3,500 sq. ft.; and

WHEREAS, the applicant states that the 3,500 sq. ft. as-of-right floor plate would be inefficient given the inclusion of egress and circulation space and would limit those floors to only two units each; and

WHEREAS, further, the applicant states that a typical efficient layout for a multiple dwelling building is approximately a building depth of 60 feet with residential units on two sides of a central corridor (the double-loaded design); and

WHEREAS, however, due to the shallow depth and the requirement for a distance of 30'-0" between legal windows and lot lines, building a double-loaded corridor along the entire frontage of Archer Avenue is not possible; and

WHEREAS, the applicant states that if a building with a length of 116'-0" and a depth of 60'-0" were constructed, only a non-complying depth of 7'-0" would remain between windows at the rear of the building and the lot line; and

WHEREAS, the applicant states that ZR § 115-51 requires residential buildings within the Special Downtown Jamaica District to comply with the parking requirements for R6A zoning districts, which set forth that there be parking for 35 percent of residential units; and

WHEREAS, the applicant notes that based on the proposed 89 units, 31 accessory residential parking spaces are required (in addition to seven accessory commercial parking spaces), and that based on parking standards, approximately 11,400 sq. ft. would be required to accommodate all parking; and

WHEREAS, the applicant states that the required spaces would necessitate at least two levels for parking, most likely as two cellar levels, which would be cost prohibitive to provide due to the unique site conditions and foundation requirements resulting from the site's adjacency to railroad tracks; and

WHEREAS, the applicant states that any parking layout would result in additional inefficiencies due to the irregular and shallow site and the accommodation for ramps and adequate turning radii; and

WHEREAS, as to the adjacency of the railroad tracks,

the applicant states that the elevated Long Island Railroad (LIRR) tracks abut the site along the southern lot line and their presence contributes to increased construction costs; and

WHEREAS, specifically, the applicant states that there are several supplemental requirements during construction, which include a supervised supportive excavation, an extensive multi-story shoring system, specialized underpinning, seismic monitoring, and increased mobilization, permits, insurance (including special MTA insurance), and engineering costs; and

WHEREAS, the applicant submitted a construction study and a letter from an engineer, which sets forth the premium costs associated with sub-grade construction at the site; and

WHEREAS, the applicant notes that the floor area waiver request is driven in part by the premium costs associated with the adjacency of the railroad tracks and the site's size and shape which results in inefficient floor plates even given the requested bulk waivers; and

WHEREAS, as to the uniqueness of the site, the applicant analyzed the sites within a 1,000-ft. radius of the site and concludes that it is one of only two sites which have a lot area of 9,500 sq. ft. or less, are irregularly-shaped, and are adjacent to the LIRR; and

WHEREAS, in addition to the noted physical constraints of the site, the applicant states that NHSJ's programmatic needs to provide home ownership education and affordable housing services to low- and moderate-income tenants contributes to the waiver request; and

WHEREAS, the applicant states that its programmatic needs require more than the 68 units which could be provided in an as of right building; and

WHEREAS, the applicant provided an analysis of the viability of buildings with 68, 75, 82, and 89 units and concluded that there would be a funding shortfall for all but the 89-unit building based on the gap between cost per unit and subsidies; and

WHEREAS, specifically, the applicant states that 89 units are required, and that their size is based on HPD/HDC standards for apartment sizes; and

WHEREAS, the applicant further states that the building program includes access to onsite community and outdoor space; and

WHEREAS, the applicant provided documentation of a preliminary funding commitment from the NYC Housing Development Corporation, which notes that, pursuant to its Low Income Affordable Marketplace Program (LAMP), all of the units will remain affordable to residents earning less than 60 percent of Area Median Income; and

WHEREAS, the applicant represents that the building program is determined in part by the requirements of the government funding sources concerning building design and unit count; and

WHEREAS, the Board agrees that the unique physical conditions cited above, when considered in the aggregate and in conjunction with the programmatic need of the applicant, create practical difficulties and unnecessary hardship in developing the site in strict compliance with the applicable

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zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since it is a not-for-profit organization and the development will be in furtherance of its not-for-profit mission; and

WHEREAS, the applicant asserts that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant states that the proposed development is consistent with that of the surrounding area, which is characterized by a mix of commercial, transportation/utility, and public facility/institutional uses, which includes buildings of comparable height and bulk; and

WHEREAS, the applicant notes that the proposed residential and commercial uses conform with zoning district regulations; and

WHEREAS, the applicant represents that the proposed building has been redesigned after consultation with community organizations and leaders to include a setback of 3'-0" above the maximum streetwall height of 60 feet; and

WHEREAS, the applicant notes that although the buildings in the immediate area do not reach 14 stories in height, the Special Downtown Jamaica District regulations contemplate buildings up to a height of 250 feet; and

WHEREAS, the applicant states that all required windows facing and within proximity to the railroad tracks will maintain OITC ratings below the minimum noise levels industry standards; and

WHEREAS, the applicant has performed a parking study which reflects that any parking demand generated by the site can be accommodated on-street and that the site is well-served by public transportation, including more than a dozen bus stops within a two-block radius of the site as well as three subway lines just beyond one-quarter of a mile; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, as discussed above, NJSJ requires a minimum number of housing units in order to achieve its programmatic needs and to be eligible for certain funding; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford relief and allow NJSJ to carry out the stated needs; and

WHEREAS, also, as discussed above, the applicant submitted an analysis of a building with fewer units and determined that it could not be supported financially; and

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR Section 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 (EAS) CEQR No. 12BSA103Q, dated November 26, 2012; and

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

WHEREAS, the New York City Department of Environmental Protection's (DEP) Bureau of Environmental Planning and Analysis reviewed the project for potential hazardous materials, noise and air quality impacts; and

WHEREAS, DEP reviewed and accepted the November 2012 Remedial Action Plan and Construction Health and Safety Plan; and

WHEREAS, DEP requested that a Remedial Closure Report be submitted to DEP for review and approval upon completion of the proposed project; and

WHEREAS, DEP reviewed the applicant's May 2012 noise assessment and determined that a minimum of 35 dBA of window-wall noise attenuation should be provided on all facades of the subject building, except the façade facing the elevated rail line that does not have windows, and that an alternate means of ventilation should be provided throughout the entire building; these measures are required to achieve an interior noise level of 45 dBA; and

WHEREAS, DEP reviewed the applicant's May 2012 stationary source air quality screening analysis and determined that the proposed project is not anticipated to result in significant stationary source air quality impacts; 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, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, within a C6-2 zoning district within the Special Downtown Jamaica District, the construction of a 14-story mixed-use residential/commercial building which does not comply with floor area, height and setback, and accessory off-street parking regulations, contrary to ZR §§ 115-211/23-942, 115-233, and 115-51, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 26, 2012"- fourteen (14) sheets; and *on further condition*:

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THAT any change in ownership, operator, or control of the building shall require the prior approval of the Board;

THAT the applicant will provide central air-conditioning and heating as a means of alternate ventilation throughout the entire building to maintain a closed window condition at all times;

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

THAT the parameters of the proposed building will be: a maximum total floor area of 93,041 sq. ft.; a residential floor area of 85,807 sq. ft.; a commercial floor area of 7,234 sq. ft.; a total FAR of 9.9; a street wall height of 60'-0"; and a total height of 132'-6" (without bulkhead), as illustrated on the BSA-approved plans;

THAT DOB will not issue a Certificate of Occupancy until the applicant has provided it with DEP's approval of the Remedial Closure Report;

THAT the internal floor layouts on each floor of the proposed building will be as reviewed and approved by DOB;

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

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

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

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

Adopted by the Board of Standards and Appeals, November 27, 2012.

165-12-BZ

CEQR #12-BSA-142K

APPLICANT – Law Office of Fredrick A. Becker, for Sarah Weinbeger and Moshe Weinberger, owner.

SUBJECT – Application June 4, 2012 – Special Permit (§73-622) for the enlargement and partial legalization of an existing single family home contrary to floor area and open space (§23-141) and rear yard (§23-47) regulations; R2 zoning district.

PREMISES AFFECTED – 1286 East 23rd Street, west side of East 23rd Street, 60' north of Avenue M. Block 7640, Lot 82. Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated March 21, 2012, acting on Department

of Buildings Application No. 320456500, reads in pertinent part:

Proposed plans are contrary to ZR 23-141 in that the proposed building exceeds the maximum permitted floor area ratio of .50.

Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required open space of 150.

Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required rear yard of 30 feet; and

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

WHEREAS, a public hearing was held on this application on October 23, 2012 after due notice by publication in *The City Record*, and then to decision on November 27, 2012; and

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

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

WHEREAS, the subject site is located on the west side of East 23rd Street 60 feet north of Avenue M, within an R2 zoning district; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with a floor area of 3,207.31 sq. ft. (0.80 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 proposes to increase the floor area to 4,016.87 sq. ft. (1.0 FAR); the maximum permitted floor area is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant proposes an open space ratio of 58.3 percent (150 percent is the minimum required); and

WHEREAS, the applicant proposes a rear yard with a depth of 20'-0" (a rear yard with a minimum depth of 30'-0" is required); and

WHEREAS, the applicant's initial proposal reflected a front porch which extended to the front lot line; and

WHEREAS, the Board directed the applicant to remove the porch from its plans and noted that the porch would be subject to DOB review and approval; 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

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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, in an R2 zoning district, the proposed enlargement to a single-family home, which does not comply with the zoning requirements for floor area ratio, open space ratio, and rear yard, contrary to ZR §§ 23-141 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 June 4, 2012"- (4) sheets, "October 11, 2012"- (5) sheets and "November 27, 2012"- (2) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,016.87 sq. ft. (1.0 FAR); a minimum open space ratio of 58.3 percent; and a minimum rear yard depth of 20'-0", as illustrated on the BSA-approved plans;

THAT all porches are subject to DOB review and approval;

THAT construction will proceed 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 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; 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, November 27, 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: Jordan Most, Arthur Paris and Consuelo Paris Celestine.

For Opposition: Jeffrey Chester.

ACTION OF THE BOARD – Laid over to January 8, 2013, at 1:30 P.M., for adjourned hearing.

157-11-BZ

APPLICANT – Sheldon Lobel, P.C., for 1968 2nd Avenue Realty LLC., owner.

SUBJECT – Application October 5, 2011– Variance (§72-21) to allow for the legalization of an existing supermarket, contrary to rear yard (§33-261) and loading berth (§36-683) requirements. C1-5/R8A and R7A zoning districts.

PREMISES AFFECTED – 1968 Second Avenue, northeast corner of the intersection of Second Avenue and 101st Street, Block 1673, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #11M

ACTION OF THE BOARD – Laid over to January 8, 2013, at 1:30 P.M., for adjourned hearing.

16-12-BZ

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

SUBJECT – Application January 23, 2012 – Special Permit (§73-19) to allow for a school (*Congregation Adas Yereim*) contrary to use regulations (§42-00). M1-2 zoning district.

PREMISES AFFECTED – 184 Nostrand Avenue, northwest corner of Nostrand Avenue and Willoughby Avenue, Block 1753, Lot 42, 43, Borough of Brooklyn.

COMMUNITY BOARD #4BK

ACTION OF THE BOARD – Laid over to January 15, 2013, at 1:30 P.M., for adjourned hearing.

43-12-BZ

APPLICANT – Raymond H. Levin, Wachtel & Masyr, LLP, for SDS Great Jones, LLC, owner.

SUBJECT – Application February 17, 2012 – Variance (§72-21) to permit a residential building, contrary to use regulations (§42-00). M1-5B zoning district.

PREMISES AFFECTED – 25 Great Jones Street, lot fronting on both Great Jones and Bond Street, between Lafayette and Bowery Streets, Block 530, Lot 19, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Raymond Levin.

ACTION OF THE BOARD – Laid over to January 15, 2013, at 1:30 P.M., for deferred decision.

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56-12-BZ

APPLICANT – Eric Palatnik, P.C., for Alexander Grinberg, owner.

SUBJECT – Application March 13, 2012 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141); side yard (§23-461); and rear yard (§23-47) regulations. R3-1 zoning district.

PREMISES AFFECTED – 168 Norfolk Street, between Shore Boulevard and Oriental Boulevard, Block 8756, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #4BK

ACTION OF THE BOARD – Laid over to January 15, 2013, at 1:30 P.M., for adjourned hearing.

63-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Harris and Marceline Gindi, owner; Khai Bneu Avrohom Yaakov, Inc. c/o Allen Konstam, lessee.

SUBJECT – Application March 19, 2012 – Variance (§72-21) to permit the construction of a Use Group 4A House of Worship (*Khal Bnei Avrohom Yaakov*), which is contrary to floor area (24-11), lot coverage, front yard (24-34), side yard (24-35a) parking (25-31), height (24-521), and setback requirements. R2 zoning district.

PREMISES AFFECTED – 2701 Avenue N, Rectangular lot on the northeast corner of the intersection of East 27th Street and Avenue N. Block 7663, Lot 6. Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to January 8, 2013, at 1:30 P.M., for adjourned hearing.

72-12-BZ

APPLICANT – Raymond H. Levin, Wachtel Masyr & Missry, LLP, for Lodz Development, LLC, owner.

SUBJECT – Application March 28, 2012 – Variance (§72-21) to allow for the construction of a new mixed use building, contrary to off-street parking (§25-23), floor area, open space, lot coverage (§23-145), maximum base height and maximum building height (§23-633) regulations. R7A/C2-4 and R6B zoning districts.

PREMISES AFFECTED – 213-223 Flatbush Avenue, southeast corner of Dean Street and Flatbush Avenue. Block 1135, Lot 11. Borough of Brooklyn.

COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Laid over to January 8, 2013, 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

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 January 8, 2013, at 1:30 P.M., for decision, hearing closed.

106-12-BZ

APPLICANT – Eric Palatnik, P.C., for Edgar Soto, owner; Autozone, Inc., lessee.

SUBJECT – Application April 17, 2012 – Special Permit (§73-50) to permit the development of a new one-story retail store (UG 6), contrary to rear yard regulations (§33-292). C8-3 zoning district.

Special Permit (§73-50) to permit the development of a new one-story Use Group 6 retail store contrary to rear yard §33-292. C8-3 zoning district.

PREMISES AFFECTED – 2102 Jerome Avenue between East Burnside Avenue and East 181st Street, Block 3179, Lot 20, Borough of Bronx.

COMMUNITY BOARD #5BX

ACTION OF THE BOARD – Laid over to January 29, 2013, at 1:30 P.M., for continued hearing.

156-12-BZ

APPLICANT – Sheldon Lobel, for Prospect Equities Operation, LLC, owner.

SUBJECT – Application May 17, 2012 – Variance (§72-21) to permit construction of a mixed-use residential building with ground floor commercial use, contrary to minimum inner court dimensions (§23-851). C1-4/R7A zoning district.

PREMISES AFFECTED – 816 Washington Avenue, southwest corner of Washington Avenue and St. John's Place, Block 1176, Lot 90, Borough of Brooklyn.

COMMUNITY BOARD #8BK

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 January 8, 2013, at 1:30 P.M., for decision, hearing closed.

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 the conversion of an existing building into a

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transient hotel (UG 5), contrary to use regulations (§22-00). 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

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 January 8, 2013, at 1:30 P.M., for decision, hearing closed.

195-12-BZ

APPLICANT – The Law Offices of Eduardo J. Diaz, for Garmac Properties LLC, owner.

SUBJECT – Application June 15, 2012 – Re-instatement (§11-411) of a previously approved variance which allowed a two-story office building (UG6) and four parking spaces, which expired on May 13, 2000. Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 108-15 Crossbay Boulevard, between 108th and 109th Avenues. Block 9165, Lot 291. Borough of Queens.

COMMUNITY BOARD #10Q

ACTION OF THE BOARD – Laid over to January 15, 2013, at 1:30 P.M., for continued hearing.

260-12-BZ

APPLICANT – John M. Marmora, Esq., c/o K & L Gates LLP, for McDonald's Corporation, owner.

SUBJECT – Application August 30, 2012 – Special Permit (§73-243) to permit an accessory drive-through facility to an eating and drinking establishment (McDonald's) within the portion of the lot located in a C1-3/R5D zoning district contrary to §§32-15 & 32-32 as well as a Special Permit (§73-52) to extend the commercial use by 25' into the R3A portion of the lot contrary to § 22-10.

PREMISES AFFECTED – 114-01 Sutphin Boulevard, north side of Sutphin Boulevard between Linden Boulevard and 114th Road, Block 12184, Lot 7, Borough of Queens.

COMMUNITY BOARD #12Q

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 January 15, 2013, at 1:30 P.M., for decision, hearing closed.

276-12-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 833 Flatbush, LLC c/o Jem Realty, owner; Blink 833 Flatbush Avenue Inc., lessee.

SUBJECT – Application September 11, 2012 – Special Permit (§73-36) to permit a physical culture establishment (*Blink*) within portions of an existing commercial building. C2-4 zoning district.

PREMISES AFFECTED – 833/45 Flatbush Avenue, aka 2/12 Linden Boulevard, northeast corner of Flatbush Avenue and Linden Boulevard, Block 5086, Lot 8, Borough of Brooklyn.

COMMUNITY BOARD #14BK

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 January 8, 2013, at 1:30 P.M., for decision, hearing closed.

278-12-BZ

APPLICANT – John M. Marmora, Esq. for Robert J. Panzarella, BSB Real Estate Holdings LLC. J & J Real Estate Holdings LLC., owner, McDonald's USA, LLC, lessee.

SUBJECT – Application September 18, 2012 – Special Permit (§73-52) to extend by 25'-0" a commercial use into a residential zoning district to permit the development of a proposed eating and drinking establishment (*McDonald's*) with accessory drive thru. C8-2 and R5 zoning district.

PREMISES AFFECTED – 3143 Atlantic Avenue, northwest corner of Atlantic Avenue between Hale Avenue and Norwood Avenue. Block 3960, Lot 58. Borough of Brooklyn.

COMMUNITY BOARD #5BK

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 January 15, 2013, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

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*CORRECTION

This resolution adopted on February 7, 2012, under Calendar No. 166-11-BZ and printed in Volume 97, Bulletin No. 7, is hereby corrected to read as follows:

166-11-BZ

CEQR #12-BSA-035M

APPLICANT – Ellen Hay/Wachtel & Masyr LLP, for Roc Le Triomphe Associates LLC, owners; Crunch LLC, lessee. SUBJECT – Application October 24, 2011 – Special Permit (§73-36) to continue the operation of the Physical Culture Establishment (*Crunch Fitness*). C2-8 (TA) zoning district. PREMISES AFFECTED – 1109 Second Avenue, aka 245 East 58th Street, west side of Second Avenue between East 58th and East 59th Streets, Block 1332, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES –

For Applicant: Ellen Hay.

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 October 12, 2011, acting on Department of Buildings Application No. 120857260, reads in pertinent part:

Proposed Physical Culture establishment is not permitted as per ZR 73-36 unless granted special permits by the Board of Standards and Appeals as per ZR 32-31; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in an C2-8 zoning district within the Special Transit Land Use District (TA), the operation of a physical culture establishment (“PCE”) in a portion of the first floor, cellar, and sub-cellar of a 29-story mixed-use residential/commercial building, contrary to ZR § 32-31; and

WHEREAS, a public hearing was held on this application on January 10, 2012, after due notice by publication in *The City Record*, and then to decision on February 7, 2012; and

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

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

WHEREAS, the subject site located on the west side of Second Avenue between East 58th Street and East 59th Street in a C2-8 zoning district within the Special Transit Land Use District (TA); and

WHEREAS, the subject site is occupied by a 29-story

mixed-use residential/commercial building with residential use on the fourth through 29th floors and commercial use on the sub-cellar, cellar, first, and second levels; and

WHEREAS, the Board first approved the PCE on July 22, 1997, pursuant to BSA Cal. No. 195-96-BZ, for a term of ten years which expired on October 1, 2006; and

WHEREAS, the site is also the subject of a City Planning special permit for the building pursuant to ZR § 74-95, which was modified to allow for the PCE and associated signage; and

WHEREAS, the PCE occupies 36,119 sq. ft. of floor space on portions of the sub-cellar, cellar, and first floor levels; and

WHEREAS, the PCE is operated as Crunch Fitness; and

WHEREAS, the PCE operates Monday through Thursday 5:00 a.m. to 11:00 p.m.; Friday 5:00 a.m. to 10:00 p.m.; and Saturday and Sunday from 7:00 a.m. to 9:00 p.m.; and

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

WHEREAS, the applicant states that commercial and accessory residential uses on the second and third floor separate and, thus serve as a buffer between, the PCE on the first floor from the residential use on the fourth floor and above; 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. 12BSA035M, dated October 19, 2011; 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

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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 an C2-8 zoning district within the Special Transit Land Use District (TA), the operation of a physical culture establishment in a portion of the first floor, cellar, and sub-cellar of a 29-story mixed-use residential/commercial building, contrary to ZR § 32-31; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received October 20, 2011"- (5) sheets, and *on further condition*:

THAT the term of this grant will expire on February 7, 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 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 must be installed and/or maintained as shown on the Board-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, February 7, 2012.

plans;". Corrected in Bulletin No. 49, Vol. 97, dated December 5, 2012.

***The resolution has been revised to remove the condition which read:** *"THAT sound attenuation measures must be installed in the PCE as shown on the Board-approved*