
BULLETIN

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DIRECTORY

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DOCKETS

New Case Filed Up to March 19, 2013

88-13-BZ

69-40 Austin Street, South side of Austin Street, 299 ft. east of intersction with 69th Avenue., Block 3234, Lot(s) 150, Borough of **Queens, Community Board: 06**. Special Permit (§73-36) to allow the legalization of physical culture establishment (Title Boxing Club) within an existing building. C2-3/R5D zoning district. R5D/C2-3 district.

90-13-BZ

165-05 Cryders Lane, Northeast corner of the intersection of Cryders Lane and 166th Street, Block 4611, Lot(s) 1, Borough of **Queens, Community Board: 07**. Variance (§72-21) to permit the construction of a single-family dwelling contrary to open area requirements. R1-2 zoning district. R1-2 district.

91-13-BZ

115 East 57th Street, north side, between Park and Lexington Avenues., Block 1312, Lot(s) , Borough of **Manhattan, Community Board: 5**. Special Permit (§73-36) to permit the operation of a physical culture establishment to be located on the 7th, 8th and 9th floor of a 57 story mixed use building. C5-3,C5-2.5(MiD) zoning district. C5-3,C5-2.5(MiD 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

APRIL 16, 2013, 10:00 A.M.

APPEALS CALENDAR

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 16, 2013, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

326-02-BZ

APPLICANT – Sheldon Lobel, P.C., for 2230 Church Avenue Realty, LLC, owner; 2228 Church Avenue Fitness Group, LLC, lessee.

SUBJECT – Application November 27, 2012 – Extension of term of a previously approved Special Permit (73-36) for the continued operation of physical culture establishment, (Planet Fitness) which expires on November 5, 2013; Amendment to allow the extension of the use to a portion of the building's first floor and the change in ownership. C4-4A zoning district.

PREMISES AFFECTED – 2228-2238 Church Avenue, south side of Church Avenue between Flatbush Avenue and Bedford Avenue, Block 5103, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #14BK

341-02-BZ

APPLICANT – Sheldon Lobel, P.C., for 231 East 58th Street Associates LLC, owners.

SUBJECT – Application January 25, 2013 – Extension of Term of a previously granted Variance §72-21 for the continued UG6 retail use on the first floor of a five-story building which expired on April 8, 2013. R-8B zoning district.

PREMISES AFFECTED – 231 East 58th Street, northwest corner of the intersection of Second Avenue and East 58th Street, Block 1332, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #6M

55-06-BZ

APPLICANT – Rampulla Associates Architects, for Nadine Street, LLC, owner.

SUBJECT – Application March 7, 2013 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) for the construction of a three-story with cellar, 15,995 sq. ft. (UG 6B) office building which expired on January 23, 2011; Waiver of the Rules. C1-1(NA-1) zoning district.

PREMISES AFFECTED – 31 Nadine Street, St. Andrews Road and Richmond Road, Block 2242, Lot 92, 93, 94, Borough of Staten Island.

COMMUNITY BOARD # 2SI

493-73-A

APPLICANT – Sheldon Lobel, P.C., for 83rd Street Associates LLC, owner.

SUBJECT – Application October 4, 2012 – Application seeking to extend the term of the variance granted pursuant to MDL Section 310 to permit a superintendent's apartment in the cellar, which expired on March 20, 2004, an amendment to eliminate the term of the variance going forward, an extension of time to obtain a Certificate of Occupancy, and a waiver of the BSA's Rules of Practice and Procedure. R10A /R8B Zoning District.

PREMISES AFFECTED – 328 West 83rd Street, West 83rd Street, approx. 81'-6" east of Riverside Drive, Block 1245, Lot 40, Borough of Manhattan.

COMMUNITY BOARD #7M

267-12-A

APPLICANT – Davidoff Hutcher & Citron LLP, for Robert McGivney, owner.

SUBJECT – Application September 5, 2012 – Appeal from Department of Buildings' determination that the sign is not entitled to continued non-conforming use status as advertising sign. M1-2 & R6A zoning district.

PREMISES AFFECTED – 691 East 133rd Street, northeast corner of Cypress Avenue and East 133rd Street, Block 2562, Lot 94, Borough of Bronx.

COMMUNITY BOARD #1BX

79-13-A

APPLICANT – Law Offices of Howard B. Hornstein, for 813 Park Avenue holdings, LLC, owner.

SUBJECT – Application February 27, 2013 – Appeal of final determination of the status of a lot of record as a zoning lot based on a note on a certificate of occupancy but not upon the Zoning Resolution's definition of "zoning lot". R10(Pl) zoning district.

PREMISES AFFECTED – 807 Park Avenue, East side of Park Avenue, 77.17' south of intersection with East 75th Street, Block 1409, Lot 72, Borough of Manhattan.

COMMUNITY BOARD # 8M

CALENDAR

ZONING CALENDAR

Jeff Mulligan, Executive Director

135-11-BZ/136-11-A

APPLICANT – Eric Palatnik, P.C., for Block 3162 Land LLC, owner.

SUBJECT – Application September 7, 2011 – Variance (§72-21) to allow for the construction of a commercial use UG6, contrary to use regulations, ZR 22-00. Also, is located within the mapped but not built portion of a mapped street (Clove Road and Sheridan Avenue) which is contrary to General City Law Section 35. R3-2 zoning district.

PREMISES AFFECTED – 2080 Clove Road, southwest corner of Clove Road and Giles Place, Block 3162, Lot 22, Borough of Staten Island.

COMMUNITY BOARD #2 SI

59-12-BZ/60-12-A

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

SUBJECT – Application March 15, 2012 – Variance (§72-21) proposed reconstruction of an existing landmarked building with non-complying front yard (ZR 23-45) in the bed of a mapped street.

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

COMMUNITY BOARD #11Q

12-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Rosette Zeitoune and David Zeitoune, owners.

SUBJECT – Application January 22, 2013 – Special Permit (§73-622) for the enlargement of a single family home contrary to side yards (ZR §23-461) and less than the required rear yard (ZR§ 23-47). R5 (OP) Ocean parkway Special zoning district.

PREMISES AFFECTED – 2057 Ocean Parkway, east side of Ocean Parkway between Avenue T and Avenue U, Block 7109, Lot 66, Borough of Brooklyn.

COMMUNITY BOARD # 15BK

52-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for LF Greenwich LLC c/o Centaur Properties LLC., owner; SoulCycle 609 Greenwich Street, LLC, lessee.

SUBJECT – Application January 31, 2013 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*SoulCycle*) within a portion of an existing building in an M1-5 zoning district.

PREMISES AFFECTED – 126 Leroy Street, southeast corner of intersection of Leroy Street and Greenwich Street, Block 601, Lot 47, Borough of Manhattan.

COMMUNITY BOARD #2M

MINUTES

**REGULAR MEETING
TUESDAY MORNING, MARCH 19, 2013
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

374-04-BZ

APPLICANT – Greenberg Traurig, LLP by Deirdre A. Carson, Esq., owner.

SUBJECT – Application December 5, 2012 – Extension of Time to complete construction of a previously-granted Variance (§72-21) for the development of a seven-story residential building with ground floor commercial space, which expired on October 18, 2009; Amendment to approved plans; and waiver of the Rules. C6-2A zoning district/SLMD.

PREMISES AFFECTED – 246 Front Street, fronting on Front and Water Streets, 126’ north of intersection of Peck Slip and Front Street, Block 107, Lot 34, Borough of Manhattan.

COMMUNITY BOARD #1M

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, an extension of time to complete construction and obtain a certificate of occupancy in accordance with a variance, which expired on October 18, 2009, and an amendment to the prior approval; and

WHEREAS, a public hearing was held on this application on February 26, 2013, after due notice by publication in *The City Record*, and then to decision on March 19, 2013; and

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

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

WHEREAS, the site is located on in the midblock of the block bounded by Front Street, Peck Slip, Water Street and Dover Street in a C6-2A zoning district within the South Street Seaport Historic District and Extension and the South Street Seaport Subdistrict of the Special Lower Manhattan District; and

WHEREAS, the Board has exercised jurisdiction over the subject site since October 18, 2005 when, under the

subject calendar number, the Board granted a variance for the development of a mixed-use building with residential use and ground floor retail, rising to seven stories on Front Street and five stories on Water Street, which does not comply with certain bulk regulations set forth at ZR §§ 23-32, 23-145, 23-533, 23-692, 23-711 and 28-32, to expire on October 18, 2009; and

WHEREAS, under the original grant, the applicant represented that the proposed mixed building would contain 11,158 sq. ft. of total floor area (total FAR of 5.25), 9,571 sq. ft. of which would be residential floor area (FAR of 4.54), and 1,587 sq. ft. of which would be commercial floor area (FAR of .71); and

WHEREAS, the amended plans for the mixed building indicate that it will contain 10,782 sq. ft. of total floor area (total FAR of 4.99), 9,734 sq. ft. of which will be residential floor area (FAR of 4.28) and 1,048 sq. ft. of which will be commercial floor area (FAR of .71); and

WHEREAS, the applicant seeks to extend the time to complete construction and obtain a certificate of occupancy in accordance with the variance for an additional four years; and

WHEREAS, the applicant also requests an amendment to permit: elimination of the excavated cellar on the Front Street side of the building; reconfiguration of what will now be a ground floor residential lobby with accessory storage on the Water Street side of the building; reconfiguration of the building entrance lobby and the elevator vestibule on all floors on the Front Street side; redesign of the apartments on the Water Street side as a single family dwelling; addition of an internal convenience stair between the sixth and seventh floors on the Front Street side of the building to create a duplex; and a reconfiguration of the rooftop bulkheads for stairs, elevator and mechanicals; a three-inch increase of the height of the setback above the sixth story; a change in the number of dwelling units from nine to six; and removal of recreation space from the rooftop of the Front Street building segment; and

WHEREAS, the Department of Buildings has reviewed the amended plans and clarified that such plans do not comply with: ZR §§ 23-32, 23-532, 23-47, 23-692, 23-711 and 23-145; and

WHEREAS, the Board has determined that the amended plans result in the same, or a lesser degree of non-compliance with the Zoning Resolution than was previously proposed and approved; and

WHEREAS, the applicant has submitted a Status Update Letter from the Landmarks Preservation Commission (“LPC”), which indicates that on October 16, 2012, LPC voted to approve the amended plans on condition that the applicant work with LPC staff to improve the detailing and articulation of the Water Street façade and obtain a Certificate of Appropriateness for such design; and

WHEREAS, based upon its review of the record, the Board finds the requested waiver, extension of time, and amendment are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and

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Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, as adopted on October 18, 2009, so that as amended this portion of the resolution shall read: “to extend the time to complete construction for a period of four years from March 19, 2013, to expire on March 19, 2017, and to permit the noted modifications to the site; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked ‘Received March 14, 2013’- (14) sheets; and *on further condition*:

THAT construction will be completed by March 19, 2017;

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

THAT the number of dwelling units, floor area and FAR for the proposed mixed building will be in accordance with the terms of this grant;

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)/configuration(s) not related to the relief granted.” (DOB Application No. 121324487)

Adopted by the Board of Standards and Appeals, March 19, 2013.

551-37-BZ

APPLICANT – Eric Palatnik, P.C., for Manocher M. Mehrfar, owner.

SUBJECT – Application October 12, 2012 – Extension of Term (§11-411) of approved variance for the continued operation of an automobile repair shop (*Red's Auto Repair*) which expired on July 15, 2012; Waiver of the Rules. R1-2 zoning district.

PREMISES AFFECTED – 233-02 Northern Boulevard, between 234th and 233rd Street, Block 8166, Lot 20, Borough of Queens.

COMMUNITY BOARD #11Q

ACTION OF THE BOARD – Laid over to April 16, 2013, at 10 A.M., for continued hearing.

135-46-BZ

APPLICANT – Eric Palatnik, P.C., for Arielle A. Jewels, Inc., owner.

SUBJECT – Application March 30, 2012 – Extension of Term (§11-411) of approved variance which permitted an automotive service station (UG 16B) with accessory uses, which expired on January 29, 2012, and an amendment (§11-413) to convert the use to auto laundry (UG 16B) hand car wash; waiver for the Rules. R4 zoning district.

PREMISES AFFECTED – 3802 Avenue U, southeast corner of East 38th Street, between Ryder Avenue and East

38th Street, Block 8555, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Laid over to April 16, 2013, at 10 A.M., for adjourned hearing.

390-61-BZ

APPLICANT – Peter Hirshman, for Rapid Park Industries, owner.

SUBJECT – Application January 5, 2013 – Extension of Time to obtain a Certificate of Occupancy of a previously approved variance permitting UG8 parking garage and an auto rental establishment (UG8) in the cellar level, which expired on December 13, 2012. R8B zoning district.

PREMISES AFFECTED – 148-150 East 33rd Street, southside of E. 33rd Street, 151.9’ east of Lexington Avenue, Block 888, Lot 51, Borough of Manhattan.

COMMUNITY BOARD #6M

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to April 16, 2013, at 10 A.M., for decision, hearing closed.

410-68-BZ

APPLICANT – Eric Palatnik, P.C., for Alessandro Bartellino, owner.

SUBJECT – Application May 22, 2012 – Extension of Term (§11-411) of approved variance which permitted the operation of (UG16B) automotive service station (*Citgo*) with accessory uses, which expired on November 26, 2008; Extension of Time to obtain a Certificate of Occupancy which expired on January 11, 2008; Waiver of the Rules. R3-2 zoning district.

AFFECTED PREMISES – 85-05 Astoria Boulevard, east corner of 85th Street. Block 1097, Lot 1. Borough of Queens.

COMMUNITY BOARD #3Q

ACTION OF THE BOARD – Laid over to April 23, 2013, at 10 A.M., for adjourned hearing.

11-80-BZ

APPLICANT – Richard Bass, Herrick, Feinstein, LLP, for West 28th Street Owners LLC.

SUBJECT – Application January 10, 2013 – Amendment of previously approved variance (§72-21) which allowed conversion of the third through seventh floor from commercial to residential use. Amendment would permit the additional conversion of the second floor from commercial to residential use. M1-6 zoning district.

PREMISES AFFECTED – 146 West 28th Street, south side of West 28th Street, between 6th and 7th Avenues, Block 803, Lot 65, Borough of Manhattan.

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COMMUNITY BOARD #5M

ACTION OF THE BOARD – Laid over to April 16, 2013, at 10 A.M., for continued hearing.

543-91-BZ

APPLICANT – Eric Palatnik P.C., for George F. Salamy, owner.

SUBJECT – Application December 20, 2012 – Extension of Term of a previously approved variance (§72-21) permitting a one-story household appliance store (*P.C. Richards*) which expired on July 28, 2012; Waiver of the Rules. C4-2A/R4-1 zoning district.

PREMISES AFFECTED – 576-80 86th Street, between Fort Hamilton Parkway, Brooklyn Queens Expressway, Block 6053, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #10BK

ACTION OF THE BOARD – Laid over to April 23, 2013, at 10 A.M., for continued hearing.

167-95-BZ

APPLICANT – Walter T. Gorman, P.E., for Springfield L. I. Cemetery Society, owners.

SUBJECT – Application September 21, 2012 – Extension of Term of a previously approved variance (§72-21) which permitted the maintenance and repairs of motor-operated cemetery equipment and accessory parking and storage of motor vehicles which expired on February 4, 2012; amendment to reduce the size of the area covered by the variance. R3A zoning district.

PREMISES AFFECTED – 121-20 Springfield Boulevard, west side of Springfield Boulevard, 166/15' south of 121st Avenue, Block 12695, Lot 1, Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Laid over to March 19, 2013, at 10 A.M., for continued hearing.

78-08-BZ

APPLICANT – Stephen Grasso, Partners for Architecture, for South Bronx Charter School for International Cultures & The Arts, owners.

SUBJECT – Application February 12, 1923 – Extension of Time to Complete Construction of a previously granted Variance (§72-21) to construct a five-story charter elementary school (*The South Bronx Charter School for International Cultures and the Arts*), which expired on August 26, 2012; Waiver of the Rules. M1-2/R-6A, MX-1(Special Mixed Use) zoning district.

PREMISES AFFECTED – 611 East 133rd Street, bound by East 133rd Street and Cypress Place, Block 2546, Lot 27, Borough of Bronx.

COMMUNITY BOARD #1BX

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 April 9, 2013, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

110-10-BZY

APPLICANT – Sheldon Lobel, P.C., for Castle Hill Equities LLC c/o Blake Partners LLC, owner.

SUBJECT – Application November 19, 2012 – Extension of time to complete construction (§11-332) for an additional two years for a minor development, which expired on October 19, 2012. R5A zoning district.

PREMISES AFFECTED – 123 Beach 93rd Street, western side of Beach 93rd Street with frontage on Shore Front Parkway and Cross Bay Parkway, Block 16139, Lot 11, Borough of Queens.

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Application 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 application under ZR § 11-332, to permit an extension of time to complete construction and obtain a certificate of occupancy for a minor development currently under construction at the subject site; and

WHEREAS, a public hearing was held on this application on February 26, 2013, after due notice by publication in *The City Record*, and then to decision on March 19, 2013; and

WHEREAS, the site was inspected by Commissioner Hinkson; and

WHEREAS, the subject site is located on the west side of Beach 93rd Street, approximately 211 feet south of Holland Avenue in Rockaway Beach, in an R5A zoning district; and

WHEREAS, the site has 175 feet of frontage along Beach 93rd Street, 157.13 feet of frontage along Beach 94th Street, 107.01 feet of frontage along Shore Front Boulevard, and a total lot area of 18,488 sq. ft.; and

WHEREAS, the site is proposed to be developed with a six-story residential building with 57 dwelling units and 36 accessory parking spaces (the “Building”); and

WHEREAS, the Building complies with the parameters of the former R6 zoning district; and

WHEREAS, on January 8, 2007, New Building Permit No. 402483013-01-NB (hereinafter, the “New Building Permit”) was issued by the Department of Buildings (“DOB”) permitting construction of the Building; and

WHEREAS, however, on August 14, 2008 (hereinafter, the “Enactment Date”), the City Council voted to adopt the Rockaway Neighborhoods Rezoning, which rezoned the site

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from R6 to R5A; and

WHEREAS, accordingly, the Building, being neither a one- or two-family detached residence, nor having a floor to area ratio of 1.10 or less, nor a maximum height of 35 feet or less, does not comply with the current zoning; and

WHEREAS, as of the Enactment Date, the applicant had obtained permits for the development and had completed 100 percent of its 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 allowed for completion of construction and to obtain a certificate of occupancy; and

WHEREAS, in the two years subsequent to the Enactment Date, construction was not completed and a certificate of occupancy was not issued; and

WHEREAS, accordingly, an application was filed with the Board for an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, on October 19, 2010, the Board granted a two-year extension of time to complete construction and obtain a certificate of occupancy under the subject calendar number; and

WHEREAS, accordingly, the applicant had until October 19, 2012 to complete construction and obtain a certificate of occupancy; and

WHEREAS, because the two-year time limit has expired and construction is still ongoing, the applicant seeks relief pursuant to ZR § 11-30 *et seq.*, which sets forth the regulations that apply to a reinstatement of a permit that lapses due to a zoning change; and

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

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

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

or development of the property pursuant to the permit.”; and

WHEREAS, as a threshold issue, the Board must determine that proper permits were issued, since ZR § 11-31(a) requires: “[F]or the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes “complete plans and specifications” as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met.”; and

WHEREAS, the Board notes that the subject site was initially vested by DOB in 2008, granted an extension of time to complete construction and obtain a certificate of occupancy by the Board in 2010, and now seeks an additional extension under ZR § 11-332; and

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

WHEREAS, by letter dated August 17, 2010, DOB stated that the New Building Permit was lawfully issued, authorizing construction of the proposed Building prior to the Enactment Date; and

WHEREAS, the Board has reviewed the record and agrees that the Permit was lawfully issued to the owner of the subject premises prior to the Enactment Date and was timely renewed until the expiration of the two-year term for construction; and

WHEREAS, turning to the substantive findings of ZR § 11-332, the Board notes that there is no fixed standard in an application made under this provision as to what constitutes substantial construction or substantial expenditure in the context of new development; and

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

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

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

WHEREAS, the Board further notes that any work performed after the two-year time limit to complete construction and obtain a certificate of occupancy cannot be considered for vesting purposes; accordingly, only the work performed as of October 19, 2012 has been considered; and

WHEREAS, the applicant states that work on the Building subsequent to the issuance of the permits includes: 100 percent of the excavation; 100 percent of the foundation (including the installation of over 300 driven piles); and the installation of a complex drainage system; and

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WHEREAS, in support of this statement, the applicant has submitted the following: a breakdown of the construction costs by line item; a foundation survey; copies of cancelled checks; invoices; and photographs of the site; and

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

WHEREAS, as to costs, the applicant represents that the total expenditure paid for the development is \$3,011,614 (including \$1,474,974 in hard costs), or 17 percent, out of the \$17,610,614 cost to complete; and

WHEREAS, as noted, the applicant has submitted invoices and copies of cancelled checks; and

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

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

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

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

Therefore it is Resolved that this application made pursuant to ZR § 11-332 to renew New Building Permit No. 402483013-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed development and obtain a certificate of occupancy for one term of two years from the date of this resolution, to expire on March 19, 2015.

Adopted by the Board of Standards and Appeals, March 19, 2013.

201-10-BZY

APPLICANT – Kramer Levin Naftalis & Frankel, for 180 Orchard LLC., owner.

SUBJECT – Application January 18, 2013 – Extension of time to complete construction (§11-332) for an additional two years for a minor development, which will expire on March 15, 2013. C4-4A zoning district.

PREMISES AFFECTED – 180 Orchard Street, Orchard Street to Ludlow Street, Block 412, Lot 5, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Application 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 application under ZR § 11-332, to permit an extension of time to complete construction and obtain a certificate of occupancy for a minor development currently under construction at the subject site; and

WHEREAS, a public hearing was held on this application on February 26, 2013, after due notice by publication in *The City Record*, and then to decision on March 19, 2013; and

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

WHEREAS, the subject site is an L-shaped through lot with frontage on Orchard Street and Ludlow Street, between Houston Street and Stanton Street, within a C4-4A zoning district; and

WHEREAS, the subject site has 128'-3" of frontage along Orchard Street, 50'-1" of frontage along Ludlow Street, a depth ranging from 87'-10" to 175'-8", and a total lot area of 41,501 sq. ft.; and

WHEREAS, the site is proposed to be developed with a 24-story building containing approximately 246 hotel rooms, community facility uses, retail stores on the lower levels and an accessory underground parking garage (the "Building"); and

WHEREAS, the Building is proposed to have a total floor area of 154,519.6 sq. ft.; and

WHEREAS, the applicant states that the owner will be filing an application with the City Planning Commission ("CPC") requesting a special permit pursuant to ZR § 13-561 to expand the size of the underground accessory parking garage at the site; and

WHEREAS, the applicant represents that the proposed CPC special permit for the garage has no effect on the subject proposal and that the plans for the garage, as approved by the Department of Buildings ("DOB"), have not changed; and

WHEREAS, the development complies with the former C6-1 zoning district parameters; and

WHEREAS, on November 23, 2005, New Building Permit No. 104297850-01-NB (hereinafter, the "Permit") was issued by the DOB permitting construction of the Building; and

WHEREAS, however, on November 19, 2008 (hereinafter, the "Enactment Date"), the City Council voted to adopt the East Village/Lower East Side Rezoning, which rezoned the site from C6-1 to C4-4A; and

WHEREAS, accordingly, the Building does not comply with the current zoning with respect to floor area ratio, building height and street wall location; and

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

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under such circumstances; and

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

WHEREAS, in the two years subsequent to the Enactment Date, construction was not completed and a certificate of occupancy was not issued; and

WHEREAS, accordingly, an application was filed with the Board for an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, on March 15, 2011, the Board granted a two-year extension of time to complete construction and obtain a certificate of occupancy under the subject calendar number; and

WHEREAS, accordingly, the applicant had until March 15, 2013 to complete construction and obtain a certificate of occupancy; and

WHEREAS, because the two-year time limit has expired and construction is still ongoing, the applicant seeks relief pursuant to ZR § 11-30 *et seq.*, which sets forth the regulations that apply to a reinstatement of a permit that lapses due to a zoning change; and

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

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

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

WHEREAS, as a threshold issue, the Board must determine that proper permits were issued, since ZR § 11-31(a) requires: “[F]or the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not

merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes “complete plans and specifications” as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met.”; and

WHEREAS, the Board notes that the subject site was initially vested by DOB in 2008, granted an extension of time to complete construction and obtain a certificate of occupancy by the Board in 2011, and now seeks an additional extension under ZR § 11-332; and

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

WHEREAS, by letter dated February 1, 2011, DOB stated that the New Building Permit was lawfully issued, authorizing construction of the proposed Building prior to the Enactment Date; and

WHEREAS, the Board has reviewed the record and agrees that the Permit was lawfully issued to the owner of the subject premises prior to the Enactment Date and was timely renewed until the expiration of the two-year term for construction; and

WHEREAS, turning to the substantive findings of ZR § 11-332, the Board notes that there is no fixed standard in an application made under this provision as to what constitutes substantial construction or substantial expenditure in the context of new development; and

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

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

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

WHEREAS, the Board further notes that any work performed after the two-year time limit to complete construction and obtain a certificate of occupancy cannot be considered for vesting purposes; accordingly, only the work performed as of November 19, 2010 has been considered; and

WHEREAS, the applicant states that work on the proposed development subsequent to the issuance of the original permit includes: 100 percent of the excavation, footings and foundation; 100 percent of the underground parking garage and cellar levels; and 100 percent of the first and second floor retail space; and

WHEREAS, the applicant states that work on the proposed development subsequent to the Board’s March 15, 2011 extension of time to complete construction under the permit includes: installation of sprinklers in the sub-cellar, ground and second floors; installation of concrete and masonry block in the sub-cellar, cellar and ground floors, construction of columns throughout the cellar and sub-cellar; construction of additional support for columns below grade; installation of a new glass storefront; reconfiguration of

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elevator and stair cores; and installation of roof protection on the adjacent properties; and

WHEREAS, additionally, the applicant has substantially revised the plans to comply with changes in applicable codes since 2005, including: the 2010 ADA Code; the life safety provisions of the 2008 NYC Construction Codes; and the NYC Energy Conservation Code; and

WHEREAS, in support of these statements, the applicant has submitted the following: a breakdown of the construction costs by line item; plans showing recent foundation, sub-cellar, cellar, ground, mezzanine and second-story work; copies of cancelled checks; invoices; photographs of the site; and court actions taken in furtherance of continuing construction; and

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

WHEREAS, as to costs, the applicant represents that the total expenditure paid for the development is \$25,205,136, or 36.5 percent, out of the \$69,014,234 cost to complete; and

WHEREAS, further as to costs, the applicant represents of the \$25,205,136 expended to date, \$6,612,054 has been expended since the Board's March 15, 2011 extension of time to complete construction; and

WHEREAS, as noted, the applicant has submitted invoices and copies of cancelled checks; and

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

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

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

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

Therefore it is Resolved that this application made pursuant to ZR § 11-332 to renew New Building Permit No. 104297850-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed development and obtain a certificate of occupancy for one term of two years from the date of this resolution, to expire on March 19, 2015.

Adopted by the Board of Standards and Appeals, March 19, 2013.

292-12-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Marie & Kenneth Fuchs, lessees.
SUBJECT – Application October 10, 2012 – Proposed reconstruction and enlargement of existing single-family dwelling located partially in the bed of a mapped street, contrary to Article 3, Section 35 of the General City Law; proposed upgrade of the existing private disposal system in the bed of the mapped street, contrary to Article 3, Section 35 of the General City Law. R4 zoning district.

PREMISES AFFECTED – 19 Marion Walk, east side of Marion Walk, 125' north of Breezy Point, Block 16350, Lot p/o400, Borough of Queens.

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner dated September 21, 2012 acting on Department of Buildings Application No. 420592102, reads in pertinent part:

- A1- The existing building to be altered lies within the bed of a mapped street, contrary to General City Law Article 3, Section 35; and
- A2- The proposed upgrade of the existing private disposal system in the bed of a mapped street is contrary to General City Law Article 3, Section 35; and

WHEREAS, a public hearing was held on this application on March 19, 2013, after due notice by publication in the *City Record*, and then to decision on the same date; and

WHEREAS, by letter dated October 18, 2012, the Fire Department states that it has reviewed the subject proposal and has no objections to the proposal; and

WHEREAS, by letter dated October 24, 2012, the Department of Environmental Protection states that it has no objections to the proposal; and

WHEREAS, by letter dated January 28, 2013, the Department of Transportation (“DOT”) states that it has no objection to the subject proposal; and

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

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated September 21, 2012 acting on Department of Buildings Application No. 420592102, is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction

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shall substantially conform to the drawing filed with the application marked "Received October 10, 2012"-one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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

THAT the home shall be sprinklered in accordance with the BSA-approved plans; and

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

Adopted by the Board of Standards and Appeals, March 19, 2013.

307-12-A

APPLICANT – Gary Lenhart, for The Breezy Point Cooperative, Inc., owner; Anne McCoale, lessee.

SUBJECT – Application November 8, 2012 – Reconstruction and enlargement of existing single-family dwelling not fronting a mapped street, contrary to Article 3, section 36 of the General City law. The proposed upgrade of the existing non-conforming private disposal system located partially in the bed of the service road, contrary to building department policy. R4 zoning district.

PREMISES AFFECTED – 25 Olive Walk, Queens, east side of Olive Walk, 140' north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner dated November 1, 2012 acting on Department of Buildings Application No. 420629537, reads in pertinent part:

- (A1) The street giving access to the existing building to be altered is not duly placed on the official map of the city of New York, therefore:
 - a) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the

General City Law

- b) The existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 501.3.1 of the administrative code.

- (A2) The proposed upgrade of the existing private disposal system in the bed of a the service lane is contrary to Department of Buildings policy; and

WHEREAS, a public hearing was held on this application on March 19, 2013, after due notice by publication in the *City Record*, and then to decision on the same date; and

WHEREAS, by letter dated February 22, 2013 the Fire Department states that it has reviewed the subject proposal and has no objections to the proposal; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated November 1, 2012 acting on Department of Buildings Application No. 420629537, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received November 8, 2012 "-one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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

THAT the home shall be sprinklered in accordance with the BSA-approved plans; and

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

Adopted by the Board of Standards and Appeals, March 19, 2013.

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89-07-A

APPLICANT – Pleasant Plains Holding LLC, for Pleasant Plains Holding LLC, owner.

SUBJECT – Application April 19, 2007 – Proposal to build three two-family and one one-family homes located within the bed of a mapped street (Thornycroft Avenue), contrary to Section 35 of the General City Law. R3-2 Zoning district. PREMISES AFFECTED – 460 Thornycroft Avenue, North of Oakland Street between Winchester Avenue and Pacific Avenue, south of Saint Albans Place, Block 5238, Lot 7, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Laid over to April 23, 2013, at 10 A.M., for adjourned hearing.

92-07-A thru 94-07-A

APPLICANT – Pleasant Plains Holding LLC, for Pleasant Plains Holding LLC, owner.

SUBJECT – Application April 19, 2007 – Proposal to build three two-family and one one-family homes located within the bed of a mapped street (Thornycroft Avenue), contrary to Section 35 of the General City Law. R3-2 Zoning district. PREMISES AFFECTED – 472/476/480 Thornycroft Avenue, North of Oakland Street, between Winchester Avenue, and Pacific Avenue, south of Saint Albans Place. Block 5238, Lots 13, 16, 17, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Laid over to April 23, 2013, at 10 A.M., for adjourned hearing.

95-07-A

APPLICANT – Pleasant Plains Holding LLC, for Pleasant Plains Holding LLC, owner.

SUBJECT – Application April 19, 2007 – Proposal to build three two-family and one one-family homes located within the bed of a mapped street (Thornycroft Avenue), contrary to Section 35 of the General City Law. R3-2 Zoning district. PREMISES AFFECTED – 281 Oakland Street, between Winchester Avenue and Pacific Avenue, south of Saint Albans Place, Block 5238, Lot 2, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Laid over to April 23, 2013, at 10 A.M., for adjourned hearing.

190-12-A, 191-12-A & 192-12-A

APPLICANT – Davidoff Hutcher & Citron, LLP, for Fuel Outdoor LLC.

OWNER OF PREMISES – JRR Realty Co., Inc.

SUBJECT – Application June 13, 2012 – Appeals from Department of Buildings' determination that signs are not entitled to continued legal status as advertising sign. M1-4 zoning district.

PREMISES AFFECTED – 42-45 12th Street, north of Northeast corner of 12th Street and 43rd Street, Block 458,

Lot 83, Borough of Queens.

COMMUNITY BOARD #2Q

ACTION OF THE BOARD – Laid over to April 9, 2013, at 10 A.M., for deferred decision.

197-12-A

APPLICANT – Davidoff Hutcher & Citron LLP, for Interstate Outdoor Advertising.

OWNER OF PREMISES – Hamilton Plaza Associates.

SUBJECT – Application June 21, 2012 – Appeal from Department of Buildings' determination that a sign is not entitled to continued legal status as advertising sign. M1-2/M2-1 zoning district.

PREMISES AFFECTED – 1-37 12th Street, east of Gowanus Canal between 11th Street and 12th Street, Block 10007, Lot 172, Borough of Brooklyn.

COMMUNITY BOARD #7BK

ACTION OF THE BOARD – Laid over to April 9, 2013, at 10 A.M., for deferred decision.

203-12-A

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

OWNER OF PREMISES – Gemini 442 36th Street H LLC.

SUBJECT – Application June 28, 2013 – Appeal from Department of Buildings' determination that a sign is not entitled to continued legal status as advertising sign. C2-5 /HY zoning district.

PREMISES AFFECTED – 442 West 36th Street, east of southeast corner of 10th Avenue and 36th Street, Block 733, Lot 60, Borough of Manhattan.

COMMUNITY BOARD #4M

ACTION OF THE BOARD – Laid over to April 9, 2013, at 10 A.M., for deferred decision.

251-12-A

APPLICANT – Davidoff Hutcher & Citron LLP, for 330 Associates LLC c/o George A. Beck, owner; Radiant Outdoor, LLC, lessee.

SUBJECT – Application August 14, 2012 – Appeal from Department of Buildings' determination that a sign is not entitled to continued non-conforming use status as an advertising sign. C2-5 Zoning District.

PREMISES AFFECTED – 330 East 59th Street, west of southwest corner of 1st Avenue and East 59th Street, Block 1351, Lot 36, Borough of Manhattan.

COMMUNITY BOARD # 6M

ACTION OF THE BOARD – Laid over to May 7, 2013, at 10 A.M., for continued hearing.

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297-12-A

APPLICANT – Law Office of Fredrick A. Becker, for 28-20 Astoria Blvd LLC, owners.

SUBJECT – Application October 17, 2012 – Appeal seeking a determination that the owner of the premises has acquired a common law vested right to complete construction commenced under the prior R6 zoning district. R6-A/C1-1 zoning district.

PREMISES AFFECTED – 28-18/20 Astoria Boulevard, south side of Astoria Boulevard, approx. 53.87' west of 29th Street, Block 596, Lot 45, Borough of Queens.

COMMUNITY BOARD #1Q

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 April 23, 2013, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

ZONING CALENDAR

67-12-BZ

APPLICANT – Sheldon Lobel, P.C., for 1442 First Avenue, LLC, owner.

SUBJECT – Application March 21, 2012 – Variance (§72-21) to allow for the extension of an eating and drinking establishment to the second floor, contrary to use regulations (§32-421). C1-9 zoning district.

PREMISES AFFECTED – 1442 First Avenue, southeast corner of the intersection formed by 1st Avenue and East 75th Street, Block 1469, Lot 46, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, March 19, 2013.

233-12-BZ

CEQR #13-BSA- 005Q

APPLICANT – Richard G. Leland, Esq./Fried Frank Harris Shriver & Jacob, for Porsche Realty, LLC, owner; Van Wagner Communications, lessee.

SUBJECT – Application July 19, 2012 – Variance (§72-21) to legalize an advertising sign in a residential district, contrary to use regulations (§22-00). R3X zoning district.

PREMISES AFFECTED – 246-12 South Conduit Avenue, bounded by 139th Avenue, 246th Street and South Conduit Avenue, Block 13622, Lot 7, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4

Negative: Vice Chair Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated July 5, 2012, acting on Department of Buildings Application No. 420581481, reads in pertinent part:

1. The existing/proposed illuminated advertising sign is not a permitted use in an R3X district, contrary to ZR 22-30 and 52-731.
2. The existing/proposed sign structure is not a permitted obstruction in the required yards in an R3X district, contrary to ZR 23-44, 23-45 and 23-46.
3. The area of the existing/proposed sign exceeds the maximum area of signs for non-residential buildings or other structures in an R3X district, contrary to ZR 22-321(b).
4. The existing/proposed sign structure 39'-1" in

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height exceeds the maximum height of signs in an R3X district, contrary to ZR 22-342; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R3X zoning district, the legalization of an existing indirectly illuminated outdoor advertising sign, which does not conform to district use and bulk regulations, contrary to ZR §§ 22-30, 22-321, 22-342, 23-44, 23-45, 23-46, and 52-731; and

WHEREAS, a public hearing was held on this application on November 20, 2012, after due notice by publication in *The City Record*, continued hearings on January 29, 2013 and February 26, 2013, and then to decision on March 19, 2013; and

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

WHEREAS, Community Board 13, Queens, recommends approval of this application; and

WHEREAS, the subject site is located on the south side of South Conduit Avenue, between 247th Street and the intersection of 246th Street and 139th Avenue, within an R3X zoning district; and

WHEREAS, the site has approximately 76 feet of frontage on South Conduit Avenue, with side lot lines extending at 35- and 55-degree angles off of South Conduit Avenue, for a distance of 62.56 feet and 43.13 feet, respectively; the site has a total lot area of 1,350 sq. ft.; and

WHEREAS, the site is occupied by a 14'-0" by 48'-0" indirectly illuminated advertising sign on a structure with a height of 39'-1", facing northwest toward South Conduit Avenue at an angle of approximately 55 degrees off of the front lot line and sidewalk, running nearly parallel to the eastern side lot line of the site; and

WHEREAS, the applicant submitted evidence to support its assertion that the sign and sign structure have existed at the site since 1936; and

WHEREAS, the applicant also filed an appeal of DOB's Notice of Sign Registration Rejection under BSA Cal. No. 14-12-A; the appeal is pending while the applicant pursues the subject variance application; and

WHEREAS, because the sign is not permitted in the subject zoning district, the applicant seeks a variance to legalize it; and

WHEREAS, the applicant now seeks: a waiver of ZR § 22-30 (Sign Regulations) and ZR § 52-731 (Advertising signs) to allow the continued use of the sign in an R3X residential zoning district in which advertising signs are not permitted as-of-right; a waiver of ZR § 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), ZR § 23-45 (Minimum Required Front Yards), and ZR § 23-46 (Minimum Required Side Yards) to allow the existing sign to remain within the required front and side yards; and a waiver of ZR § 22-321(b) (Nameplates or identification signs) and ZR § 22-342 (Height of signs) to allow the existing sign to rise to a height of 39'-1" with a surface area of 672 sq. ft.; and

WHEREAS, the applicant states that the following are unique physical conditions which create unnecessary hardship and practical difficulties in developing the site with a conforming use: (1) the irregular shape and small shallow lot configuration that limits the size and layout of any permitted residential development; (2) the location on a heavily-trafficked road with many commercial uses; (3) the history of use of the site for non-residential use; and (4) its reliance in good faith on DOB's permit issuance; and

WHEREAS, the applicant asserts that the shape, small size, and orientation of the lot limit the potential use of the site and thus trigger the yard non-compliance; and

WHEREAS, as to the lot's shape and size, the applicant states that it has an unusually small lot area of 1,350 sq. ft. in a sharply angled triangular shape, with an extremely shallow depth of 28 feet; and

WHEREAS, the applicant submitted evidence to establish that the lot has been in its current configuration since prior to December 15, 1961 and that it is what remains of a much larger lot that was taken over to allow for the widening of South Conduit Avenue several decades before December 15, 1961; and

WHEREAS, as to uniqueness, the applicant states that the lot is the shallowest and has the least amount of lot area among all of the lots fronting on South Conduit Avenue between Brookeville Park and the boundary of the City of New York with Nassau County; and

WHEREAS, additionally, the applicant states that the site is the only triangular lot fronting on South Conduit Avenue in the vicinity; and

WHEREAS, the applicant notes that there is one other lot along the stretch of South Conduit Avenue that is nearly triangular in shape, however it is more than 70 percent larger than the site, with a lot area of approximately 2,300 sq. ft.; and

WHEREAS, the applicant states that there are no lots with residences fronting on South Conduit Avenue along an approximately one-half mile stretch of South Conduit Avenue; and

WHEREAS, the applicant states that the 1,350 sq. ft. lot area is well below the 3,325 sq. ft. minimum lot area required for residences in R3X districts, and is even significantly below the absolute minimum lot area – 1,700 sq. ft. – for non-contextual R3 districts; and

WHEREAS, the applicant asserts that residential development would only be permitted on the site pursuant to the special provision in ZR § 23-33 for development on existing small lots owned separately and individually from all other adjoining tracts of land on the date of establishment of the R3X district; and

WHEREAS, the applicant asserts that the unique site conditions constrain development that complies and conforms with zoning; and

WHEREAS, the applicant asserts that the residential building permitted at the site would consist of an extremely small, irregularly-shaped triangular building with narrow interior angles; and

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WHEREAS, the applicant notes that the R3X zoning district regulations impose substantial yard and open space requirements; the amount of open space and lot coverage for residential uses on the site is governed by the yard requirements: the front yard must be at least 10 feet deep, but at least as deep as adjacent front yards, up to 20 feet deep (ZR § 23-45); also, there must be two side yards totaling at least 10 feet in width, with each side yard at least two feet wide, and at least eight feet of space between residential buildings (ZR § 23-461); and that the rear yard must be at least 10 feet deep (ZR § 23-52); and

WHEREAS, the applicant notes that for community facility buildings, front yards must be at least 15 feet in depth (ZR § 24-34), there must be two side yards, each at least eight feet in depth (ZR § 24-35), and there must be a rear yard at least 30 feet in depth (ZR § 24-36); and

WHEREAS, specifically, the applicant states that a complying residential building would consist of a small, irregularly-shaped triangular two-story residence with interior angles of 90, 55, and 35 degrees; the residence would have a maximum floor area of 673 sq. ft., with 400 sq. ft. on the first floor and 273 sq. ft. on the second floor; the longest dimension of the residence would be 40 feet along South Conduit Avenue, set back 10 feet from the street to accommodate a required front yard and the other sides of the residence would be approximately 23 feet and 33 feet; and

WHEREAS, further, the applicant states that a community facility building would be infeasible on the site, as the yard requirements would result in a small triangular building with a footprint of no more than approximately 48 square feet; and

WHEREAS, as to the location, the applicant states that South Conduit Avenue (also known as New York State Route 27, Sunrise Highway, and POW/MIA Memorial Highway) is an approximately 135-ft. wide seven-lane highway running east-west, where it abuts the site, and directly north of the highway are several Long Island Railroad (“LIRR”) tracks connecting to the Rosedale LIRR station, which is approximately 1,000 feet from the site, near the intersection of South Conduit Avenue and Francis Lewis Boulevard; and

WHEREAS, the applicant asserts that the site’s location on such a heavily-trafficked thoroughfare further diminishes its marketability for residential use; and

WHEREAS, as to the history of use, the applicant asserts that an advertising sign has been continuously maintained on the site since at least January 1936, as supported by affidavits and letters from 1939 and 1942 referencing advertising sign leases on the site, as well as advertising contracts from 1976 and 1977; and

WHEREAS, the applicant asserts that at the time the sign was installed, under the then-applicable 1916 Zoning Resolution, the site was mapped in a business district that permitted advertising signs, but was rezoned in 1961 to an R3-2 residence district; and

WHEREAS, the applicant notes that according to ZR §

52-731, “[i]n all Residence Districts, a non-conforming advertising sign may be continued for ten years after December 15, 1961, or such later date that such sign becomes non-conforming, providing that after the expiration of that period such non-conforming advertising sign shall terminate;” and

WHEREAS, however, the applicant notes that notwithstanding this provision of the Zoning Resolution, after the 1961 zoning change, DOB issued permits for the sign at least twice – in 1969 (Permit #1373/69) and in 1981 (Permit #1662/81); and

WHEREAS, the applicant asserts that the 1981 permit specifically notes that it is within a residential zoning district and the sign has existed to the present time in reliance on the 1981 permit; and

WHEREAS, accordingly, the applicant asserts that it relied in good faith on DOB’s permit issuance in 1981 and made investments based on that permit, which was later deemed invalid; and

WHEREAS, the Board is not persuaded by the applicant’s assertions that it relied in good faith on DOB’s 1981 reissuance of the permit as the language of ZR § 52-731 is clear that there was a ten-year amortization period and the sign use should have ceased on December 15, 1971; and

WHEREAS, thus, the Board rejects that applicant’s claim that its reliance constitutes a unique condition that creates practical difficulty or unnecessary hardship; and

WHEREAS, however, based upon the above, the Board finds that the triangular shape and small size of the site and its location on South Conduit Avenue together are unique conditions which creates unnecessary hardship and practical difficulty in developing the site in conformance and compliance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study which analyzed: (1) a conforming scenario of a fully compliant single-family home; (2) a non-conforming commercial scenario; (3) a lesser variance residential scenario with yard waivers; and (4) the proposed legalization of the sign; and

WHEREAS, the study concluded that neither the conforming nor lesser variance scenarios would result in a reasonable return, but that the proposed legalization would realize a reasonable return; and

WHEREAS, specifically, the applicant asserts that the as of right single-family home and the lesser variance single-family home alternative would be too constrained to offset the development costs associated with the project; and

WHEREAS, further, as to the lesser variance residential scenario, while a larger footprint for a home could be accommodated without the required yards, the open areas and yards as a result would be small and irregularly-shaped which diminishes the value of the site for a single-family use, and, coupled with the location on heavily-trafficked South Conduit Avenue, makes it infeasible; and

WHEREAS, similarly, the commercial use would not be viable without on site parking, which cannot be accommodated on the small site; and

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WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the legalization of the 76-year-old sign 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 asserts that the Rosedale neighborhood is characterized by open and enclosed commercial uses, including a concentration of automotive-related uses, facing on South Conduit Avenue, with detached, single-family homes only in areas to the north and south of South Conduit Avenue; and

WHEREAS, the applicant asserts that the area to the north of South Conduit Avenue is zoned R3-2, which permits multi-family apartment houses; the area to the south of South Conduit Avenue (where the site is located) is zoned R3X, with C1-3 overlays mapped on the blocks to the east and west of the site, each within approximately 250 feet of the site and also fronting onto South Conduit Avenue; and

WHEREAS, as noted, the applicant states that there are not any residences fronting on South Conduit Avenue along the more than half-mile stretch of South Conduit Avenue where the site is located between Brookeville Park and the boundary of the City of New York with Nassau County; and

WHEREAS, the applicant states that the adjacent sites to the east and west along South Conduit Avenue are occupied by commercial uses, and are between the seven-lane thoroughfare and the residential uses located further into the blocks south of South Conduit Avenue; and

WHEREAS, the applicant states that the site directly to the west of the site on South Conduit Avenue is a gasoline service station with a convenience store and a sign approximately 20 feet in height and 15 sq. ft. in area displaying the name of the station and the price of gasoline (a pre-existing non-conforming use that has also been the subject of a Board variance); the applicant notes that on the back wall of the station's lot near the sign are banners advertising products sold at the service station; and

WHEREAS, the applicant states that continuing west, beyond a paved traffic island, is another gas station, also with a convenience store and a sign with a height of approximately 20 feet, a sign displaying the station's name and further there are a couple vacant lots and commercial buildings, and another gas station located across Francis Lewis Boulevard, near the Rosedale LIRR Station; and

WHEREAS, the applicant notes that to the east of the site on South Conduit Avenue, is a fence company and a two-story commercial building occupied by a fence distribution center with an open lot with stacks of fences, and an approximately 20-car open parking lot; and

WHEREAS, the applicant states that on the next block to the east, approximately 300 feet from the site, are

additional commercial uses; and

WHEREAS, the applicant states that in the area, residences are generally set back from the thoroughfare by at least approximately 30 feet; additionally, the applicant notes that no residential uses face the sign or have view of the sign copy; and

WHEREAS, the applicant asserts that the sign is consistent with the commercial character of South Conduit Avenue and the site is maintained in better condition than a majority of the uses fronting on South Conduit Avenue; it is secured behind two fences and includes a number of plantings that shield it from pedestrians and cars traveling along South Conduit Avenue and shield the sign from view from most of the residences located to the south of the site; and

WHEREAS, the applicant notes that the side lot lines of the site abut the rear lot lines of the adjacent residential uses and, thus, because of the sign's orientation across South Conduit and away from the rear of the site, its copy is not visible from any residential uses; and

WHEREAS, at hearing the Board inquired about screening and the sign's potential impact on the neighborhood character and on light and air to adjacent residential uses and whether there were any measures to provide additional buffer to the residential uses; and

WHEREAS, the applicant notes that the residential uses sharing the rear and side lot lines with the subject property are set back significantly from the lot lines and are separated from the sign by approximately 40'-0" to 42'-3" to the south and more than 55'-0" to the west; and

WHEREAS, the applicant also added that, initially, there were more trees within the site but that the Community Board did not like the appearance of the trees and they were trimmed; and

WHEREAS, the Board directed the applicant to provide evergreen landscaping in the form of coniferous trees that have year-round foliage and to install a new fence to make the site more compatible to the adjacent uses; and

WHEREAS, further, the Board asked the applicant to consider reducing the height of the sign to 35 feet to be within the height limit of the zoning district; and

WHEREAS, the applicant agreed to provide a new fence and evergreens, however notes that reducing the height of the sign would cause the sign to be obstructed by other signs and street furniture, and therefore would diminish the sign's effectiveness and marketability; and

WHEREAS, in support, the applicant provided a visual analysis of the sign's height and the effect of a reduction of height to 35 feet, which reflects that due to several visual obstructions along South Conduit Avenue, the utility of the sign would be diminished if it were reduced from a height of 39'-1" to 35 feet; and

WHEREAS, the Board notes that, based on the visual analysis of a 35-ft. sign, the 4'-0" difference in height is not discernible from the proposed sign, and the landscaping and opaque fence will aid in further screening the rear of the sign from adjacent residential uses; and

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WHEREAS, the Board inquired about the status of the fence samples from a nearby fence company located along the front of the site; and

WHEREAS, in response, the applicant stated that the fences are located beyond the property line on City property and that the owner of the site does not have any relationship with the fence company; and

WHEREAS, accordingly, the fence samples are not reflected on the site plan and are not incorporated into the subject variance application; and

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

WHEREAS, the applicant notes that the unique size and shape of the lot are due to the historic widening of South Conduit Avenue, which significantly reduced the size of the pre-existing lot to incorporate it into the new seven-lane thoroughfare; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is the result of the site's unique physical conditions; and

WHEREAS, the applicant considered lesser variance alternatives including a square-shaped residential building with yard waivers, a 0.6 FAR, and a total of 810 sq. ft. of floor area; and

WHEREAS, the applicant states that in such a scenario, the longest dimension of the residence would be approximately 20 feet along South Conduit Avenue, set back four feet from the street to accommodate a minimal front yard space and the other sides of the residence would be between approximately 16 and 20 feet long which leads to difficulty entering and exiting the parking space along the fast-moving traffic along South Conduit Avenue; and

WHEREAS, at the Board's direction, the applicant also analyzed lesser variance alternatives of (1) a commercial use and (2) a sign with a height of 35 feet, which respects the zoning district's height limit; and

WHEREAS, the applicant concluded that (1) a commercial use with vehicular traffic could not be accommodated at the site and (2) a sign with a height of 35 feet would be obstructed at various angles and not be sufficiently marketable; and

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

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

WHEREAS, the project is classified as an Unlisted Action pursuant to 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. 13BSA005Q dated

July 12, 2012; and

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

WHEREAS, 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 under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 72-21 and grants a to permit, within an R3X zoning district, the legalization of an existing indirectly illuminated outdoor advertising sign, which does not conform to district use and bulk regulations, contrary to ZR §§ 22-30, 22-321, 22-342, 23-44, 23-45, 23-46, and 52-731; *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 March 4, 2013" – five (5) sheets; and *on further condition*:

THAT the following are the parameters of the sign: dimensions of 14'-0" by 48'-0", and a total height of the sign and sign structure of 39'-1", as indicated on the Board-approved plans;

THAT the above condition and the Board's approval be reflected on the permit;

THAT fencing and landscaping be installed by September 19, 2013, six months from the date of this grant, and maintained as indicated on the Board-approved plans;

THAT by September 19, 2013 the applicant will obtain all required approvals and permits from DOB;

THAT all lighting be directed away from adjacent residential uses;

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

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

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

Adopted by the Board of Standards and Appeals, March 19, 2013.

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302-12-BZ

APPLICANT – Davidoff Hutcher & Citgron LLP, for YHD 18 LLC, owner; Lithe Method LLC, lessee.

SUBJECT – Application October 18, 2012 – Special Permit (§73-36) to allow a physical culture establishment (*Lithe Method*). C6-4A zoning district.

PREMISES AFFECTED – 32 West 18th Street, between Fifth and Sixth Avenues, Block 819, Lot 1401, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, March 19, 2013.

318-12-BZ

CEQR #13-BSA-059M

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 45-47 Crosby Street Tenant Corp./CFA Management, owner; SoulCycle 45 Crosby Street, LLC, lessee.

SUBJECT – Application November 29, 2012 – Special permit (§73-36) to allow a physical culture establishment (*SoulCycle*) within a portion of an existing building. M1-5B zoning district.

PREMISES AFFECTED – 45 Crosby Street, east side of Crosby Street, 137.25’ north of intersection with Broome Street, Block 482, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #2M

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 Bronx Borough Commissioner, dated November 28, 2012, acting on Department of Buildings Application No. 121415165, reads in pertinent part:

Proposed Physical Culture Establishment requires a special permit from the BSA per ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in an M1-5B zoning district within the SoHo Cast Iron Historic District Extension, the operation of a physical culture establishment (PCE) in the cellar and first story of a seven-story building occupied by dwellings for Artists in Residence on the second through seventh stories, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on February 26, 2013, after due notice by publication in The City Record, and then to decision on March 19, 2013; and

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

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of Crosby Street between Broome Street and Spring Street, in an M1-5B zoning district within the SoHo Cast Iron Historic District Extension); and

WHEREAS, the site is occupied by a seven-story building; and

WHEREAS, the proposed PCE will occupy a total of 2,135 sq. ft. of floor area with 2,135 sq. ft. of floor area on the first floor, and 1,122 sq. ft. of floor space in the cellar; and

WHEREAS, the site has 50.08 feet of frontage on Crosby Street, and a total lot area of 5,008 sq. ft.; and

WHEREAS, the PCE will be operated as Soul Cycle; and

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

WHEREAS, the hours of operation for the proposed PCE will be Monday through Saturday, from 5:30 a.m. to 11:00 p.m. and Sunday, from 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the applicant submitted a Certificate of No Effect from the Landmarks Preservation Commission (LPC), dated December 11, 2012, approving the proposed exterior alterations at the ground floor storefront and related signage under its jurisdiction; and

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

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 a Type I action pursuant to 6 NYCRR Part 617.4; and

WHEREAS, the Board has conducted an environmental

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review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No.13BSA059M, dated November 28, 2012; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site located in an M1-5B zoning district within the SoHo Cast Iron Historic District Extension, the operation of a physical culture establishment at the cellar and first stories of a seven-story building, contrary to ZR § 42-10; on condition that all work shall substantially conform to drawings filed with this application marked "Received March 6, 2013" – Four (4) sheets and on further condition:

THAT the term of this grant will expire on March 19, 2023;

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

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

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

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

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

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

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

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

THAT the Department of Buildings must ensure

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

Adopted by the Board of Standards and Appeals, March 19, 2013.

320-12-BZ

CEQR # 13-BSA-060M

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for West 116 Owners Realty LLC, owner; Blink 116th Street, Inc., lessee.

SUBJECT – Application December 6, 2012 – Special Permit (§73-36) to allow a physical culture establishment (*Blink Fitness*). C4-5X zoning district.

PREMISES AFFECTED – 23 West 116th Street, north side of West 116th Street, 450' east of intersection of Lenox Avenue and W. 116th Street, Lot 1600, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #10M

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 November 20, 2012, acting on Department of Buildings Application No. 121181746, reads in pertinent part:

Proposed physical culture establishment is not permitted as of right in a C4-5X district as per ZR 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within a C4-5X zoning district the operation of a physical culture establishment (PCE) on the second floor of a six-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 26, 2013, after due notice by publication in *The City Record*, and then to decision on March 19, 2013; and

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

WHEREAS, the subject site is located on the north side of West 116th Street, 450 feet east of the intersection of Lenox Avenue and West 116th Street, within a C4-5X zoning district; and

WHEREAS, the site is vacant but foundation work has commenced on a new mixed building that will measure nine stories in height on West 117th Street and twelve stories in height on West 116th Street; and

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WHEREAS, the site has 150 feet of frontage on West 116th Street, 219.65 feet of frontage on West 117th Street, and a total lot area of 37,303 sq. ft.; and

WHEREAS, the PCE occupies 16,000 sq. ft. of floor area on the second floor; and

WHEREAS, the PCE is operated as Blink Fitness; and

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

WHEREAS, the hours of operation for the PCE are: Monday through Saturday, from 5:30 a.m. to 11:00 p.m. and Sunday, from 7:00 a.m. to 9:00 p.m.; and

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

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 a 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.13BSA060M, dated December 4, 2012; and

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

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

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

Therefore it is Resolved that the Board of Standards and

Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site located within a C4-5X zoning district the operation of a physical culture establishment on the first story of a twelve-story mixed building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received March 5, 2013" - Four (4) sheets and *on further condition*:

THAT the term of this grant will expire on March 19, 2023;

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

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

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

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

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

THAT sound attenuation will be installed and maintained in accordance with the 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, March 19, 2013.

56-12-BZ

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

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

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

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COMMUNITY BOARD #4BK

ACTION OF THE BOARD – Laid over to April 16, 2013, at 10 A.M., for adjourned hearing.

153-12-BZ

APPLICANT – Harold Weinberg, for Ralph Bajone, owner.
SUBJECT – Application May 10, 2012 – Special Permit (§73-36) to legalize a physical culture establishment (*Fight Factory Gym*). M1-1/OP zoning district.

PREMISES AFFECTED – 23/34 Cobek Court, south side, 182.0' west of Shell Road, between Shell Road and West 3rd Street, Block 7212, Lot 59, Borough of Brooklyn.

COMMUNITY BOARD #13BK

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 April 23, 2013, at 10 A.M., for decision, hearing closed.

199-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Delta Holdings, LLC, owner.

SUBJECT – Application June 25, 2012 – Variance (§72-21) to construct a self-storage facility, contrary to maximum permitted floor area regulations. C8-1 and R6 zoning districts.

PREMISES AFFECTED – 1517 Bushwick Avenue, east side of Bushwick Avenue with frontage along Furman Avenue and Aberdeen Street, Block 3467, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #4BK

ACTION OF THE BOARD – Laid over to April 23, 2013, at 10 A.M., for adjourned hearing.

250-12-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Carla Zeitouny and Raymond Zeitouny, owners.

SUBJECT – Application August 13, 2012 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141); side yards (§23-461); less than the required rear yard (§23-47) and perimeter wall height (§23-631). R3-2 zoning district.

PREMISES AFFECTED – 2410 Avenue S, south side of Avenue S, between East 24th and Bedford Avenue, Block 7303, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to April 16, 2013, at 10 A.M., for continued hearing.

295-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Laura Danoff and Scott Danoff, owners.

SUBJECT – Application October 15, 2012 – Variance (§72-21) to permit the expansion of a non-conforming Use Group 4 dentist's office, contrary to §52-22. R1-2 zoning district.
PREMISES AFFECTED – 49-33 Little Neck Parkway, Block 8263, Lot 110, Borough of Queens.

COMMUNITY BOARD #11Q

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to April 23, 2013, at 10 A.M., for decision, hearing closed.

315-12-BZ

APPLICANT – Akerman Senterfitt, LLP, for Pali Realty LLC, owner.

SUBJECT – Application November 20, 2012 – Special Permit (§73-50) to allow for a community facility building, contrary to rear yard requirements (§33-29). C4-3 zoning district.

PREMISES AFFECTED – 23-25 31st Street, east side of 31st Street, between 23rd Avenue and 23rd Road, Block 835, Lot 27 & 31, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to April 23, 2013, at 10 A.M., for continued hearing.

321-12-BZ

APPLICANT – Dennis D. Dell'Angelo, for Jay Lessler, owner.

SUBJECT – Application December 6, 2012 – Special permit (§73-622) for the enlargement of an existing two-family home to be converted to a single-family home, contrary to floor area (§23-141); perimeter wall height (§23-631) and less than the required rear yard ZR §23-47. R3-1 zoning district.

PREMISES AFFECTED – 22 Girard Street, west side of Girard Street, 149.63' south of Shore Boulevard, Block 8745, Lot 70, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to April 16, 2013, at 10 A.M., for postponed hearing.

338-12-BZ

APPLICANT – Eric Palatnik, P.C., for 164-20 Northern Boulevard, LLC, owner; Northern Gym, Corp., lessee.

SUBJECT – Application December 13, 2012 – Special Permit (§73-36) to allow the legalization of a physical culture establishment (*Metro Gym*) located in an existing

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one-story and cellar commercial building. C2-2/R5B zoning district.

PREMISES AFFECTED – 164-20 Northern Boulevard, west side of the intersection of Northern Boulevard and Sanford Avenue, Block 5337, Lot 17, Borough of Queens.

COMMUNITY BOARD # 7Q

ACTION OF THE BOARD – Laid over to May 7, 2013, at 10 A.M., for continued hearing.

1-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Dryland Properties, LLC, owner; Reebok CrossFit 5th Avenue, L.P., lessee.

SUBJECT – Application January 7, 2013 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Reebok Crossfit*) at the cellar of an existing building. C5-3 zoning district.

PREMISES AFFECTED – 420 Fifth Avenue, aka 408 Fifth Avenue, between West 37th Street and West 38th Street, Block 839, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD # 5M

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to April 23, 2013, at 10 A.M., for decision, hearing closed.

7-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Sharon Sofer and Daniel Sofer, owners.

SUBJECT – Application January 15, 2013 – Special Permit (§73-621) for the enlargement of a single-family home, contrary to floor area, open space and lot coverage (§23-141). R3-2 zoning district.

PREMISES AFFECTED – 1644 Madison Place, south side of Madison Place between Avenue P and Quentin Road, Block 7701, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #18BK

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 April 23, 2013, at 10 A.M., for decision, hearing closed.

9-13-BZ

APPLICANT – Slater & Beckerman PC, for Alamo Drafthouse Cinemas, owners.

SUBJECT – Application January 18, 2013 – Special Permit (§73-201) to allow a Use Group 8 motion picture theater (*Alamo Drafthouse Cinema*), contrary to use regulations (§32-17). R9A/C1-5 zoning district.

PREMISES AFFECTED – 2626-2628 Broadway, east side of Broadway between West 99th Street and West 100th Streets, Block 1871, Lot 22 and 44, Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Laid over to April 16, 2013, at 10 A.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned: P.M.

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*CORRECTION

This resolution adopted on February 26, 2013, under Calendar No. 75-12-BZ and printed in Volume 98, Bulletin Nos. 8-9, is hereby corrected to read as follows:

75-12-BZ

CEQR #12-BSA-106M

APPLICANT – Sheldon Lobel, P.C., for 547 Broadway Realty, Inc., owner.

SUBJECT – Application March 30, 2012 – Variance (§72-21) to permit the legalization of retail use (UG 6) on the first floor and expand the use into the cellar and sub-cellar, contrary to use regulations (§42-14 (D)(2)(b)). M1-5B zoning district.

PREMISES AFFECTED – 547 Broadway, between Prince Street and Spring Street, Block 498, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Otley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated February 29, 2012, acting on Department of Buildings Application No. 120991150, reads in pertinent part:

Proposed works to create a new use – UG#6 below the floor level of second floor level in Zoning M1-5B is not permitted as per ZR 42-12/2b. Provide approval from BSA as per ZR 42-31; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an M1-5B zoning district within the SoHo-Cast Iron Historic District, the legalization of the first floor of an existing six-story building to a commercial retail use (UG 6) with expansion into the cellar and accessory retail use in the subcellar, contrary to ZR § 42-14(d)(2)(b); and

WHEREAS, a public hearing was held on this application on December 4, 2012, after due notice by publication in the *City Record*, with a continued hearing on January 15, 2013, and then to decision on February 26, 2013; and

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

WHEREAS, Community Board 2, Manhattan, recommends approval of this application, with the condition that an eating and drinking establishment not be permitted; and

WHEREAS, the subject site is a through lot with

frontage on Broadway and Mercer Street, between Prince Street and Spring Street, in an M1-5B zoning district within the SoHo-Cast Iron Historic District; and

WHEREAS, the site has 25 feet of frontage on Broadway and Mercer Street, a depth of 200.25 feet, and a lot area of 5,006.25 sq. ft.; and

WHEREAS, the site is currently occupied by a 26,057 sq. ft. (5.2 FAR) building with a five-story portion on Mercer Street and a six-story portion on Broadway, with ground floor retail use, commercial use on the second floor, and Joint Live Work Quarters for Artists (“JLWQA”) units on the third through sixth floors; and

WHEREAS, on April 12, 1988, under BSA Cal. No. 1081-85-ALC, the Board granted an authorization pursuant to ZR § 72-30 to exclude floor area from the relocation incentive contribution relating to the building’s change of use from commercial/manufacturing to JLWQA use on the third through sixth floors; and

WHEREAS, the applicant now seeks to legalize the 4,832 sq. ft. of retail floor area on the first floor, and to expand the retail use to 10,266 sq. ft. of floor space at the cellar and sub-cellar; and

WHEREAS, because Use Group 6 retail is not permitted below the second floor in the subject M1-5B zoning district, the applicant seeks a use variance; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in conformance with underlying district regulations: (1) the narrowness of the lot; and (2) the obsolescence of the existing building for manufacturing use; and

WHEREAS, as to the narrow width, the applicant states that the building has a width of 25’-0”, which results in narrow floor plates that are ill-suited for manufacturing use or other conforming uses; and

WHEREAS, further, the applicant represents that the building has a light well which is along one lot line and measures 5’-10” by 29’-10”, reducing the effective interior width of the building to 15’-5” at its narrowest point, which exacerbates the hardship by further limiting the floor plates for a conforming use; and

WHEREAS, the applicant represents that the configuration on the subject site is unique in the surrounding area; and

WHEREAS, the applicant provided a study which indicated that out of 500 lots on blocks zoned M1-5B or M1-5A within 1,000 feet of the site, there are only 182 lots that are 25’-0” or less in width; of these 182 lots, 75 lots have an effective width of less than 25’-0”, and only five of these lots have conforming uses on the ground floor; and

WHEREAS, further, of these 75 lots, only six contain buildings with light wells other than the subject site; and only one building containing a light well is occupied by a conforming use (JLWQA) on the ground floor; and

WHEREAS, the applicant concludes that the lack of conforming uses occupying buildings with narrow widths reinforces the fact that such narrow widths are unable to

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reasonably accommodate conforming uses; and WHEREAS, as to the obsolescence of the building, the applicant identifies the following conditions: (a) the absence of a loading dock and the inability to install a loading dock, (b) limited street access at the site, (c) severely limited space to install any equipment to accommodate light manufacturing uses and (d) the lack of a working freight elevator; and

WHEREAS, the applicant states that other narrow properties within 400 feet of the site may have similar characteristics, however, none are occupied by a conforming use; and

WHEREAS, the applicant states that, further, the ground floor tenant is severely limited in its access to the building since the upper floor JLWQA tenants have street access through both Broadway and Mercer Street; and

WHEREAS, based on the above arguments and analyses, the Board agrees that the unique physical conditions cited above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study analyzing the following scenarios: (1) conforming use at the first floor and cellar; and (2) the proposed ground floor and cellar retail use; and

WHEREAS, the study concluded that the conforming scenario would not result in a reasonable return, but that the proposal would realize a reasonable return; and

WHEREAS, the applicant represents that the first floor and the cellar were listed with a real estate broker for a period of 120 days, however the broker was unable to secure a tenant to occupy the space for light manufacturing use; and

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

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

WHEREAS, the applicant notes that many of the buildings in the immediate vicinity contain ground floor retail uses with residential space above, particularly along both Broadway, a major retail street, and along Mercer Street between Prince and Spring Streets; and

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

WHEREAS, the applicant submitted a Certificate of No Effect from LPC, approving the proposal on February 13, 2013; and

WHEREAS, in response to the concerns raised by the Community Board, the applicant has agreed to not allow any eating or drinking establishments to occupy the ground floor space; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the

surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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

WHEREAS, the applicant represents that the proposal represents the minimum variance needed to allow for a reasonable and productive use of the site; and

WHEREAS, the applicant notes that there is no proposed increase in the bulk of the building; and

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

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

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Sections 617.6(h) and 617.2(h) of 6 NYCRR; 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. 12BSA106M, dated October 3, 2012; and

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 to permit, in an M1-5B zoning district within the SoHo-Cast Iron Historic District, the legalization of the first floor of an existing building to a commercial retail use (UG 6) with expansion into the cellar and accessory retail use in the sub-cellar, contrary to ZR § 42-14(d)(2)(b); *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 7, 2013"– seven (7) sheets; and *on further condition*:

THAT no eating and drinking establishment will be

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permitted on the site;

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 substantial construction shall be completed pursuant to ZR § 72-23;

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

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

Adopted by the Board of Standards and Appeals, February 26, 2013.

***The resolution has been amended. Corrected in Bulletin No. 12, Vol. 98, dated March 27, 2013.**