
BULLETIN

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DIRECTORY

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DOCKET

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196-12-A

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197-12-A

1-37 12th Street, East of Gowanus Canal between 11th Street and 12th Street., Block 10007, Lot(s) 172, Borough of **Brooklyn, Community Board: 7**. Appeal from Department of Buildings' determination that sign is not entitled to continued non-conforming use status as advertising sign. M1-2/M2-1 district.

198-12-BZ

933-943 Madison Avenue, block bounded by Madison and Park Avenues, East 74th and East 75th Streets., Block 1389, Lot(s) 25, Borough of **Manhattan, Community Board: 8**. 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 zon C5-1(MP),R8B district.

199-12-BZ

1517 Bushwick Avenue, east side of Bushwick Avenue with frontage along Furman Avenue and Aberdeen Street., Block 3467, Lot(s) 5, Borough of **Brooklyn, Community Board: 1**. Application pursuant to ZR 72-21 to construct a self storage facility that exceeds the maximum permitted floor area regulations. C8-1 and R6 zoning districts. C8-1 and R6 district.

200-12-BZ

154 Hester Street, southwest corner of Hester Street and Elizabeth Street., Block 204, Lot(s) 16, Borough of **Manhattan, Community Board: 2**. Variance (§72-21) to permit the enlargement of the existing UG4 house of worship contrary §109-121 (floor area), §109-122 (lot coverage) and §54-31 (enlargement of non-complying building). C6-2 zoning district. C6-2G district.

201-12-A

112 Alberta Avenue, at southeast corner of intersection of Wild Avenue and Alberta Avenue, Block 2643, Lot(s) 10, Borough of **Staten Island, Community Board: 2**. 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 R3A district.

202-12-BZ

1030 Southern Boulevard, east side of Southern Blvd., 264' south of intersection of Westchester Ave. and Southern Blvd., Block 2743, Lot(s) 6, Borough of **Bronx, Community Board: 2**. Application for special permits to allow a physical culture establishment within an existing commercial building and corresponding extension of the physical culture establishment use 25' into an R7-1 zoning district. C4-4/R7-1 district.

203-12-A

442 West 36th Street, east of southeast corner of 10th Avenue and 36th Street, Block 733, Lot(s) 60, Borough of **Manhattan, Community Board: 4**. Appeal from Department of Buildings' determination that sign is not entitled to continued non-conforming use status as advertising sign. C2-5 /HY Zoning District C2-5/HY district.

204-12-A

18-24 Bruckner Boulevard, East of Southeast corner of Lincoln Avenue and Bruckner Boulevard, Block 2308, Lot(s) 5, Borough of **Bronx, Community Board: 01**. Appeal challenging the Department of Buildings' determination that signs are not entitled to continued legal status as advertising sign. M1-5 /R8A/MX-1 Zoning District. M1-5/R8A/MX-1 district.

205-12-A

355 Major Deegan Expressway, bounded by Exterior street, Major Deegan Expressway to the east, Harlem River to the west, north of the Madison Avenue Bridge, Block 2349, Lot(s) 46, Borough of **Bronx, Community Board: 1**. Appeal from the determination of the Department of Buildings that the subject sign is not entitled to non-conforming use status as an advertising sign. R7-2 /C2-4 (HRW) Zoning District. R7-2/C2-4(HRW) district.

DOCKET

206-12-BZ

2373 East 70th Street, between Avenue W & Avenue X, Block 8447, Lot(s) 67, Borough of **Brooklyn, Community Board: 18**. Application filed for special permit in legalizing a discontinuation of a one car garage within an existing one family home. Converting the space into a recreational area in conjunction with same. R3-1 district.

207-12-BZ

164 Reid Avenue, west of Reid Avenue, south of Janet Lane, Block 16350, Lot(s) 400, Borough of **Queens, Community Board: 14**. The legalization of a reconstruction of a single family not fronting on a legally mapped street contrary to General City Law Section 36 and the proposed upgrade of an existing private disposal system is contrary to the Department of Buildings policy. R R4 district.

208-12-A

17 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 123, Borough of **Staten Island, Community Board: 1**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

209-12-BZ

910 Manhattan Avenue, north east corner of Greenpoint Avenue and Manhattan Avenue., Block 2559, Lot(s) 4, Borough of **Brooklyn, Community Board: 1**. Special Permit (§73-36) to permit the operation of a physical culture establishment. C4-3A zoning district. C4-3A district.

212-12-BZ

38-03 Bell Boulevard, East side of Bell Boulevard distant 50.58 feet south of the intersection formed by Bell Boulevard and 38th Avenue, Block 6238, Lot(s) 18, Borough of **Queens, Community Board: 11**. Special Permit (§73-36) to permit a physical culture establishment in the cellar and first floor of the existing commercial building. C2-2/R6B zoning district. C2-2/R6B district.

216-12-A

19 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 122, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

217-12-A

21 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 121, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

218-12-A

23 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 120, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

219-12-A

25 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 119, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

220-12-A

27 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 118, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

221-12-A

29 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 117, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

222-12-A

31 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 116, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

DOCKET

223-12-A

33 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 115, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

224-12-A

35 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 114, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

225-12-A

37 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 113, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

226-12-A

39 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 112, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

227-12-A

41 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 111, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

228-12-A

43 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 110, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to

General City Law Section 36. R3A Zoning District. R3A district.

229-12-A

45 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 109, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

230-12-A

47 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 108, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

231-12-A

49 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 107, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A district.

232-12-A

51 McGee Lane, North side of McGee Lane - east of Harbor Road and West of Union Avenue, Block 01226, Lot(s) 106, Borough of **Staten Island, Community Board: 01**. Proposed construction of eighteen (18) single family homes that do not front on a legally mapped street, contrary to General City Law Section 36. R3A Zoning District. R3A 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

JULY 24, 2012, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, July 24, 2012, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

301-85-BZ

APPLICANT – Francis R. Angelino, Esq. for 58 East 86th Street, LLC, owner.

SUBJECT – Application May 8, 2012 – Amendment application to add several additional permitted use group 6 retail uses to a previously approved and extended in term BSA Variance Resolution, pursuant to 301-85-BZ, that permitted several specific use group 6 retail uses.

PREMISES AFFECTED – 58 East 86th Street, south side, 113' East of Madison Avenue and Park Avenues. Block 1497, Lot 49. Borough of Manhattan.

COMMUNITY BOARD #8M

71-93-BZ

APPLICANT – Paul F. Bonfilio, for Vincenzo Farruggio, owner.

SUBJECT – Application January 23, 2012 – Amendment to a previously granted Variance (§72-21) to allow construction of 242.6 sq. ft. one story addition to eastern face of existing house which does not comply with the front yard requirements (§23-45(a); floor area and lot coverage (§23-141(b)). R2A zoning district.

PREMISES AFFECTED – 153-01 Bayside Avenue, 308.25' west of 154th Street, between 29th Avenue and Bayside Avenue, Block 4835, Lot 25, Borough of Queens.

COMMUNITY BOARD #7Q

336-98-BZ & 337-98-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP for 312 Flatbush Avenue LLC, owner; AGT Crunch, lessee.

SUBJECT – Application December 31, 2008 – Application filed pursuant to §73-11 to Extend the term of a special permit granted pursuant to §73-36 authorizing a physical culture establishment (PCE) (Crunch Fitness), extend the PCE to include additional area in the cellar and on the first floor, permit a change in operator and extend the time to obtain a certificate of occupancy. The subject site is located in a C2-4 zoning district.

PREMISES AFFECTED – 312/18 & 324/34 Flatbush Avenue, 157' west of the northwest corner of the intersection of Flatbush Avenue and Sterling Place, Block 1057, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #6BK

238-08-BZ

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

SUBJECT – Application May 25, 2012 – Request for rehearing pursuant to Section 1-10(e) of the Board's Rules of Practice and Procedure, as there has been a material change in the proposed plans.

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

COMMUNITY BOARD #3BK

APPEALS CALENDAR

149-05-A

APPLICANT – Eric Palatnik, P.C., for Gregory Broutzas, owner.

SUBJECT – Application May 10, 2012 – Extension of time to complete construction and obtain a Certificate of Occupancy. On May 16, 2006 BSA issued a resolution granting an extension of time to complete construction which expired on May 1, 2007. R2 Zoning District.

PREMISES AFFECTED – 32-09 211th Street, east of the corner of 32nd Street and 211th Street, Block 6061, Lot 10, Borough of Queens.

COMMUNITY BOARD #11Q

155-12-BZY

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for 511 Property LLC, owner.

SUBJECT – Application May 11, 2012 – Extension of time (§11-332) to complete construction of a minor development commenced under the previous zoning.

PREMISES AFFECTED – 511 Ninth Avenue, southwest corner of Ninth Avenue and West 39th Street (block bounded by West 38th Street and 10th Avenue), Block 736, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #4M

CALENDAR

JULY 24, 2012, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, July 24, 2012, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

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 that does not provide two required front yards (§23-45) and side yard (ZR §23-461). R-5 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

13-12-BZ

APPLICANT – Georgios Georgopoulos, for Abumuktadir Rahman, owner.

SUBJECT – Application January 20, 2012 – Variance (§72-21) to permit the legalization of the bulk and parking waivers associated with the existing use of the building as a mosque. (*Astoria Islamic Center*), the proposal also includes an enlargement of the first and second floors and the addition of a third floor. The proposal is contrary to front yard (§24-34), side yard (§24-35), and required parking spaces (§25-31). R5B zoning district.

PREMISES AFFECTED – 22-21 33rd Street, east side of 33rd Street, 200' south of corner formed by the intersection of Ditmars Boulevard and 33rd Street, Block 832, Lot 22, Borough of Queens.

COMMUNITY BOARD #1Q

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 (ZR §23-141(a)); side yard (ZR §23-461(a)) and less than the required rear yard (ZR §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

105-12-BZ

APPLICANT – Zaskorski & Notaro Architects, for Alan Mucatel, owner.

SUBJECT – Application April 17, 2012 – Variance (§72-21) to permit the installation of a new elevator contrary to front yard and lot coverage regulations. R5 zoning district. PREMISES AFFECTED – 450 Castle Hill Avenue, southeast corner of Castle Hill and Lacombe Avenues, Block 3511, Lot 30, Borough of Bronx.

COMMUNITY BOARD #9BX

107-12-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Third Avenue Tower LLC, owner; Blink 600 Third Avenue Inc, lessee.

SUBJECT – Application April 17, 2012 – Special Permit (§73-36) to allow physical culture establishment (*Blink Fitness*) within existing commercial building. C5-3m C5-2.5 and R8B zoning district.

PREMISES AFFECTED – 600/18 Third Avenue, aka 159/65 E. 39th Street, aka 150/2 East 40th Street, west side of 3rd Avenue between E. 39th Street and E. 40th Street, Block 895, Lot 45, Borough of Manhattan.

COMMUNITY BOARD #6M

116-12-BZ

APPLICANT – Francis R. Angelino, Esq., for Spring Swinehart et al., owner; Exceed Fitness, LLC, lessee.

SUBJECT – Application April 24, 2012 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Exceed Fitness*). C1-9 zoning district.

PREMISES AFFECTED – 1477 Third Avenue, between E. 83rd and E. 84th Streets, Block 1529, Lot A, Borough of Manhattan.

COMMUNITY BOARD #8M

Jeff Mulligan, Executive Director

MINUTES

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

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

SPECIAL DECISION

NYC Board of Standards and Appeals
RULES OF PRACTICE & PROCEDURE
SUBJECT – NYC Board of Standards and Appeals repeals and re-promulgates its Rules of Practice and Procedure, Chapter 1, Title 2 of the Rules of the City of New York.
ACTION OF THE BOARD – Granted.
THE VOTE TO GRANT –
Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0
Adopted by the Board of Standards and Appeals, July 10, 2012.

SPECIAL ORDER CALENDAR

635-57-BZ
APPLICANT – Francis R. Angelino, Esq., for Landmark 115 East 69th Street, L.P, owner.
SUBJECT – Application March 1, 2012 – Extension of Term (§11-411) of a previously approved variance permitting the continued use of the cellar, first and second floors of a five-story building for general office use (UG6) which expired on January 26, 2012; waiver of the rules. R8B zoning district.
PREMISES AFFECTED – 115 East 69th Street, north side, 185’ east of Park Avenue, Block 1404, Lot 8, Borough of Manhattan.
COMMUNITY BOARD #8M
APPEARANCES –
For Applicant: Lyra J. Altman.
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 the cellar, first floor, and second floor of a five-story building for general office use (Use Group 6),

which expired on January 26, 2012; and
WHEREAS, a public hearing was held on this application on June 5, 2012, after due notice by publication in *The City Record*, and then to decision on July 10, 2012; and
WHEREAS, Community Board 8, Manhattan, recommends approval of this application; and
WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Collins, Commissioner Hinkson, and Commissioner Ottley-Brown; and
WHEREAS, the subject site is located on the north side of East 69th Street, between Park Avenue and Lexington Avenue, within an R8B zoning district; and
WHEREAS, the Board has exercised jurisdiction over the site since March 9, 1959 when, under the subject calendar number, the Board granted a variance to permit the use of the first floor of the building as a legation for the Republic of Sudan to the United Nations, and the second floor as an office, within a residence use district, for a term of 15 years; and
WHEREAS, subsequently, the grant was amended and the term extended at various times; and
WHEREAS, on September 25, 1979, the Board granted an amendment to permit the change of use on the first and second floors to general office use (Use Group 6); and
WHEREAS, subsequently, the grant was amended and the term extended at various times; and
WHEREAS, most recently, on June 4, 2002, the Board granted a ten-year extension of term, which expired on January 26, 2012; and
WHEREAS, the applicant now seeks an additional ten-year extension of the term; and
WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term; 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 March 9, 1959, so that as amended this portion of the resolution shall read: “to extend the term for ten years from January 26, 2012, to expire on January 26, 2022; *on condition* that the use and operation of the site shall comply with the BSA-approved plans associated with the prior grant; and *on further condition*:
THAT the term of the grant will expire on January 26, 2022;
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.” (Alt. No. 101488061)
Adopted by the Board of Standards and Appeals July 10, 2012.

MINUTES

313-77-BZ

APPLICANT – Goldman Harris LLC, for Gilsey House, owner.

SUBJECT – Application April 13, 2012 – Amendment to a variance (§72-21) which allowed the conversion of a manufacturing building to residential use. The proposal is to construct a one-story penthouse and roof deck enlargement within the approved envelope. M1-6 zoning district.

PREMISES AFFECTED – 1200 Broadway, southeast corner of West 29th Street and Broadway, Block 831, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Eugene Travers.

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 permitting the conversion and enlargement of an eight-story building from manufacturing use to residential use; and

WHEREAS, a public hearing was held on this application on June 12, 2012, after due notice by publication in *The City Record*, and then to decision on July 10, 2012; and

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

WHEREAS, Community Board 5, Manhattan, chose not to comment on the subject application; and

WHEREAS, the subject site is located on the northeast corner of the intersection of Broadway and West 29th Street, in an M1-6 zoning district; and

WHEREAS, the site is occupied by an eight-story residential building with a floor area of 99,204 sq. ft.; and

WHEREAS, the Board has exercised jurisdiction over the site since December 13, 1977 when, under the subject calendar number, the Board granted a variance to permit the proposed conversion of an eight-story manufacturing building with a floor area of 99,204 sq. ft. to residential use, and the construction of a 13,375 sq. ft. two-story penthouse enlargement, contrary to ZR § 42-00; and

WHEREAS, the applicant states that the subject building was converted to residential use in accordance with the Board’s grant, but that the two-story enlargement was never constructed; and

WHEREAS, the applicant now requests an amendment to permit the construction of a smaller 420 sq. ft. one-story enlargement entirely within the approved penthouse envelope, which will increase the floor area of the building to 99,624 sq. ft.; and

WHEREAS, the applicant notes that the proposed

enlargement will occupy less than four percent of the penthouse envelope previously approved by the Board and will have a height of 15’-6”, rather than the approved 18’-6”; and

WHEREAS, the applicant further notes that the proposed enlargement will consist of a bedroom and bathroom connected to the unit below and will not increase the number of dwelling units within the building; and

WHEREAS, the applicant states that, subsequent to its conversion to residential use, the building was designated as an individual landmark by the Landmarks Preservation Commission (“LPC”); and

WHEREAS, the applicant represents that the proposed amendment will not affect the historical integrity of the property; and

WHEREAS, the applicant submitted a Certificate of No Effect from LPC approving the proposed enlargement, dated June 22, 2010; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment 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 December 13, 1977, so that as amended this portion of the resolution shall read: “to permit the noted modifications to the previously-approved plans; *on condition* that all work substantially complies to drawings marked ‘Received June 1, 2012’ – (5) sheets and ‘June 11, 2012’-(2) sheets; and *on further condition*:

THAT all conditions from prior resolutions 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. 120354963)

Adopted by the Board of Standards and Appeals, July 10, 2012.

64-96-BZ

APPLICANT –Vassalotti Associates Architects, LLP, for Michael Koloniaris and Nichol Koloniaris, owners.

SUBJECT – Application January 10, 2012 – Extension of Term for the continued operation of a UG16B automotive repair shop (*Meniko Autoworks, Ltd.*) which expired on December 11, 2011. C1-2/R3A zoning district.

PREMISES AFFECTED – 148-20 Cross Island Parkway, East south of 14th Avenue, Block 4645, Lot 3, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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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 extension of term for an automobile repair facility, which expired on December 11, 2011; and

WHEREAS, a public hearing was held on this application on April 3, 2012, after due notice by publication in *The City Record*, with continued hearings on May 1, 2012 and June 5, 2012, and then to decision on July 10, 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 7, Queens, recommends approval of this application; and

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

WHEREAS, the site is a triangular-shaped lot located on the south side of the Cross Island Parkway service road, between 148th Street and 149th Street, within a C1-2 (R3A) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since December 11, 1956 when, under BSA Cal. No. 437-56-BZ, 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 was amended and the term extended at various times, until its expiration on December 11, 1991; and

WHEREAS, on February 25, 1997, under the subject calendar number, the Board granted an application under ZR § 11-411 to re-establish the expired variance for a gasoline service station with accessory parking for cars awaiting service, for a term of ten years, which expired on December 11, 2001; and

WHEREAS, most recently, on September 10, 2002, the Board granted a ten-year extension of term and an amendment to permit the change of use from a gasoline service station to an automobile repair facility with accessory parking for more than five vehicles in an open area, which expired on December 11, 2011; and

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

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

WHEREAS, at hearing, the Board directed the applicant to provide landscaping on the site and raised concerns about the outdoor hydraulic lift located in front of the repair building which was not shown on the previously-approved plans; and

WHEREAS, in response, the applicant submitted photographs reflecting that landscaping has been provided along the western lot line and the hydraulic lift has been disassembled and removed from the site; and

WHEREAS, based upon its review of the record, 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 *reopens and amends* the resolution, dated February 25, 1997, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from December 11, 2011, to expire on December 11, 2021; *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 January 10, 2012’-(1) sheet; and *on further condition*:

THAT the term of this grant will expire on December 11, 2021;

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

THAT there be no parking of automobiles on the sidewalk;

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

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

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 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.” (Alt. No. 401288940)

Adopted by the Board of Standards and Appeals, July 10, 2012.

359-01-BZ

APPLICANT – Sheldon Lobel, P.C., for Bnos Zion of Bobov, Inc., owner.

SUBJECT – Application February 3, 2012 – Amendment to previously approved variance (§72-21) for a school (*Bnos Zion of Bobov*). Amendment would legalize the enclosure of an one-story entrance, contrary to lot coverage and floor area ratio (§24-11). R6 zoning district.

PREMISES AFFECTED – 5002 14th Avenue, aka 5000-5014 14th Avenue, aka 1374-1385 50th Street, Block 5649, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

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 reopening and an amendment to a previously granted variance legalizing the existing sixth floor in a Use Group 3 religious

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school/yeshiva building; and

WHEREAS, a public hearing was held on this application on May 1, 2012, after due notice by publication in *The City Record*, with a continued hearing June 5, 2012, and then to decision on July 10, 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 12, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the southwest corner of the intersection of 14th Avenue and 50th Street, within an R6 zoning district; and

WHEREAS, the site is occupied by a seven-story (including penthouse) community facility building with a floor area of 69,350 sq. ft. (5.77 FAR), which is used as a private, Orthodox Jewish religious school for females ranging from pre-Kindergarten to 12th grade (the "Yeshiva"); and

WHEREAS, the adjacent site to the west, on Lot 35, is occupied by a new five-story school building which is also owned by the applicant; and

WHEREAS, on March 26, 2002, under the subject calendar number, the Board granted a variance to legalize the creation of the sixth floor within the envelope of the existing building, which did not comply with the zoning regulations for floor area ratio; and

WHEREAS, the applicant now requests an amendment to legalize the one-story glass enclosure of an existing areaway adjacent to the subject building; and

WHEREAS, the applicant states that the areaway is located along the northern side lot line adjacent to the new five-story school building on Lot 35, and the areaway is approximately 10'-0" wide by 61'-4" deep; and

WHEREAS, the applicant further states that the enclosure of the areaway creates approximately 672 sq. ft. of additional floor area, increasing the total floor area from 69,350 sq. ft. (5.77 FAR) to 70,022 sq. ft. (5.82 FAR), and increases the lot coverage from 94.4 percent to 100 percent; and

WHEREAS, the applicant notes that the enclosure of the areaway has created a covered one-story shared entrance way from 50th Street that is utilized by both the subject building and the adjacent school for ingress and egress; and

WHEREAS, the applicant represents that the entrance way is necessary to meet the programmatic needs of the Yeshiva because it serves as a separate entrance for women during religious school-related functions attended by both genders, in accordance with principles of the Orthodox Jewish faith; and

WHEREAS, the applicant notes that the entrance way also provides sheltered handicapped access by means of a ramp; and

WHEREAS, the applicant represents that the enclosure has minimal impacts on the exterior appearance and building envelope of the subject building, and no other changes to the interior layout or operations of the Yeshiva are proposed; and

WHEREAS, at hearing, the Board directed the applicant to clarify that the egress for the subject building and the

adjacent building on Lot 35 comply with all applicable egress requirements; and

WHEREAS, in response, the applicant submitted a letter from the architect stating that the egress for both buildings complies with all applicable Building Code requirements, and the shared use of the enclosed areaway for the third required means of egress for both buildings is permitted; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment 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 March 26, 2002, so that as amended this portion of the resolution shall read: "to permit the noted modifications to the previously-approved plans; *on condition* that all work substantially complies to drawings marked 'Received May 22, 2012' – Fourteen (14) sheets; and *on further condition*:

THAT all conditions from prior resolutions 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. 320235964)

Adopted by the Board of Standards and Appeals, July 10, 2012.

339-04-BZ

APPLICATION – Eric Palatnik, P.C., for Kramer and Wurtz, Inc., owner.

SUBJECT – Application January 17, 2012 – Extension of Term (§11-411) of a previously granted variance which permits an automotive service station (UG 16B) which expires on June 4, 2012. R3-1 zoning district.

PREMISES AFFECTED – 157-30 Willets Point Boulevard, south side of the intersection formed by Willets Point Boulevard and Clintonville Street. Block 4860, Lot 15. Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

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 extension of term for an automobile service station, which expired on June 4, 2012; and

WHEREAS, a public hearing was held on this

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application on May 8, 2012, after due notice by publication in *The City Record*, with a continued hearing on June 12, 2012, and then to decision on July 10, 2012; and

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

WHEREAS, Community Board 7, Queens, recommends approval of this application, with the condition that planters be placed around the perimeter of the site; and

WHEREAS, the site is located on the south side of the intersection of Willets Point Boulevard and Clintonville Street, within an R3-1 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 26, 1929 when, under BSA Cal. No. 205-29-BZ, the Board granted a variance to permit the construction of a gasoline service station, for a term of two years; and

WHEREAS, subsequently, the grant was amended and the term extended at various times; until its expiration on June 4, 2002; and

WHEREAS, on May 10, 2005, under the subject calendar number, the Board granted an application under ZR § 11-411 to re-establish the expired variance for a gasoline service station with accessory uses, and permitted the construction of a new canopy over the existing motor fuel dispense islands, for a term of ten years, which expired on June 4, 2012; and

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

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

WHEREAS, at hearing, the Board directed the applicant to provide planters in accordance with the request of the Community Board, and raised concerns about the trucks located on the site; and

WHEREAS, in response, the applicant submitted photographs of the planters which have been placed on the site, and states that all of the trucks on the site are awaiting service and there is no truck parking provided on the site; and

WHEREAS, based upon its review of the record, 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 *reopens* and *amends* the resolution, dated May 10, 2005, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from June 4, 2012, to expire on June 4, 2022; *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 January 17, 2012’-(2) sheets and ‘June 6, 2012’-(1) sheet; and *on further condition*:

THAT the term of this grant will expire on June 4, 2022;

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

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

THAT all conditions from the prior resolution not

specifically waived by the Board remain in effect; and

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 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 App. No. 401976723)

Adopted by the Board of Standards and Appeals, July 10, 2012.

175-10-BZ

APPLICANT – Sheldon Lobel, P.C., for Zacker Oil Corp., owner; Leemits Petroleum, Inc., lessee.

SUBJECT – Application April 30, 2012 – Extension of Time to obtain a Certificate of Occupancy for a previously approved gasoline service station (*Getty*) which expired on March 29, 2012. R4 zoning district.

PREMISES AFFECTED – 3400 Baychester Avenue, northeast corner of Baycheser and Tillotson Avenue, Block 5257, Lot 47, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Josh Rinesmith.

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 extension of time to obtain a certificate of occupancy, which expired on March 29, 2012; and

WHEREAS, a public hearing was held on this application on June 5, 2012, after due notice by publication in the *City Record*, and then to decision on July 10, 2012; and

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

WHEREAS, the premises is located on the northeast corner of Baychester Avenue and Tillotson Avenue, within an R4 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since December 18, 1956 when, under BSA Cal. No. 492-56-BZ, the Board granted a variance to permit the construction and maintenance of a gasoline service station with minor auto repairs, office and sales, car washing and lubrication in a residence and retail use district, for a term of 15 years; and

WHEREAS, subsequently, the grant has been amended and the term extended at various times, until its expiration on December 18, 2001; and

WHEREAS, on March 29, 2012, under the subject

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calendar number, the Board granted a reinstatement of the prior Board approval of an automobile service station with accessory uses (Use Group 16) in an R4 zoning district, pursuant to ZR § 11-411, for a term of ten years; and

WHEREAS, a condition of the grant was that a certificate of occupancy be obtained by March 29, 2012; and

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

WHEREAS, the applicant states that a new certificate of occupancy was not obtained by the stipulated date due to delays in locating the contractors and professionals necessary to sign-off old applications relating to the installation of the station's overhead fire suppression system; and

WHEREAS, based upon the above, the Board finds that the requested extension of time 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 March 29, 2011, so that as amended this portion of the resolution shall read: "to grant an extension of time to obtain a certificate of occupancy to July 10, 2013; *on condition* that the use and operation of the site shall comply with the BSA-approved plans associated with the prior grant; and *on further condition*:

THAT a new certificate of occupancy will be obtained by July 10, 2013;

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

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 App. No. 220074693)

Adopted by the Board of Standards and Appeals, July 10, 2012.

433-61-BZ

APPLICANT – Harold Weinberg, for Shin J. Yoo, owner.
SUBJECT – Application November 28, 2012 – Extension of Term (§11-411) of a variance which permitted a one story and mezzanine retail building, contrary to use regulations; Waiver of the Rules. R7A zoning district.

PREMISES AFFECTED – 1702-12 East 16th Street, between Quentin Road and Avenue R. Block 6798, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg and Frank Sellitto.

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 August 7, 2012, at 10 A.M., for decision, hearing closed.

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. R6B/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 Guff and Nicholas Scire-Chianti.

ACTION OF THE BOARD – Laid over to August 14, 2012, at 10 A.M., for continued hearing.

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/C1-2 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 Nicolas Scire-Chianti.

ACTION OF THE BOARD – Laid over to August 14, 2012, at 10 A.M., for continued hearing.

271-90-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for EPT Realty Corp., owner.

SUBJECT – Application October 11, 2011 – Extension of Term (§11-411) for the continued operation of a UG16 automotive repair shop with used car sales which expired on October 29, 2011. R7X/C2-3 zoning district.

PREMISES AFFECTED – 68-01/5 Queens Boulevard, northeast corner of intersection of Queens Boulevard and 68th Street, Block 1348, Lot 53, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to August 7, 2012, at 10 A.M., for adjourned hearing.

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337-90-BZ

APPLICANT – Sheldon Lobel, P.C., for Giuseppe LaSorsa, owner.

SUBJECT – Application April 26, 2012 – Extension of Term (§11-411) of a previously approved variance which permitted an automotive repair establishment (UG 16B) and a two-story mixed-use building with retail (UG 6) and residential (UG 2), which will expire on June 2, 2012. C1-3/R5D zoning district.

PREMISES AFFECTED – 1415-17 East 92nd Street, northeast corner of the intersection formed by East 92nd Street and Avenue L, Block 8238, Lot 9, Borough of Brooklyn.

COMMUNITY BOARD #18BK

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 August 7, 2012, at 10 A.M., for decision, hearing closed.

37-93-BZ

APPLICANT – Sheldon Lobel, P.C., for Vornado Forest Plaza, LLC, owner; 2040 Forest Avenue Fitness Group LLC, lessee.

SUBJECT – Application February 14, 2012 – Extension of Term of a previously granted Special Permit (§73-36) for the operation of a Physical Culture Establishment (*Planet Fitness*) which expired on November 9, 2003; Waiver of the Rules. C8-1 zoning district.

PREMISES AFFECTED – 2040 Forest Avenue, south side of Forest Avenue between Heaney Avenue and Van Name Avenue, Block 1696, Lot 8, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Josh Rinesmith.

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 August 7, 2012, at 10 A.M., for decision, hearing closed.

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

APPEARANCES –

For Applicant: Eric Palatnik.

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

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 –

For Applicant: Josh Rinesmith.

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 August 14, 2012, at 10 A.M., for decision, hearing closed.

112-07-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Congregation Bnai Shloima Zalman by Eugene Langsam, owners.

SUBJECT – Application October 12, 2011 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the construction of a two story and cellar (UG4) synagogue (*Bnai Shloima Zalman*) which expired on September 11, 2011. R-2 zoning district.

PREMISES AFFECTED – 1089-1093 East 21st Street, between Avenue I and Avenue J, Block 7585, Lot 21 & 22, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

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 August 7, 2012, at 10 A.M., for decision, hearing closed.

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128-10-BZ

APPLICANT – Eric Palatnik, P.C., for Merhay Yagudayev, owner; Jewish Center of Kew Gardens Hill Inc., lessee.

SUBJECT – Application December 21, 2011 – Amendment to previously approved variance (§72-21) for a synagogue. Amendment would allow increased non-compliance in building height (§24-521), floor area (§24-11) and lot coverage (§24-11) regulations. R4 zoning district.

PREMISES AFFECTED – 147-58 77th Road, 150th Street and 77th Road, Block 6688, Lot 31, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to August 7, 2012, at 10 A.M., for continued hearing.

APPEALS CALENDAR

180-11-A & 181-11-A

APPLICANT – Eric Palatnik, P.C., for Eran Yousfan, owner.

SUBJECT – Application November 30, 2011 – An appeal seeking a common law vested right to continue development commenced under the prior R6B zoning district. R5 zoning district.

PREMISES AFFECTED – 34-57 & 34-59 107th Street, between 34th and 37th Avenues, Block 1749, Lot 60 (Tent. Lot #s 60 & 61), Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES – None.

ACTION OF THE BOARD – Appeals granted.

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 appeal requesting a Board determination that the owner of the premises has obtained the right to complete construction of two attached four-story (including penthouse) three-family homes under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on April 24, 2012, after due notice by publication in *The City Record*, with continued hearings on June 5, 2012 and June 19, 2012, and then to decision on July 10, 2012; and

WHEREAS, the site was inspected by Chair Srinivasan, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 3, Queens, made a motion to approve this application which did not pass, and raised the following concerns: (1) the owner continued to build after the expiration of the permits; (2) the owner constructed up to the property line, obstructing the neighbors' windows and creating a potential safety risk; (3) the proposed buildings do not provide parking; (4) the proposed buildings are not

compatible with the surrounding neighborhood; and

WHEREAS, the subject site is located on the east side of 107th Street, between 34th Avenue and 37th Avenue, in an R5 zoning district; and

WHEREAS, the site consists of Lot 60 (Tentative Lots 60 and 61) and has 40 feet of frontage on 107th Street, a depth of 95 feet, and a total lot area of 3,800 sq. ft.; and

WHEREAS, the applicant proposes to develop the site with two attached four-story (including penthouse) three-family homes (the "Buildings"); and

WHEREAS, the subject site is currently located within an R5 zoning district, but was formerly located within an R6B zoning district; and

WHEREAS, the Buildings comply with the former R6B zoning district parameters; and

WHEREAS, however, on March 24, 2009 (the "Enactment Date"), the City Council voted to adopt the North Corona 2 Rezoning, which rezoned the site to R5, as noted above; and

WHEREAS, the Buildings do not comply with the R5 zoning district parameters; and

WHEREAS, as a threshold matter in determining this appeal, the Board must find that the construction was conducted pursuant to valid permits; and

WHEREAS, the Board further notes that New Building Permit Nos. 402280385-01-NB and 402280394-01-NB were issued on May 31, 2006 (the "New Building Permits"), authorizing the development of two attached three-family homes pursuant to R6B zoning district regulations; and

WHEREAS, the Board notes that, as of the Enactment Date, the applicant had obtained permits for the development and had completed 100 percent of their foundations, such that the right to continue construction was vested pursuant to ZR § 11-331, which allows DOB to determine that construction may continue under such circumstances; and

WHEREAS, however, only two years are permitted for the completion of construction and to obtain a certificate of occupancy; and

WHEREAS, in the event that construction permitted by ZR § 11-331 has not been completed and a certificate of occupancy has not been issued within two years of a rezoning, ZR § 11-332 allows an application to be made to the Board not more than 30 days after its lapse to renew such permit; and

WHEREAS, the applicant states that construction was not completed and a certificate of occupancy was not obtained within two years of the Enactment Date; and

WHEREAS, accordingly, the applicant is seeking an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, the Board notes that the applicant failed to file an application to renew the New Building Permits pursuant to ZR § 11-332 within 30 days of their lapse on March 24, 2011, and is therefore requesting additional time to complete construction and obtain a certificate of occupancy under the common law; and

WHEREAS, by letter dated February 23, 2012, DOB stated that the New Building Permits were lawfully issued, authorizing construction of the Buildings prior to the

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Enactment Date; and

WHEREAS, the Board has reviewed the record and agrees that the New Building Permits were lawfully issued to the owner of the subject premises prior to the Enactment Date; and

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

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

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

WHEREAS, as to substantial construction, the applicant states that as of the two year anniversary of the Enactment Date, the owner had completed the following: 100 percent of site preparation work; 100 percent of excavation; and 100 percent of the foundation work for each of the Buildings; and

WHEREAS, in support of this assertion, the applicant submitted the following evidence: construction contracts, concrete pour tickets, an affidavit from the construction manager; and photographs of the site; and

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

WHEREAS, as to the Community Board's concerns regarding work performed after the expiration of the permits, the applicant acknowledges that work continued at the site after the two year anniversary of the Enactment Date, but states that DOB did not issue any violations for work without a permit; and

WHEREAS, the Board notes that any work performed after the two year anniversary of the Enactment Date cannot be considered for vesting purposes; accordingly, only the work performed as of the two year anniversary of the Enactment Date has been considered; and

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

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

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

WHEREAS, the applicant states that as of the two year anniversary of the Enactment Date, the owner expended \$201,958, including hard and soft costs and irrevocable commitments, out of approximately \$407,000 budgeted for the entire project; and

WHEREAS, as proof of the expenditures, the applicant has submitted construction contracts, accounting tables, copies of cancelled checks, and invoices; and

WHEREAS, in relation to actual construction costs, the applicant specifically notes that the owner had paid or contractually incurred \$153,500 for the work performed at the site as of the two year anniversary of the Enactment Date; and

WHEREAS, the applicant further states that the owner paid an additional \$48,458 in soft costs related to the work performed at the site as of the two year anniversary of the Enactment Date; and

WHEREAS, thus, the expenditures as of the two year anniversary of the Enactment Date represent approximately 50 percent of the projected total cost; and

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

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

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

WHEREAS, the applicant states that if vesting were not permitted, the lots would have to be completely reconfigured to conform to the new minimum lot size, yard, and parking requirements in the R5 zoning district, and the existing foundations could not be re-used for complying buildings; and

WHEREAS, the applicant represents that compliance with the new zoning would reduce the project from two three-family buildings to two two-family buildings with widths of 18 feet and 13 feet, in order to accommodate the four required parking spaces and provide the required front and side yards; and

WHEREAS, the applicant submitted a cost estimate from a real estate broker stating that compliance with the R5 zoning would result in a monthly rental loss of

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approximately \$6,000 as compared to the R6B buildings; and

WHEREAS, the applicant represents that the entire project would have to be redesigned, and submitted a cost estimate from its architect stating that the cost of redesigning the buildings and preparing the necessary documentation would be approximately \$30,000; and

WHEREAS, the applicant also submitted a proposal from the contractor estimating the cost of replacing the existing foundations with foundations for R5 compliant buildings would be approximately \$135,000; and

WHEREAS, the Board agrees that the need to redesign, the limitations of any conforming construction, and the loss of actual expenditures and outstanding fees that could not be recouped constitute, in the aggregate, a serious economic loss, and that the supporting data submitted by the applicant supports this conclusion; and

WHEREAS, in response to the Community Board's concerns regarding construction up to the property line, the applicant states that the subject applications were approved by DOB and that DOB conducted an audit of the New Building Permits and as of August 2, 2011, all objections raised in the audit have been cured except for an objection pertaining to the subject vesting application; and

WHEREAS, as to the remaining concerns raised by the Community Board, the applicant states that the Buildings comply with the former R6B zoning district regulations, and that findings related to neighborhood character are not part of the vested rights analysis; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed, the expenditures made, and serious loss, and the supporting documentation for such representations, and agrees that the applicant has satisfactorily established that a vested right to complete construction of the Buildings had accrued to the owner of the premises as of the two year anniversary of the Enactment Date.

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights requesting a reinstatement of the New Building Permits associated with DOB Application Nos. 402587848-01-NB and 402587857-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for two years from the date of this grant.

Adopted by the Board of Standards and Appeals, July 10, 2012.

119-11-A

APPLICANT – Bryan Cave LLP, for Kimball Group, LLC, owner.

SUBJECT – Application August 17, 2011 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under prior zoning regulations in effect on July 14, 2005. R4 zoning district.

PREMISES AFFECTED – 2230-2234 Kimball Street, between Avenue U and Avenue V, Block 8556, Lot 55,

Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES – None.

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

155-11-A

APPLICANT – Sheldon Lobel, P.C., for 10 Stratford Associates, owners.

SUBJECT – Application October 3, 2011 – Appeal seeking a common law vested right to continue construction commenced under the prior R6 zoning district regulations. R3X zoning district.

PREMISES AFFECTED – 480 Stratford Road, west side of Stratford Road, through to Coney Island Avenue between Dorchester and Ditmas Avenue, Block 5174, Lot 16, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Laid over to July 24, 2012, at 10 A.M., for deferred decision.

163-11-A

APPLICANT – FDNY, for Badem Buildings, owner.

SUBJECT – Application October 17, 2011 – Appeal to modify the existing Certificate of Occupancy to provide additional fire safety measures in the form of a wet sprinkler system throughout the entire building.

Appeal to modify the existing Certificate of Occupancy to provide additional fire safety measures in the form of a wet sprinkler system throughout the entire building.

PREMISES AFFECTED – 469 West 57th Street, between 9th and 10th Avenue, Block 1067, Lot 4, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to August 21, 2012, at 10 A.M., for adjourned hearing.

17-12-A

APPLICANT – Joseph A. Sherry, for Breezy Point Cooperative, Inc., owner; Richard and Michelle Kourbage, owners.

SUBJECT – Application January 24, 2012 – 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.

PREMISES AFFECTED – 409 Seabreeze Walk, north side of Seabreeze Walk, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Loretha Popa.

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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 July 24,
2012, at 10 A.M., for decision, hearing closed.

18-12-A

APPLICANT – Joseph A. Sherry, for Breezy Point
Cooperative Inc., owner; Dennis Dorizas, lessee.

SUBJECT – Application January 24, 2012 – Proposed
building is not fronting a mapped street, contrary to §36
General City Law. R4 zoning district.

PREMISES AFFECTED – 377 Bayside Avenue, Block
16340, Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Loretha Popa.

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 July 24,
2012, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

REGULAR MEETING

TUESDAY AFTERNOON, JULY 10, 2012
1:30 P.M.

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

ZONING CALENDAR

107-11-BZ

CEQR #12-BSA-007K

APPLICANT – Sheldon Lobel, P.C., for Congregation
Yeshiva Bais Yitzchok, owners.

SUBJECT – Application August 3, 2011 – Variance (§72-
21) to permit the enlargement of a synagogue (*Congregation
Yeshiva Bais Yitzchok*) contrary to the bulk requirements for
community facility buildings. R4-1 zoning district.

PREMISES AFFECTED – 1643 East 21st Street, east side of
21st Street between Avenue O and P, Block 6768, Lot 84,
Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Jordan Most.

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 July 7, 2011, acting on Department of
Buildings Application No. 320333590 reads, in pertinent part:

Proposed floor area and lot coverage contrary to
ZR 24-11.

Proposed wall height and sky exposure plane
contrary to ZR 24-521.

Proposed front yard contrary to ZR 24-34.

Proposed side yards contrary to ZR 24-35.

Proposed rear yard contrary to ZR 24-36.

Proposed distance between required window and
side lot line and rear lot line contrary to ZR 24-
651; and

WHEREAS, this is an application for a variance pursuant
to ZR § 72-21 to permit, on a site within an R4-1 zoning
district, the enlargement of an existing building occupied by a
synagogue (Use Group 4) and Rabbi's apartment, which does
not comply with the underlying zoning district regulations for
lot coverage, height and setback, front yard, side yards, rear
yard, and distance between windows and lot lines, contrary to
ZR §§ 24-11, 24-521, 24-34, 24-35, 24-36 and 24-651; and

WHEREAS, a public hearing was held on this
application on April 3, 2012, after due notice by publication

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in *The City Record*, with continued hearings on May 15, 2012 and June 12, 2012, and then to decision on July 10, 2012; and

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

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

WHEREAS, this application is being brought on behalf of Congregation Yeshiva Bais Yitzchok (the "Congregation"), a non-profit religious entity; and

WHEREAS, the subject site is located on the east side of East 21st Street, between Avenue O and Avenue P, within an R4-1 zoning district; and

WHEREAS, the subject lot has a width of 40 feet, a depth of 100 feet, and a lot area of 4,000 sq. ft.; and

WHEREAS, the subject site is currently occupied by a legal non-complying three-story 5,760 sq. ft. (1.7 FAR) building occupied by a synagogue at the cellar and first floors and a Rabbi's residence on the second and third floors; and

WHEREAS, the existing synagogue building has the following pre-existing non-complying parameters: a lot coverage of 70 percent (55 percent is the maximum permitted); a front yard with a depth of 5'-5" (a front yard with a minimum depth of 15'-0" is required); a side yard with a width of 4'-10" along the northern lot line and no side yard along the southern lot line (two side yards with a minimum width of 8'-0" each are required); a rear yard with a depth of 14'-0" (a rear yard with a minimum depth of 30'-0" is required); and a minimum distance between windows and lot lines of 4'-10 1/2" line (a minimum distance of 20'-0" is required between windows and lot lines); and

WHEREAS, the applicant proposes to enlarge the existing building to create a four-story building with the following non-complying parameters: a floor area of 11,967 sq. ft. (2.99 FAR) (the maximum permitted floor area is 8,000 sq. ft. (2.0 FAR)); a lot coverage of 94 percent (the maximum permitted lot coverage is 55 percent); a wall height of 47'-0" (the maximum permitted wall height is 35'-0"); a front yard with a depth of 5'-5" (a front yard with a minimum depth of 15'-0" is required); no side yards (two side yards with a minimum width of 8'-0" each are required); no rear yard at the first and second floor and a rear yard with a depth of 20'-0" above the second floor (a rear yard with a minimum depth of 30'-0" is required); and a minimum distance between windows and lot lines of 4'-10 1/2" line (a minimum distance of 20'-0" is required between windows and lot lines); and

WHEREAS, the applicant originally proposed to construct a four-story building with a floor area of 12,234 sq. ft. (3.06 FAR), with no rear yard above the second floor; and

WHEREAS, in response to concerns raised by the Board, the applicant submitted a revised proposal which provided a rear yard above the level of the second floor and reduced the floor area of the building to 11,967 sq. ft. (2.99 FAR); and

WHEREAS, because the proposed building does not comply with the bulk regulations of the underlying zoning district, the subject variance is requested; and

WHEREAS, the proposal provides for the following uses: (1) a social hall, mikvah, men's lobby, women's lobby, and a warming kitchen at the cellar level; (2) a synagogue and lobby at the first floor; (3) a women's balcony, lobby, and accessory religious educational room at the second floor; (4) a Rabbi's study, accessory office, library, and Rabbi's residence at the third floor; and (5) a Rabbi's residence at the fourth floor; and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Synagogue which necessitate the requested variances: (1) to accommodate the congregation of approximately 110 families and allow for future growth; (2) to provide necessary support services for the synagogue; and (3) to provide a residence for the synagogue's Rabbi; and

WHEREAS, the applicant states that the congregation currently has a membership of 110 families, and anticipates the addition of approximately 20 families over the next ten years; and

WHEREAS, the applicant represents that it anticipates approximately 50 congregants will attend each weekday prayer session, and approximately 225 congregants will attend services on the Sabbath and holidays; and

WHEREAS, the applicant states that the growth of the congregation has led to overcrowded and uncomfortable conditions, particularly on Friday night and Saturday morning services as well as during the Jewish holidays, and the current building neither provides adequate space for the present needs of the synagogue nor accommodates for the future growth of the congregation; and

WHEREAS, the applicant represents that the requested waivers are also required to provide necessary support services for the synagogue which are absent or deficient in the existing building; and

WHEREAS, specifically, the applicant states that the yard and floor area waivers will enable the Congregation to provide new prayer and synagogue space and improved circulation space, including a women's balcony, a mikvah, new stairs to the women's balcony, new educational and administrative space, an enlarged Rabbi's residence, and improved common facilities such as bathrooms, closets, and separate men's and women's lobbies; and

WHEREAS, as for the enlarged Rabbi's residence, the applicant represents that the need for the additional space is twofold: (1) the Rabbi's family has grown significantly over the years, and his family, with the addition of grandchildren, regularly visits for extended stays; and (2) the Rabbi plays a central role as a "counselor" in the community, and many congregants seek the Rabbi's advice on a wide range of issues, and the current building does not provide the appropriate and discreet space in which to meet with community members; and

WHEREAS, the Board acknowledges that the synagogue, as a religious institution, is entitled to significant

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deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Westchester Reform Temple v. Brown, 22 NY2d 488 (1968), a religious institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

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

WHEREAS, the applicant need not address ZR § 72-21(b) since the Congregation is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; 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 states that that the proposed use is permitted in the subject zoning district; and

WHEREAS, as to bulk, the applicant states that the surrounding area is characterized by a variety of residential buildings in addition to several mixed residential and commercial uses; and

WHEREAS, the applicant represents that the properties along the subject block front and across East 21st Street include several six and seven-story apartment buildings with 70 plus units and FARs in excess of 5.0; and

WHEREAS, the applicant submitted a streetscape reflecting that there are a number of buildings to the south of the site along the subject block front, as well as several buildings directly across from the site on the west side of East 21st Street, which are significantly larger than the proposed building; and

WHEREAS, specifically, the applicant provided a table analyzing the floor area and height of the buildings along East 21st Street between Avenue O and Avenue P, which reflects that there are at least five buildings with an FAR greater than the proposed 2.99 FAR, and at least three buildings with a height greater than the proposed 47'-0"; and

WHEREAS, the applicant also submitted two letters of consent from the adjacent neighbors on Lots 82 and 86; and

WHEREAS, at hearing, the Board raised concerns about the size of the enlarged Rabbi's residence; and

WHEREAS, in response, the applicant states that the proposed building relocates the Rabbi's residence from the second and third floor to the third and fourth floor, and that the actual proposed enlargement of the residential space in the building is only 424 sq. ft., which constitutes an increase in floor area of only 14 percent; and

WHEREAS, as to the rear yard, the applicant states that it is providing a rear yard with a depth of 20'-0" above the level of the second floor and notes that 20'-0" rear yards are commonplace throughout the nearby R2 zoning district pursuant to the special permit under ZR § 73-622; and

WHEREAS, ZR § 24-33 provides a rear yard exemption for a community facility building located within a residence district, allowing the first floor, or up to a height of 23'-0" of the building, to encroach into the rear yard as a permitted obstruction; and

WHEREAS, the Board notes that, although the rear yard exemption does not apply to the second floor, the height of the subject building (27'-0") within the 20'-0" rear yard area is similar to the height allowed as a permitted obstruction (23'-0"); and

WHEREAS, at the direction of the Board, the applicant analyzed a lesser variance scenario which provided a rear yard with a depth of 30'-0" above the level of the second floor; and

WHEREAS, the applicant represents that with a 30'-0" rear yard the residential component becomes even smaller than it presently is, and certain important facility and Rabbi-related uses must be removed from the residential floors, which compromises the already "tightly-designed" cellar level; accordingly, a lesser variance scenario with a 30'-0" deep rear yard would not be able to accommodate the Congregation's programmatic needs; and

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

WHEREAS, the applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the Congregation could occur on the existing lot; and

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

WHEREAS, as noted above, originally proposed to construct a four-story synagogue with a floor area of 12,234 sq. ft. (3.06 FAR), and with no rear yard above the second floor; and

WHEREAS, at the direction of the Board, the applicant revised its plans to reduce the size of the building to 11,967 sq. ft. (2.99 FAR) and provide a rear yard with a depth of 20'-0" above the level of the second floor; and

WHEREAS, the applicant also analyzed a scenario providing a rear yard with a depth of 30'-0" above the level of the second floor, which was unable to meet the programmatic needs of the Congregation; and

WHEREAS, accordingly, the Board finds the requested waivers to be the minimum necessary to afford the Congregation the relief needed to meet its programmatic needs; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under

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ZR § 72-21; 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 (EAS) CEQR No. 12BSA007K, dated August 3, 2011; 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, 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, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, on a site within an R4-1 zoning district, the enlargement of an existing building occupied by a synagogue (Use Group 4) and Rabbi's apartment, which does not comply with the underlying zoning district regulations for lot coverage, height and setback, front yard, side yards, rear yard, and distance between windows and lot lines, contrary to ZR §§ 24-11, 24-521, 24-34, 24-35, 24-36 and 24-651; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 26, 2012" – Fourteen (14) sheets, and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: a maximum floor area of 11,967 sq. ft. (2.99 FAR); a maximum lot coverage of 94 percent; a maximum wall height of 47'-0"; a front yard with a minimum depth of 5'-5"; a rear yard with a minimum depth of 20'-0" above the second floor; and a minimum distance between windows and lot lines of 4'-10 1/2", as illustrated on the BSA-approved plans;

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

THAT the use shall be limited to a house of worship (Use Group 4) and an accessory Rabbi's apartment;

THAT no commercial catering shall take place onsite;

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

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

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, July 10, 2012.

142-11-BZ

APPLICANT – Goldman Harris LLC, for The Phillippe at W75st NY, LLC, owner.

SUBJECT – Application September 9, 2011 – Variance (§72-21) to allow a new residential building, contrary to height and setback (§23-692), rear setback (§23-633), and lot coverage (§23-145) regulations. C4-6A zoning district. PREMISES AFFECTED – 207 West 75th Street, north side of West 75th Street, between Broadway and Amsterdam Avenue, Block 1167, Lot 28, Borough of Manhattan.

COMMUNITY BOARD #7M

For Applicant: Eugene Travers.

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Adopted by the Board of Standards and Appeals, July 10, 2012.

20-12-BZ

CEQR #12-BSA-071K

APPLICANT – Herrick, Feinstein LLP, for LNA Realty Holdings, LLC, owner; Brookfit Ventures LLC, lessee.

SUBJECT – Application January 31, 2012 – Special Permit (§73-36) to allow the legalization of the operation of a physical culture establishment (*Retro Fitness*) in an under construction mixed residential/commercial building. M1-2/R6B zoning district.

PREMISES AFFECTED – 203 Berry Street, aka 195-205 Berry Street; 121-127 N. 3rd Street, northeast corner of Berry and N. 3rd Streets, Block 2351, Lot 1087, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Lee Gold.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

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Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated January 18, 2012, acting on Department of Buildings Application No. 320411287, reads in pertinent part:

The subject property to be used as a physical culture establishment is contrary to section 42-10 ZR and requires a special permit from the NYC BSA pursuant to Section 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in an M1-2/R6B zoning district within Special Mixed Use District 8 (MX-8), the legalization of a physical culture establishment (PCE) at the sub-cellar and first floor of a five-story mixed-use commercial/residential building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on May 15, 2012, after due notice by publication in *The City Record*, with a continued hearing on June 12, 2012, and then to decision on July 10, 2012; and

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

WHEREAS, Community Board 1, Brooklyn, recommends approval of this application on the condition that it cease operations until the applicant receives the BSA special permit; and

WHEREAS, the subject site is located on the northeast corner of Berry Street and North 3rd Street, within an M1-2/R6B (MX-8) zoning district; and

WHEREAS, the site is located on a corner lot with approximately 122 feet of frontage on Berry Street, 400 feet frontage on North 3rd Street, and a total lot area of 41,419 sq. ft. and

WHEREAS, the site is occupied by a five-story mixed-use commercial/residential building; and

WHEREAS, the proposed PCE will occupy 2,635 sq. ft. of floor area on the first floor, with an additional 21,337 sq. ft. of floor space located at the sub-cellar level; and

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

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

WHEREAS, at hearing, the Board raised concerns regarding the adequacy of sound attenuation provided to minimize any potential noise impacts on the residential units within the building; and

WHEREAS, in response, the applicant notes that less than ten percent of the PCE's exercise area is located adjacent to residential units; and

WHEREAS, further the applicant notes that the existing PCE has eight inch thick concrete walls and floor slabs which provide sound insulation that complies with the

sound insulation requirements of the New York City Building Code; and

WHEREAS, the Board also questioned whether a Public Assembly permit is required for the PCE; and

WHEREAS, in response, the applicant represents that they are in the process of preparing their Public Assembly permit application for submission to the Department of Buildings; 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, the applicant represents that the services at the PCE include facilities for classes, instruction and programs for physical improvement; 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, the Board notes that the PCE has been in operation since March 17, 2012, without a special permit; and

WHEREAS, accordingly, the Board has determined that the term of the grant shall be reduced for the period of time between March 17, 2012 and the date of this grant; 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. 12BSA071K, dated January 23, 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

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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 within in an M1-2/R6B (MX-8) zoning district, the legalization of a PCE at the sub-cellar and first floor of a five-story mixed-use commercial/residential building, contrary to ZR § 42-10; on condition that all work shall substantially conform to drawings filed with this application marked "Received June 29, 2012" – Seven (7) sheets and on further condition:

THAT the term of this grant will expire on March 17, 2022;

THAT the applicant will obtain a Public Assembly permit from the Department of Buildings by January 10, 2013; and

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 the above conditions will appear on the Certificate of Occupancy;

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

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

THAT the site will be maintained free of graffiti;

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

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

THAT the Department of Buildings must ensure compliance with all 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, July 10, 2012.

44-12-BZ

CEQR #12-BSA-081K

APPLICANT – Sheldon Lobel, P.C., for 952-1064 Flatbush Avenue ELB LLC, owner; 1024 Flatbush Avenue Fitness Group, LLC, lessee.

SUBJECT – Application February 23, 2012 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Planet Fitness*) within an existing four-story building. C4-4A zoning district.

PREMISES AFFECTED – 1024 Flatbush Avenue, west side of Flatbush Avenue between Regent Place and Beverly Road, Block 5125, Lot 56, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Jordan Most.

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 February 10, 2012, acting on Department of Buildings Application No. 320411149, reads in pertinent part:

Proposed establishment of physical and cultural establishment use in C4-4A district is not permitted as-of-right; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C4-4A zoning district, the operation of a physical culture establishment (PCE) on the first, second, third and fourth floors in a four-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on May 8, 2012, after due notice by publication in *The City Record*, with a continued hearing on June 12, 2012, and then to decision on July 10, 2012; and

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

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

WHEREAS, the subject site is located on the west side of Flatbush Avenue between Regent Place and Beverly Road, within a C4-4A zoning district; and

WHEREAS, the site is located on an interior lot with approximately 80 feet of frontage on Flatbush Avenue and a total lot area of 7,692 sq. ft.; and

WHEREAS, the site is currently occupied by a three-story commercial building, which is being enlarged to create a four-story commercial building; and

WHEREAS, the proposed PCE will occupy 19,022 sq. ft. of floor area on the first through fourth floors of the subject building; and

WHEREAS, the PCE will be operated as Planet Fitness;

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and

WHEREAS, the applicant states that the hours of operation for the proposed PCE will be 24 hours a day, seven days a week; and

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

WHEREAS, during the public hearing, the Board raised concerns regarding potential lighting impacts on adjacent residential uses as a result of the proposed 24 hour operation of the PCE; and

WHEREAS, in response, the applicant notes that third and fourth floor windows are located at least thirty feet from the rear property line and therefore set back by a similar distance from any adjacent residential windows; and

WHEREAS, further, the applicant notes that the PCE will incorporate the following measures to ensure that there will be no lighting impacts during the PCE's overnight hours of operation on the occupants of the residential building to the rear of the subject site: (1) use of low intensity LED lighting that is set back eight feet from the windows; and (2) installation of tinted glazing on the third and fourth floor windows in the rear of the subject building that will further reduce the amount of light transmitted; 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. 12BSA081K, dated February 22, 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 C4-4A zoning district, the operation of a PCE on the first, second, third and fourth floors in a four-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received June 22, 2012" - Seven (7) sheets, and *on further condition*:

THAT the term of this grant will expire on July 10, 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 lighting reduction measures, including LED lighting and tinted glazing on the third and fourth floors will be provided as indicated on the BSA-approved plans; and

THAT the proposed building will be reviewed by DOB for compliance with all bulk regulations of the Zoning Resolution;

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, July 10, 2012.

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78-12-BZ

CEQR #12-BSA-102M

APPLICANT – Francis R. Angelino, Esq., for Jonathan P. Rosen, owner; End 2 End Game Training LLC, lessee.

SUBJECT – Application April 4, 2012 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*End 2 End*). C6-4A zoning district.

PREMISES AFFECTED – 443 Park Avenue South, northeast corner of East 30th Street, Block 886, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

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 23, 2012, acting on Department of Buildings Application No. 121004545, reads in pertinent part:

Proposed Physical Culture Establishment not permitted as-of-right as per ZR 32-10, a special permit by the Board of Standards and Appeals is required; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C6-4A zoning district, the operation of a physical culture establishment (PCE) in a portion of the cellar of an eleven-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on June 12, 2012, after due notice by publication in *The City Record*, and then to decision on July 10, 2012; and

WHEREAS, Community Board 5, Manhattan, recommends approval of this application; and

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

WHEREAS, the subject site is located on the northeast corner of East 30th Street, within a C6-4A zoning district; and

WHEREAS, the site is a corner lot with 74 feet of frontage on Park Avenue South, 90 feet of frontage on East 30th Street, and a total lot area of 6,662 sq. ft.; and

WHEREAS, the proposed PCE will occupy 4,973 sq. ft. of floor space at the cellar level; and

WHEREAS, the PCE will be operated as End2End Game Training; and

WHEREAS, the applicant states that the hours of operation for the proposed PCE will be: Monday through Friday, from 6:00 a.m. to 9:00 p.m.; and Saturday and Sunday, from 8:00 a.m. to 1:00 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 notes that the PCE will incorporate the following sound attenuation measures to comply with the NYC Noise Control Code and to ensure that there are no impacts on the adjacent building's residential occupants: (1) acoustic tile ceilings, covering approximately 50 percent of the project area (located throughout PCE); (2) tectum, sound-absorbing, acoustic panels, covering approximately ten percent of the project area (located in the main exercise area only); (3) absorptive rubber flooring surfaces throughout the entire PCE; and (4) acoustic batt insulation in all partitions; 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. 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 Negative Declaration prepared in accordance with Article 8 of the New York State Environmental

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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 C6-4A zoning district, the operation of a PCE in a portion of the cellar of an eleven-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received June 18, 2012" - (2) sheets, and *on further condition*:

THAT the term of this grant will expire on July 10, 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 will 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, July 10, 2012.

42-10-BZ

APPLICANT – Sheldon Lobel, P.C., for 2170 Mill Avenue LLC, owner.

SUBJECT – Application March 29, 2010 – Variance (§72-21) to allow for a mixed use building, contrary to use (§22-10), floor area, lot coverage, open space (§23-141), maximum dwelling units (§23-22), and height (§23-631) regulations. R3-1/C2-2 zoning district.

PREMISES AFFECTED – 2170 Mill Avenue, 116' west of intersection with Strickland Avenue, Block 8470, Lot 1150, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Laid over to August

21, 2012 at 1:30 P.M., for adjourned hearing.

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 and Zosimo Lerum, Jr.

For Opposition: Alan Rothbard, Mosharaf Hossain and Consuelo Paris Celestine.

ACTION OF THE BOARD – Laid over to August 14, 2012, at 1:30 P.M., for continued hearing.

187-11-BZ

APPLICANT – Davidoff Malito & Hutcher, LLP, for Sanford Realty, LLC, owner.

SUBJECT – Application December 8, 2011 – Variance (§72-21) to allow for the enlargement and conversion of existing manufacturing building to mixed-use residential and commercial, contrary to use regulations, (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 118 Sanford Street, between Park Avenue and Myrtle Avenue, Block 1736, Lot 32, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Ron Mandel.

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.

193-11-BZ

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

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APPEARANCES –

For Applicant: Eric Palatnik and Ian Rasmussen.

ACTION OF THE BOARD – Laid over to July 24, 2012, at 1:30 P.M., for continued hearing.

7-12-BZ

APPLICANT – Eric Palatnik, P.C., for 419 West 55th Street Corp., owner; Katsam Holding, LLC, lessee.

SUBJECT – Application January 17, 2012 – Special Permit (§73-36) to allow a physical culture establishment (*Revolutions 55*). C6-2/R8 zoning district.

PREMISES AFFECTED – 419 West 55th Street, between 9th and 10th Avenues, Block 1065, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #4BK

APPEARANCES –

For Applicant: Eric Palatnik, John Paul Murray and Jeffrey Fisch.

For Opposition: Dale D.

ACTION OF THE BOARD – Laid over to August 21, 2012, at 1:30 P.M., for continued 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, 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

APPEARANCES –

For Applicant: Eric Palatnik and Hiram Rothkrug.

For Opposition: Diana C. Prevette, Ricardo Strobert, Sondra V Davis, Rened L. Branch, Emma Chollette-Fraser and Cynthia Balde.

ACTION OF THE BOARD – Laid over to August 21, 2012, at 1:30 P.M., for continued hearing.

64-12-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 16302 Jamaica LLC, owner; Blink Jamaica Avenue, Inc., lessee.

SUBJECT – Application March 20, 2012 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Blink Fitness*) within portions of an existing building. C6-3(DP) zoning district.

PREMISES AFFECTED – 163-02 Jamaica Avenue, southeast corner of intersection of Jamaica and Guy R. Brewer Boulevard, block 10151, Lot 1, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Adam W. Rothkrug.

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 July 24, 2012, at 1:30 P.M., for decision, hearing closed.

68-12-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for Rockaway Boulevard Associates, LLC, owner.

SUBJECT – Application March 21, 2012 – Re-instatement (§11-411) of a previously approved variance which permitted the operation of an Automotive Service Station (UG 16B) with accessory uses which expired on December 22, 1999; Waiver of the Rules. R5 zoning district.

PREMISES AFFECTED – 89-15 Rockaway Boulevard, northwest corner of the intersection of Rockaway Boulevard and 90th Street, Block 9093, Lot 13, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD – Laid over to August 7, 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, Joe Nahas and Jill Kargman.

For Opposition: Christopher Rizzo and Francis Blassner.

ACTION OF THE BOARD – Laid over to August 14, 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

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Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Laid over to August 14, 2012, at 1:30 P.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

***CORRECTION**

This resolution adopted on June 12, 2012, under Calendar No. 136-01-BZ and printed in Volume 97, Bulletin No. 25, is hereby corrected to read as follows:

136-01-BZ

APPLICANT – Eric Palatnik, P.C., for Cel Net Holdings Corp., owner.

SUBJECT – Application April 20, 2012 – Extension of Time to complete Construction and obtain a Certificate of Occupancy for a previously granted Variance (§72-21) which permitted non-compliance in commercial floor area and rear yard requirements which expired on March 21, 2012. M1-4/R-7A zoning district.

PREMISES AFFECTED – 11-11 44th Drive, north side of 44th Drive between 11th Street and 21st Street, Block 447, Lot 13, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Todd Dale.

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 extension of time to complete construction and obtain a certificate of occupancy for a previously granted variance; and

WHEREAS, a public hearing was held on this application on May 15, 2012, after due notice by publication in *The City Record*, and then to decision on June 12, 2012; and

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

WHEREAS, the subject site is located on the north side of 44th Drive, between 11th Street and 21st Street, within an M1-4 (R7A) zoning district; and

WHEREAS, on June 11, 2002, the Board granted an application under ZR § 72-21, to permit, in an M1-4 zoning district, an increase in floor area for a wholesale office with accessory storage (Use Group 10) and the legalization of the existing encroachment into the rear yard; and

WHEREAS, substantial construction was to be completed by June 11, 2006 in accordance with ZR § 72-23; and

WHEREAS, on March 28, 2006, the Board granted an extension of time to complete construction and obtain a certificate of occupancy, to expire on March 28, 2008; and

WHEREAS, on January 12, 2010, the Board granted an extension of time to complete construction and obtain a certificate of occupancy, which expired on July 12, 2010, and an amendment to the approved plans to reflect that the previously-approved enlargement had been eliminated and that

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the total floor area of the proposed building will remain at 31,784 sq. ft.; and

WHEREAS, most recently, on September 21, 2010, the Board granted an extension of time to complete construction and obtain a certificate of occupancy, to expire on March 21, 2012; and

WHEREAS, the applicant now requests an additional extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, the applicant states that since the Board's prior grant of an extension of time the owner has made substantial expenditures toward completing the project, totaling \$427,359.04, which included substantial improvements to the structure, mechanical systems, fireproofing and sprinklering, and interior of the building; and

WHEREAS, in support of the work performed on the site since the prior grant, the applicant submitted expense reports reflecting the expenditures made on construction, and photographs of the work completed on the site; and

WHEREAS, the applicant states that approximately 90 percent of the work is complete at the site, and requests a one-year extension of time to complete construction, consisting of minor interior carpentry, painting, and carpeting, and to obtain a certificate of occupancy; and

WHEREAS, based upon the above, the Board finds that the requested extension of time 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 June 11, 2002, so that as amended this portion of the resolution shall read: "to permit an extension of time to complete construction and obtain a certificate of occupancy, to expire on June 12, 2013; *on condition* that the use and operation of the site shall substantially conform to the previously approved plans; and *on further condition*:

THAT substantial construction will be completed and a certificate of occupancy obtained by June 12, 2013;

THAT all conditions from prior resolutions 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. 400838894)

Adopted by the Board of Standards and Appeals, June 12, 2012.

***The resolution has been revised to correct the DOB Application No. which read: 400849748; now reads: 400838894. Corrected in Bulletin Nos. 27-29, Vol. 97, dated July 19, 2012.**

*CORRECTION

This resolution adopted on May 8, 2012, under Calendar No. 203-07-BZ and printed in Volume 97, Bulletin No. 20, is hereby corrected to read as follows:

203-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Gastar Inc., owner.
SUBJECT – Application December 30, 2011 – Amendment to a previous variance (§72-21) which allowed for the construction of a mixed use building, contrary to floor area an open space regulations. The amendment requests changes to the interior layout which would decrease medical office space, increase the number of dwelling units from 26 to 36, and increase parking from 58 to 61 spaces. R6/C2-2 zoning district.

PREMISES AFFECTED – 137-35 Elder Avenue, northwest corner of Main Street and Elder Avenue. Block 5140, Lot 40. Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Nora Martins.

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 12-story mixed-use commercial/community facility/residential building; and

WHEREAS, a public hearing was held on this application on March 20, 2012 after due notice by publication in *The City Record*, with a continued hearing on April 24, 2012, and then to decision on May 8, 2012; and

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

WHEREAS, Community Board 7, Queens, recommends approval of this application, with the following conditions: (1) the owner ensures that the existing underground oil/gas tanks are legally removed and the soil is remediated; and (2) the parking plan be reviewed for compliance with zoning, height, and width; and

WHEREAS, the site is located on the northeast corner of Main Street and Elder Avenue; and

WHEREAS, the site is partially within an R6 zoning district and partially within an R6/C2-2 zoning district and has a total lot area of 9,632 sq. ft.; and

WHEREAS, on August 25, 2009, under the subject calendar number, the Board granted a variance to permit the construction of a 12-story mixed-use commercial/community facility/residential building which did not comply with the underlying zoning regulations for

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floor area ratio (“FAR”) and open space, contrary to ZR § 23-142; and

WHEREAS, the applicant now requests an amendment to permit changes to the interior layout of the proposed building, including an increase in the number of dwelling units and parking spaces, an increase in the commercial floor area, a decrease in the community facility floor area, and modifications to the floor-to-ceiling heights that result in a slight increase in the building height; and

WHEREAS, specifically, the applicant seeks to increase the number of dwelling units from 26 units to 36 units and to provide a corresponding increase in the number of accessory parking spaces, from 58 spaces to 61 spaces; and

WHEREAS, the applicant states that the additional ten dwelling units are created by rearranging the interior layout on the third through tenth floors to create four dwelling units on each floor instead of three, and converting the two approved 11th and 12th floor duplexes into four single-floor units; the proposed residential floor area remains the same as the floor area approved by the Board pursuant to the original variance (33,292 sq. ft.); and

WHEREAS, the applicant further states that the additional number of parking spaces required by the proposed increase in dwelling units will be accommodated by installing stackers in the cellar and second floor parking garages; and

WHEREAS, the applicant notes that the proposed 61 parking spaces includes the required 55 parking spaces and six required queuing spaces; and

WHEREAS, the applicant states that the floor-to-ceiling heights of the cellar, first, and second floors have been adjusted to accommodate the stackers (which require overhead clearance of 10’-0”), resulting in a 1’-0” increase in the total building height, from 137’-6” to 138’-6”;

WHEREAS, the applicant notes that the proposed height remains within the building envelope that is permitted as-of-right; and

WHEREAS, the applicant also seeks a slight increase in the commercial floor area on the ground floor from 6,820 sq. ft. to 7,040 sq. ft., due to a redesigned elevator core which was relocated to reduce the distance from the street entrance to the elevators, and a slight decrease in the community facility floor area from 4,850 sq. ft. to 4,149 sq. ft., due to the enlargement of the second floor parking garage to accommodate the additional parking spaces; and

WHEREAS, the applicant states that the proposed amendments will not adversely affect the surrounding neighborhood, as only ten additional dwelling units are proposed and required parking will be provided within the building; and

WHEREAS, the applicant further states that no increase in the approved residential floor area or decrease in the approved residential open space is requested; and

WHEREAS, in response to the Community Board’s concerns regarding environmental remediation, the applicant states that its environmental consultant is working with the New York State Department of Environmental Conservation

(“DEC”) to determine the extent and scope of work necessary to remediate the soil at the site, that DEC requested the submission of a Remedial Action Work Plan (“RAWP”), and that upon approval of the RAWP it will undertake the necessary soil remediation measures simultaneously with the commencement of construction at the site; and

WHEREAS, as to the Community Board’s concerns regarding the proposed parking plan, the applicant submitted revised plans which reflect the proposed parking stackers at the second and cellar floors, and the adjusted floor-to-ceiling heights of the cellar, first, and second floors to accommodate the stackers; and

WHEREAS, the Board notes that the proposed parking plan is subject to DOB review and approval for compliance with the Zoning Resolution and Building Code, and any other applicable requirements; and

WHEREAS, based upon its review of the record, the Board finds the requested amendment to the approved plans 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 August 25, 2009, so that as amended this portion of the resolution shall read: “to permit the noted modifications to the previously-approved plans; *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 April 26, 2012”—eleven (11) sheets; and *on further condition*:

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

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

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. 402635403)

Adopted by the Board of Standards and Appeals May 8, 2012.

***The resolution has been revised to correct part of the SUBJECT which read:** ...“dwelling units from 28 to 36...” **now reads:** ...“dwelling units from 26 to 36”, to remove the 7th WHEREAS; **and to correct** “...the interior layout on the fourth through tenth floors...”, **now reads:** “...the interior layout on the third through tenth floors...”; **and the part of the building height which read:** “from 137’-11” to 138’-11”... **now reads:** “from 137’-6” to 138’-6””; **Corrected in Bulletin Nos. 27-29, Vol. 97, dated July 19, 2012.**