
BULLETIN

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DOCKETS

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173-13-BZ

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174-13-BZ

2449 Morris Avenue a/k/a 58-66 East Fordham Road, Morris Avenue a/k/a 58-66 East Fordham Road, Block 3184, Lot(s) 45, Borough of **Bronx, Community Board: 7**. Special Permit (§73-36) the reestablishment of an expired physical culture establishment, contrary to Section 32-31 zoning resolution. C4-4 district.

175-13-BZ

521 Court Street, east side of Court Street, 80'.5 feet north of intersection of Court Street and Garnet Street, Block 478, Lot(s) 7503, Borough of **Brooklyn, Community Board: 6**. Special Permit (§73-36) to permit a physical cultural establishment within a portion of an existing cellar and seven-story building in a C2-4(R6A) zoning district C2-4(R6A) district.

176-13-BZ

31 Bond Street, Located on the southern side of Bond Street approximately 1170' from Lafayette Street, Block 529, Lot(s) 25, Borough of **Manhattan, Community Board: 2**. Variance (§72-21) to permit Use Group 6 on the first floor and Use Group 2 residential on the second through sixth floors of an existing building, contrary to Sections 42-14(D)(2)(b) and 42-10 of the zoning resolution. M1-5 district.

177-13-BZ

134 Langham Street, Property on west side of Langham Street between Shore Boulevard and Oriental Boulevard, Block 8754, Lot(s) 38, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) for the enlargement of an existing single family home, contrary to Sections(23-141), (23-47) and (23-131) of the zoning resolutions. R3-1 district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

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

APPEALS CALENDAR

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

SPECIAL ORDER CALENDAR

615-57-BZ

APPLICANT – Sheldon Lobel, P.C. for Cumberland farms,INC., owner.

SUBJECT – Application May 10, 2013 – Extension of Term (§11-411) of a previously granted Variance for the continued operation of a (UG 16B) automotive service station (Gulf) with accessory uses which expired on June 5, 2013. C1-3/R5B zoning district.

PREMISES AFFECTED – 154-11 Horace Harding Expressway, Located on the north side of Horace Harding Expressway between Kissena Boulevard and 154th Place. Block 6731, Lot 1. Borough of Queens.

COMMUNITY BOARD #7Q

274-59-BZ

APPLICANT – Laurence Dalfino, R.A., for Richard Naclerio, Member, Manorwood Realty, LLC, owner.

SUBJECT – Application September 18, 2012 – Pursuant to (ZR 11-411) for an Extension of Term of a previously granted variance for the continued operation of a private parking lot accessory to a catering establishment which expired on September 28, 2011; waiver of the rules. R-4/R-5 zoning district.

PREMISES AFFECTED – 3356-3358 Eastchester Road aka 1510-151 Tillotson Avenue, south side of Tillotson Avenue between Eastchester Road & Mickle Avenue, Block 4744, Lot 1, 62, Borough of Bronx.

COMMUNITY BOARD #12BX

228-00-BZ

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

SUBJECT – Application August 10, 2012 – Extension of Time to complete construction of a previously approved variance (§72-21) which permitted the conversion of a vacant building in a manufacturing district for residential use (Use Group 2) which expired on May 15, 2005; Amendment for minor modifications contrary to previously approved plans; Waiver of the Rules. M1-1 zoning district.

PREMISES AFFECTED – 28/32 Locust Street, southeasterly side of Locust Street between Broadway and Beaver Street. Block 3135, Lot 16. Borough of Brooklyn.

COMMUNITY BOARD #4BK

67-13-A

APPLICANT – Bryan Cave LLC, for ESS-PRISAI LLC, owner; OTR 945 Zerega LLC, lessee.

SUBJECT – Application February 12, 2013 – Appeal challenging Department of Buildings’ determination that the existing roof sign is not entitled to non-conforming use status. M1-1 zoning district.

PREMISES AFFECTED – 945 Zerega Avenue, Zerega Avenue between Quimby Avenue and Bruckner Boulevard, Block 3700, Lot 31, Borough of Bronx.

COMMUNITY BOARD #9BX

68-13-A

APPLICANT – Bryan Cave LLP, for ESS PRISA LLC, owner; OTR 330 Bruckner LLC, lessee.

SUBJECT – Application February 13, 2013 – Appeal challenging Department of Buildings’ determination that the existing sign is not entitled to non-conforming use status. M3-1 zoning district.

PREMISES AFFECTED – 330 Bruckner Boulevard, Bruckner Boulevard between E. 141 and E. 149 Streets, Block 2599, Lot 165, Borough of Bronx.

COMMUNITY BOARD #1BX

69-13-A

APPLICANT – Bryan Cave LLP, for 25 Skillman, LLC c/o CHETRIT GROUP LLC., owner; OTR BQE 25 LLC, lessee.

SUBJECT – Application February 13, 2013 – Appeal challenging Department of Buildings’ determination that the existing sign is not entitled to non-conforming use status. M1-2/R6 Sp. MX-8 zoning district.

PREMISES AFFECTED – 25 Skillman Avenue, Skillman Avenue between Meeker Avenue and Lorimer Street, Block 2746, Lot 45, Borough of Brooklyn.

COMMUNITY BOARD #1BK

87-13-A

APPLICANT – Bryan Cave LLP, for 176 Canal Corp., owner .OTR Media Group ; lessee

SUBJECT – Application March 6, 2013 – Appeal of DOB determination that the subject advertising sign is not entitled to non-conforming use status.

PREMISES AFFECTED – 174 Canal Street, Canal Street between Elizabeth and Mott Streets, Block 201, Lot 13, Borough of Manhattan.

COMMUNITY BOARD #3M

CALENDAR

ZONING CALENDAR

301-12-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Jam Realty of Bayside LLC, owner.

SUBJECT – Application October 22, 2012 – Special permit ZR 73-52 to allow for a 25 foot extension of an existing commercial use into a residential zoning district, and ZR 73-63 to allow the enlargement of a legal non-complying building. C2-2(R4) and R2A zoning districts.

PREMISES AFFECTED – 213-11/19 35th Avenue, Block 6112, Lot 47, Borough of Queens.

COMMUNITY BOARD #11Q

83-13-BZ

APPLICANT – Boris Saks, Esq., for David and Maya Burekhovich, owners.

SUBJECT – Application March 4, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-141) and less than the required rear yard (ZR 23-47). R-2 zoning district.

PREMISES AFFECTED – 3089 Bedford Avenue, Bedford Avenue and Avenue I and Avenue J, Block 7589, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #14BK

109-13-BZ

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

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

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

COMMUNITY BOARD #1M

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, JUNE 18, 2013
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

853-53-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Knapp, LLC, owner; Bolla Management Corp., owners.

SUBJECT – Application January 18, 2013 – Amendment (§11-412) to a previously-granted Automotive Service Station (*Mobil*) (UG 16B), with accessory uses, to enlarge the use and convert service bays to an accessory convenience store. C2-2/R3-2 zoning district.

PREMISES AFFECTED – 2402/16 Knapp Street, southwest corner of Avenue X, Block 7429, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #15BK

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 an amendment to a prior grant to permit the conversion of automotive service bays to an accessory convenience store; and

WHEREAS, a public hearing was held on this application on April 23, 2013, after due notice by publication in *The City Record*, with a continued hearing on May 21, 2013, and then to decision on June 18, 2013; and

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

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

WHEREAS, the site is located on the southwest corner of Knapp Street and Avenue X, in a C2-2 (R3-2) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since June 22, 1954 when, under the subject calendar number, the Board granted a variance to permit the premises to be occupied by a gasoline service station with accessory uses for a term of 15 years; and

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

WHEREAS, on August 11, 2009, the grant was extended for a term of ten years to expire on October 23, 2019; and

WHEREAS, the applicant now requests an amendment to permit the conversion of automotive service bays to an accessory convenience store and to enlarge the building by approximately 600 sq. ft.; and

WHEREAS, pursuant to ZR § 11-412, the Board may amend the grant; and

WHEREAS, the applicant represents that the enlargement complies with the parameters of ZR § 11-412 in that the existing floor area is 1,875 sq. ft. and the proposed enlargement is 600 sq. ft. for a total of 2,475 sq. ft.; the maximum permitted enlargement pursuant to ZR § 11-412 would be 937.5 sq. ft. for a total of 2,812.5 sq. ft.; and

WHEREAS, the applicant notes that a steel storage container at the site will be removed during the construction process; and

WHEREAS, at hearing, the Board directed the applicant to (1) discuss how it complies with DOB’s Technical Policy and Procedure Notice (TPPN) 10/99 requirements for accessory convenience stores; and (2) provide signage calculations by frontage and reflect compliance with underlying zoning district regulations; and

WHEREAS, in response, the applicant states that it complies with the TPPN in that (1) the store will be located on the same zoning lot as the existing automotive service station and will be contained within a completely enclosed building; (2) the retail selling floor will be 1,534 sq. ft. which is less than the maximum permitted 2,500 sq. ft. and less than 25 percent of the area of the zoning lot; and (3) the convenience store will be designated as Use Group 16E and not UG 6; and

WHEREAS, the applicant provided a revised zoning analysis by frontage that reflects compliance with the underlying zoning district regulations and has modified the signage accordingly; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated June 22, 1954, so that as amended this portion of the resolution shall read: “to allow for the conversion of automotive service bays to accessory convenience store, the enlargement of the building, and other related site changes; *on condition* that all use and operations shall substantially conform to plans filed with this application marked ‘Received May 3, 2013’ – (3) sheets and ‘May 28, 2013’-(2) sheets; and *on further condition*:

THAT all signage comply with the underlying C2-2 zoning district regulations;

THAT the above condition and all relevant conditions from prior grants appear on the certificate of occupancy;

THAT a new certificate of occupancy will be obtained by June 18, 2015;

THAT all conditions from the prior resolution not

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specifically waived by the Board remain in effect; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 310091708)

Adopted by the Board of Standards and Appeals June 18, 2013.

30-02-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Trump Park Avenue, LLC, owner; Town Sports International dba New York Sports Club, lessee.

SUBJECT – Application January 28, 2013 – Extension of Term of a previously granted special permit (§73-36) for the continued operation of a physical culture establishment (*New York City Sports Club*) which expired on July 23, 2012; Amendment to permit the modification of approved hours and signage; Waiver of the Rules. C5-3, C5-2.5(Mid zoning district.

PREMISES AFFECTED – 502 Park Avenue, northwest corner of Park Avenue and East 59th Street, Block 1374, Lot 7502(36), Borough of Manhattan

COMMUNITY BOARD # 8M

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 amendment to modify the hours of operation and the signage, and for an extension of term, which expired on July 23, 2012, for a physical culture establishment (PCE); and

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

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

WHEREAS, Community Board 8, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the northwest corner of Park Avenue and East 59th Street; and

WHEREAS, the site is occupied by a 32-story mixed-use residential/commercial building; and

WHEREAS, on August 2, 1994, under BSA Cal. No. 35-94-BZ, the Board granted a special permit pursuant to ZR § 73-36, to permit a PCE in the cellar and on the first and second floors of an existing 32-story commercial building for

a term of ten years, to expire on August 2, 2004; and

WHEREAS, on July 23, 2002, under the subject calendar number, the Board granted a new special permit pursuant to ZR § 73-36, to permit a larger facility at the same site, to expire on July 23, 2012; and

WHEREAS, the applicant now seeks to change the hours of operation to Monday through Friday, 5:45 a.m. to 10:00 p.m.; Saturday, 9:00 a.m. to 4:00 p.m.; and Sunday, 9:00 a.m. to 3:00 p.m. from the approved Monday through Thursday, 6:00 a.m. to 11:00 p.m.; Friday, 6:00 a.m. to 9:00 p.m.; and Saturday and Sunday, 9:00 a.m. to 7:00 p.m.; and

WHEREAS, the applicant also seeks to reduce the amount of signage from 105 sq. ft. to 12 sq. ft.; and

WHEREAS, finally, the applicant seeks to extend the term of the special permit for ten years; and

WHEREAS, at hearing, the Board directed the applicant to revise its sign analysis to reflect the correct amount of signage identified on the proposed elevation drawing; and

WHEREAS, in response, the applicant submitted a revised sign analysis that is consistent with the elevation drawing; and

WHEREAS, based on its review of the record, the Board finds that the proposed change in hours of operation, change in signage, and ten-year extension of term are appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, dated July 23, 2002, so that as amended this portion of the resolution shall read: “to grant an extension of the special permit for a term of ten years from the prior expiration, to change the hours of operation, and to reduce the signage; *on condition* that all work and site conditions shall comply with drawings marked ‘Received January 28, 2013’–(6) sheets; and *on further condition*:

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

THAT this grant will be limited to a term of ten years from the expiration of the prior grant, to expire on July 23 2022;

THAT the hours of operation be limited to Monday through Friday, 5:45 a.m. to 10:00 p.m.; Saturday, 9:00 a.m. to 4:00 p.m.; and Sunday, 9:00 a.m. to 3:00 p.m.;

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

THAT a certificate of occupancy will be obtained within one year of the date of this grant;

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

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

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

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configuration(s) not related to the relief granted.”
(DOB Application No. 300130551)

Adopted by the Board of Standards and Appeals, June 18, 2013.

197-08-BZ

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

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

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

COMMUNITY BOARD #9BK

ACTION OF THE BOARD – 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 an amendment to a prior grant for the construction of a five-story residential building; and

WHEREAS, a public hearing was held on this application on October 23, 2012, after due notice by publication in *The City Record*, with a continued hearing on June 4, 2013, and then to decision on June 18, 2013; and

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

WHEREAS, Community Board 9, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the northeast corner of Troy Avenue and Carroll Street, within an R4 zoning district; and

WHEREAS, on March 16, 2010, the Board granted a variance under the subject calendar number to permit, on a site within an R4 zoning district, a proposed five-story (including penthouse) residential building with 34 dwelling units and 35 accessory parking spaces, which exceeds the maximum permitted FAR, lot coverage, wall height, total height, and number of dwelling units and, does not provide the minimum required front or side yards, contrary to ZR §§ 23-141, 23-462(a), 23-631(b), 23-22, and 23-45; and

WHEREAS, the applicant initially sought to amend the

plans to allow for rooftop mechanical space which is not a permitted obstruction in an R4-infill district; to decrease the number of dwelling units by creating larger apartments to meet the neighborhood demand; and to reduce the number of parking spaces accordingly; and

WHEREAS, the applicant represents that the proposed changes will not increase the approved amount of floor area; and

WHEREAS, at hearing, the Board raised concerns about the scale of the rooftop mechanicals and questioned whether it would count as floor area; and

WHEREAS, accordingly, the Board directed the applicant to consider alternative locations for the mechanicals including the potential for it to be within the individual units; and

WHEREAS, in response, the applicant determined that it could provide mechanicals within the individual units and modified its original request; and

WHEREAS, the applicant now seeks only to reduce the number of dwelling units from 34 to 26 by creating duplex apartments throughout the building and to reduce the number of parking spaces from 35 to 32; and

WHEREAS, based on its review of the record, the Board finds the amendments are appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals reopens and amends the resolution, dated March 16, 2010, so that as amended this portion of the resolution shall read: “to allow for the reduction in the number of dwelling units from 34 to 26 and the number of parking spaces from 35 to 32 and the associated redesign; *on condition* that all work and site conditions will comply with drawings marked “Received May 22, 2013”– Thirteen (13) sheets; and *on further condition*:

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

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

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

(DOB Application No. 301575472)

Adopted by the Board of Standards and Appeals, June 18, 2013.

MINUTES

200-00-BZ

APPLICANT – Eric Palatnik, P.C., for Blans Development Corporation, owners.

SUBJECT – Application April 18, 2013 – Extension of Time to obtain a Certificate of Occupancy of a variance (§72-21) to operate a Physical Culture Establishment (*Squash Fitness Center*) which expired on April 25, 2013. C1-4(R6B) zoning district.

PREMISES AFFECTED – 107-24 37th Avenue, southwest corner of 37th Avenue and 108th Street, aka 37-16 108th Street, Block 1773, Lot 10, Borough of Queens.

COMMUNITY BOARD #3Q

THE VOTE TO CLOSE HEARING –

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

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

363-04-BZ

APPLICANT – Herrick Feinstein, LLP; by Arthur Huh, for 6002 Fort Hamilton Parkway Partnership, owner; Michael Mendiovic, lessee.

SUBJECT – Application June 5, 2013 – Extension of Time to Complete Construction for a previously granted Variance (§72-21) to convert an industrial building to commercial/residential use which expires on July 19, 2013. M1-1 zoning district.

PREMISES AFFECTED – 6002 Fort Hamilton Parkway, West side of Fort Hamilton Parkway, between 60th Street and 61st Street, Block 5715, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #12BK

THE VOTE TO CLOSE HEARING –

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

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

27-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Cumberland Farms, Inc., owners.

SUBJECT – Application February 4, 2013 – Extension of Term (§11-411) of an approved variance which permitted the operation of an automotive service station (UG 16B) with accessory uses, which expired on April 18, 2011; Amendment to permit the legalization of site layout and operational changes; Waiver of the Rules. C2-4/R6 zoning district.

PREMISES AFFECTED – 91-11 Roosevelt Avenue, north side of Roosevelt Avenue between 91st and 92nd Street, Block 1479, Lot 38, Borough of Queens.

COMMUNITY BOARD #3Q

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

APPEALS CALENDAR

317-12-A

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

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

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

COMMUNITY BOARD #1Q

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

346-12-A

APPLICANT – Eric Palatnik, P.C., for Woodpoint Gardens, LLC, owners.

SUBJECT – Application December 12, 2012 – Appeal seeking common law vested rights to continue construction commenced under the prior R6 zoning district regulations. R6B zoning district.

PREMISES AFFECTED – 179-181 Woodpoint Road, between Jackson Street and Skillman Avenue, Block 2884, Lot 4, Borough of Brooklyn

COMMUNITY BOARD #1BK

THE VOTE TO CLOSE HEARING –

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

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

135-13-A thru 152-13-A

APPLICANT – Eric Palatnik, PC, for Ovas Building Corp, owner.

SUBJECT – Applications May 10, 2013 – Proposed construction of 18 two-family dwellings not fronting on a legally mapped street, contrary to General City Law Section 36. R3X (SSRD) zoning district.

PREMISES AFFECTED – 18, 22, 26, 30, 34, 38, 42, 46, 50, 54, 58, 45, 39, 35, 31, 27, 23, 19, Serena Court, on Amboy Road, Block 6523, Lot 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 113, 102, 103, 105, 106, 107, 108, Borough of Staten Island.

COMMUNITY BOARD #3 SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin,

MINUTES

Commissioner Ottley-Brown, Commissioner Hinkson and
Commissioner Montanez.....5
Negative:.....0

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

Jeff Mulligan, Executive Director

Adjourned: P.M.

ZONING CALENDAR

63-13-BZ

CEQR #13-BSA-095Q

APPLICANT – Sheldon Lobel, P.C., for Cel-Net Holdings,
Corp., owner; The Cliffs at Long Island City, LLC, lessee.
SUBJECT – Application February 11, 2013 – Special
Permit (§73-36) to allow the operation of a physical culture
establishment (*The Cliffs*). M1-4/R7A (LIC) zoning district.
PREMISES AFFECTED – 11-11 44th Drive, north side of
44th Drive between 11th Street and 21st Street, Block 447,
Lot 13, Borough of Queens.

COMMUNITY BOARD #2Q

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 January 30, 2013, acting on
Department of Buildings Application No. 420605768, reads
in pertinent part:

1. ZR 42-10, 117-21: Proposed physical culture
establishment is not permitted as-of-right
2. 136-01-BZ: Proposed conditions are contrary
to approved BSA plans under Cal. No. 136-
01-BZ; and

WHEREAS, this is an application under ZR §§ 73-36
and 73-03, to permit, on a site located within an M1-4/R7A
zoning district within the Special Long Island City Mixed
Use District and the Hunters Point Subdistrict, a physical
culture establishment (“PCE”) on the first floor and
mezzanine of an existing two-story commercial building,
contrary to ZR §§ 42-10 and 117-21; and

WHEREAS, a public hearing was held on this
application on May 7, 2013, after due notice by publication
in *The City Record*, with a continued hearing on June 4,
2013, and then to decision on June 18, 2013; and

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

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

WHEREAS, the site is located on the north side of 44th
Drive between 11th Street and 21st Street within an M1-
1/R7A zoning district within the Special Long Island City
Mixed Use District and the Hunters Point Subdistrict; and

WHEREAS, the site has 200 feet of frontage on 44th
Drive, a depth of 100 feet, and 20,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story
commercial building with a floor area of 39,999 sq. ft.,
which is currently occupied by warehouse use on the first
floor and offices on the mezzanine and second floor; and

WHEREAS, the site has been under the Board’s
jurisdiction since June 11, 2002 when the Board granted a
variance, pursuant to BSA Cal. No. 136-01-BZ, to permit
the enlargement of the existing building and to legalize an
encroachment into the rear yard; in 2010, the Board
amended the variance to allow for the reduction of the floor
area from 55,762 sq. ft., as originally approved, to 31,784
sq. ft.; and

WHEREAS, the Board granted extensions of time to
complete construction and obtain a certificate of occupancy
and an amendment to increase the floor area to 39,999 sq.
ft.; and

WHEREAS, by letter, dated June 12, 2013, the Board
approved the conversion of the building’s entire first floor to
commercial use, which involves the removal of the
building’s parking and loading berth, resulting in an increase
of 1,444 sq. ft. of floor area; the addition of a second
mezzanine in the northwest corner of the building, totaling
1,654 sq. ft.; and the removal of 3,172 sq. ft. of floor area
from the building’s second floor to create a double-height
space; and

WHEREAS, the applicant states that the proposed
changes are related to the PCE design and that the proposed
modifications will actually result in a small decrease in the
building’s total floor area, from 39,999 sq. ft. to 39,970 sq.
ft.; and

WHEREAS, the applicant represents that there is no
parking requirement for non-residential uses in this section
of Queens pursuant to ZR § 13-41, and that a loading berth
is not required for the proposed uses; and

WHEREAS, the PCE will be operated as the Cliffs, a
rock-climbing facility; 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 Thursday, from 10:00 a.m. to 10:00 p.m.,
Friday and Saturday from 9:00 a.m. to 12:00 a.m., and
Sunday from 9:00 a.m. to 8:00 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

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WHEREAS, the Department of Investigation (DOI) has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report to the Board; and

WHEREAS, during the hearing process, the applicant responded to DOI's report of an arrest and investigation related to one of the principals; the applicant provided evidence to support the legitimacy of the business, which has a successful facility in Westchester, and asserted that the arrest and investigation were unrelated to the special permit findings and are being addressed in another forum; and

WHEREAS, the Board has reviewed DOI's report and the applicant's response submission and has determined it 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. 13BSA095Q, dated February 8, 2013; 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 an M1-4/R7A zoning district within the Special Long Island

City Mixed Use District and the Hunters Point Subdistrict, a physical culture establishment ("PCE") on the first floor and mezzanine of an existing two-story commercial building, contrary to ZR §§ 42-10 and 117-21; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received April 22, 2013" – Seven (7) sheets and *on further condition*:

THAT the term of this grant will expire on June 18, 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 any massages must be performed by New York State licensed massage therapists;

THAT that the hours of operation will be Monday through Thursday, from 10:00 a.m. to 10:00 p.m., Friday and Saturday from 9:00 a.m. to 12:00 a.m., and Sunday from 9:00 a.m. to 8:00 p.m.;

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, June 18, 2013.

73-13-BZ

APPLICANT – Eric Palatnik, P.C., for Triangle Plaza Hub LLC, owner.

SUBJECT – Application February 19, 2013 – Special Permit (§73-49) to allow rooftop parking in a proposed commercial development. M1-1 and C4-4 zoning districts. PREMISES AFFECTED – 459 E. 149th Street, northwest corner of Brook Avenue and 149th Street, Block 2294, Lot 60, Borough of Bronx.

COMMUNITY BOARD #1BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

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Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Executive Zoning Specialist, dated February 13, 2013, acting on Department of Buildings Application No. 220150869, reads:

Proposed roof parking is not permitted as per section 36-11 & section ZR 44-10 in such that ‘No spaces shall be located on any roof which is immediately above a story other than a basement’; and

WHEREAS, this is an application under ZR § 73-49 to permit accessory parking for 87 vehicles on the rooftop of a two-story commercial building located partially within a C4-4 zoning district and partially within an M1-1 zoning district, contrary to ZR §§ 36-11 and 44-10; and

WHEREAS, a public hearing was held on this application on May 21, 2013, after due notice by publication in the *City Record*, and then to decision on June 18, 2013; and

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

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

WHEREAS, the site is located on the northwest corner of East 149th Street and Brook Avenue, with the southern 88 percent of the site in a C4-4 zoning district and the northern 12 percent within an M1-1 zoning district; and

WHEREAS, the subject site has a lot area of 59,523 sq. ft. and will be developed with a two-story building with a floor area of 85,342 sq. ft.; and

WHEREAS, the applicant proposes to provide 87 parking spaces on the roof of the new building, which will be occupied by a supermarket (in the FRESH program), retail, and medical and office space; and

WHEREAS, the applicant states that it was selected following a Request for Proposal issued by the New York City Economic Development Corporation and, as part of the property sale process, it was subject to a series of public reviews including the disposition of City-owned property and minor changes to the Bronxchester Urban Renewal Plan to amend site boundaries of Urban Renewal Area Sites 7A and 7B; and

WHEREAS, the applicant states that the parking requirement for the proposed development is 86; it proposes 87 accessory rooftop spaces; and

WHEREAS, in order to meet these needs, the applicant seeks a special permit pursuant to ZR § 73-49, to permit rooftop parking in order to accommodate the requisite number of spaces; and

WHEREAS, pursuant to ZR § 73-49, the Board may permit parking spaces to be located on the roof of a building if the Board finds that the roof parking is located so as not to impair the essential character or the future use or development of the adjacent areas; and

WHEREAS, the applicant represents that the rooftop

parking will not impair the essential character or future use or development of adjacent areas and will not adversely affect the character of the surrounding area; and

WHEREAS, the applicant notes that the site is triangular and adjacent to a subway line, which changes from above-grade to below-grade to the north and west; commercial and institutional uses are to the east, and a mix of commercial and residential uses are to the south across East 149th Street; and

WHEREAS, the applicant asserts that the subway line will not be impacted nor will the use of the several four-, five-, and six-story mixed-used residential and ground floor commercial buildings along the south side of 149th Street, which are separated from the site by East 149th Street, a busy commercial artery with four lanes of traffic, including busses, and two parking lanes; and

WHEREAS, the applicant states that only a few residential units across East 149th Street are above the proposed rooftop level at a height of 30 feet; and

WHEREAS, the applicant notes that the other nearby properties, at a distance of at least 100 feet across Brook Avenue, include a two-story youth detention center and a one-story Burger King on the east side of Brook Avenue, which are both below the level of the roof; there are a series of vacant sites to the north, and a five-story commercial building across the street to the west on Third Avenue; and

WHEREAS, the applicant states that the rooftop parking will be approximately 100 feet from the noted buildings and the following conditions are proposed to mitigate any impacts: a parapet with a height of 4’-6” along the perimeter which will support a mesh screen with a height of 3’-6” which are both designed to obstruct street level views of the parking as well as to prevent vehicle lights from shining on adjacent buildings; and

WHEREAS, further, the applicant states that the building will actually serve to block the sound and views of the subway line as it changes between below-grade and above-grade; and

WHEREAS, the applicant concludes that the rooftop parking will help relieve any congestion created by the parking demand generated by the retail and offices that will serve the community; and

WHEREAS, the applicant states that it will implement traffic and safety measures including convex mirrors, signs indicating the flow of traffic, signs for pedestrian safety, and signs to prohibit honking; and

WHEREAS, further, the applicant will post a speed limit of five miles per hour and install speed bumps; and

WHEREAS, as for security, the applicant will install security cameras at the roof and the driveway entrance to the roof and an attendant will monitor the area; and

WHEREAS, at hearing the Board asked the applicant to provide more information about the proposed screening and directed it to orient all lighting towards the ground and establish a time to close the parking and secure the gate; and

WHEREAS, in response, the applicant provided photographs of the screening materials, agreed to direct lighting towards the ground, and established an 11:00 p.m.

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closure of the security gate and time to access the roof; and

WHEREAS, the applicant asserts that the proposal serves the community as it is within an Urban Renewal Area (URA) which promotes the objectives of establishing convenient community facilities, recreational uses, and shopping; eliminating blight, and redeveloping the area in a comprehensive manner; and

WHEREAS, the applicant notes that the site is designated within the URA for commercial use; and

WHEREAS, based upon its review of the record, the Board concludes that the findings required under ZR § 73-49 have been met; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-03; and

WHEREAS, the project is classified as an Type II action pursuant to 6 NYCRR Part 617.5; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617.5 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 application under ZR § 73-49 to permit accessory parking for 87 vehicles on the rooftop of a two-story commercial building located partially within a C4-4 zoning district and partially within an M1-1 zoning district, contrary to ZR §§ 36-11 and 44-10, *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 3, 2013"- (14) sheets; and *on further condition*:

THAT the maximum number of parking spaces on the rooftop will be 87, as approved by DOB;

THAT the hours of operation for the rooftop parking will be limited to 6:00 a.m. to 11:00 p.m., daily and will be properly secured at all other times, including the closure of the gate to the driveway by 11:00 p.m.;

THAT all lighting on the roof will be directed down and away from adjacent residential use;

THAT the rooftop parking will be screened from neighboring residences as per the BSA-approved plans;

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

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

THAT the parking layout will be reviewed and approved by DOB;

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

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; 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, June 18, 2013.

80-13-BZ CEQR #13-BSA-104M

APPLICANT – Goldman Harris LLC., for Everett Realty LLC c/o Mildred Kayden, owner; Elizabeth Arden New York, lessee.

SUBJECT – Application February 27, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*Red Door Spa*). C6-4A zoning district.

PREMISES AFFECTED – 200 Park Avenue South, northwest corner of Park Avenue South and East 17th Street, Block 846, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #5M

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 February 11, 2013, acting on Department of Buildings Application No. 120778033, reads in pertinent part:

1. ZR 42-10: Proposed Spa, Physical Health Establishment is not a permitted use in a C6-4A zoning district as per ZR 73-36.

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within a C6-4A zoning district within the Special Union Square District, a physical culture establishment ("PCE") on a portion of the first floor and cellar of a 17-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on May 21, 2013, after due notice by publication in *The City Record*, and then to decision on June 18, 2013; and

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

WHEREAS, Community Board 5, Manhattan, has no objection to the application; and

WHEREAS, the site is located on the northwest corner of Park Avenue South and East 17th Street within a C6-4A zoning district within the Special Union Square District; and

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WHEREAS, the site is occupied by a 17-story commercial building with a floor area of 209,330 sq. ft.; and

WHEREAS, the building is known as the Everett Building and is an individual landmark under the jurisdiction of the Landmarks Preservation Commission (LPC); and

WHEREAS, the PCE will be operated as an Elizabeth Arden Red Door Spa; and

WHEREAS, the PCE will occupy 2,348 sq. ft. of floor area at the ground floor and 7,084 sq. ft. of floor space in the cellar; and

WHEREAS, the applicant represents that the services at the PCE include facilities for body treatments, salon services, and massage therapy; and

WHEREAS, the hours of operation for the PCE are 8:00 a.m. to 9:00 p.m., daily; and

WHEREAS, LPC has issued a Certificate of No Effect, dated May 1, 2013, and a Certificate of Appropriateness, dated April 23, 2013, associated with the proposal; 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 to the Board, which the Board finds 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 review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 13BSA104M, dated February 27, 2013; 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 within a C6-4A zoning district within the Special Union Square District, a physical culture establishment (“PCE”) on a portion of the first floor and cellar of a 17-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received February 27, 2013” – Four (4) sheets and *on further condition*:

THAT the term of this grant will expire on June 18, 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 any massages must be performed by New York State licensed massage therapists;

THAT that the hours of operation for the PCE are limited to 8:00 a.m. to 9:00 p.m., daily;

THAT all signage will comply with underlying C6-4A zoning district regulations and not exceed that reflected on the Board-approved plans;

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, June 18, 2013.

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35-11-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Congregation Othel, owners.

SUBJECT – Application March 31, 2011 – Variance (§72-21) to allow for the enlargement of an existing synagogue (*Congregation Ohel*), contrary to floor area, lot coverage (§24-11), front yard (§24-34), side yard (§24-35), rear yard (§24-36) and parking (§25-31). R2A zoning district.

PREMISES AFFECTED – 226-10 Francis Lewis Boulevard, 1,105' west of Francis Lewis Boulevard, Block 12825, Lot 149, Borough of Queens.

COMMUNITY BOARD #13Q

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

50-12-BZ

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

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

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

COMMUNITY BOARD #12Q

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

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 July 23, 2013, at 10 A.M., for adjourned hearing.

259-12-BZ

APPLICANT – Davidoff Hatcher & Citron LLP, for 5239 LLC, owner.

SUBJECT – Application August 29, 2012 – Variance (§72-21) to permit the development of a single-family house, contrary to lot width requirement (§23-32). R1-1, NA-2 zoning district.

PREMISES AFFECTED – 5241 Independence Avenue,

west side of Independence Avenue between West 252nd and 254th Streets, Block 5939, Lot 458, Borough of Bronx.

COMMUNITY BOARD #8BX

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

293-12-BZ

APPLICANT – Eric Palatnik, P.C., for Mr. and Mrs. Angelo Colantuono, owners.

SUBJECT – Application October 11, 2012 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area (§23-141(b)) and side yard (§23-461(a)) regulations. R3X zoning district.

PREMISES AFFECTED – 1245 83rd Street, north side of 83rd Street, between 12th Avenue and 13th Avenue, Block 6302, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #10BK

THE VOTE TO CLOSE HEARING –

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

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

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 rear yard (§23-47) regulations 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 July 9, 2013, at 10 A.M., for continued hearing.

5-13-BZ

APPLICANT – Goldman Harris LLC, for Queens College Special Projects Fund, Inc., owners.

SUBJECT – Application January 11, 2013 – Variance (§72-21) to permit the construction of an education center (UG 3A) in connection with an existing community facility (*Louie Armstrong House Museum*), contrary to lot coverage (§24-11/24-12), front yard (§24-34), side yard (§24-35), side yard setback (§24-551), and planting strips (§24-06/26-42). R5 zoning district.

PREMISES AFFECTED – 34-47 107th Street, eastern side of 107th Street, midblock between 34th and 37th Avenues, Block 1749, Lot 66, 67, Borough of Queens.

COMMUNITY BOARD #3Q

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THE VOTE TO CLOSE HEARING –

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

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

99-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for
Mehran Equities Ltd., owner; Blink Steinway Street, Inc.,
lessee.

SUBJECT – Application April 9, 2013 – Special Permit
(\$73-36) to allow the operation of a physical culture
establishment (*Blink*) within a two-story commercial
building. C4-2A zoning district.

PREMISES AFFECTED – 32-27 Steinway Street, 200’
south of intersection of Steinway and Broadway, Block 676,
Lot 35, 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 July 23,
2013, at 10 A.M., for decision, hearing closed.

102-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for 28-30
Avenue A LLC, owner; TSI Avenue A LLC dba New York
Sports Club, lessee.

SUBJECT – Application April 11, 2013 – Special Permit
(\$73-36) to allow the operation of a physical culture
establishment (*New York Sports Club*) within a five-story
commercial building. C2-5 (R7A/R8B) zoning district.

PREMISES AFFECTED – 28-30 Avenue A, East side of
Avenue A, 79.5" north of East 2nd Street, Block 398, Lot 2,
Borough of Manhattan.

COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

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

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

Jeff Mulligan, Executive Director

Adjourned: P.M.

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*CORRECTION

This resolution adopted on July 10, 2012, under Calendar No. 20-12-BZ and printed in Volume 97, Bulletin Nos. 27-29, is hereby corrected to read as follows:

20-12-BZ

CEQR #12-BSA-071K

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

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

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

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Lee Gold.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated January 18, 2012, acting on Department of Buildings Application No. 320411256, reads in pertinent part:

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, further the applicant notes that the existing PCE has eight inch thick concrete walls and floor slabs which provide sound insulation that complies with the sound insulation requirements of the New York City Building Code; and

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

WHEREAS, in response, the applicant represents that they are in the process of preparing their Public Assembly permit application for submission to the Department of Buildings; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

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

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

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

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WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the Board notes that the PCE has been in operation since March 17, 2012, without a special permit; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 12BSA071K, dated January 23, 2012; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site located within in an M1-2/R6B (MX-8) zoning district, the legalization of a PCE at the sub-cellar and first floor of a five-story mixed-use commercial/residential building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received June 29, 2012" – Seven (7) sheets and *on further condition*:

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

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

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

THAT the above conditions will appear on the

Certificate of Occupancy;

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

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

THAT the site will be maintained free of graffiti;

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

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

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

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

***The resolution has been amended on June 20, 2013. Corrected in Bulletin No. 25, Vol. 98, dated June 26, 2013.**

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*CORRECTION

This resolution adopted on March 12 2013, under Calendar No. 55-12-BZ and printed in Volume 98, Bulletin No. 11, is hereby corrected to read as follows:

55-12-BZ

CEQR #12-BSA-088K

APPLICANT – Eric Palatnik, P.C., for Kollel L’Horoah, owner.

SUBJECT – Application March 13, 2012 – Special Permit (§73-19) to permit the legalization of an existing Use Group 3 religious-based, non-profit school (*Kollel L’Horoah*), contrary to use regulations (§42-00). M1-2 zoning district.

PREMISES AFFECTED – 762 Wythe Avenue, corner of Penn Street, Wythe Avenue and Rutledge Street, Block 2216, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 29, 2012, acting on Department of Buildings Application No. 310112990 reads in pertinent part:

Proposed Use Group 3 use is not permitted as of right within manufacturing zoning districts, and is contrary to ZR Section 42-00 and therefore requires a special permit from the NYC BSA pursuant to ZR Section 73-19; and

WHEREAS, this is an application under ZR §§ 73-19 and 73-03 to permit, on a site within an M1-2 zoning district, the legalization of a six-story yeshiva (Use Group 3), contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on November 15, 2012, after due notice by publication in the *City Record*, with continued hearings on January 8, 2013 and February 12, 2013, and then to decision on March 12, 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 1, Brooklyn, recommends approval of this application; and

WHEREAS, the application is brought on behalf of the Central United Talmudical Association (the “Yeshiva”); and

WHEREAS, the site is located on the west side of Wythe Avenue, between Penn Street and Rutledge Street, within an M1-2 zoning district; and

WHEREAS, the site has 200 feet of frontage on Wythe Avenue, 125 feet of frontage on Penn Street, 125 feet of

frontage on Rutledge Street, and a lot area of 25,000 sq. ft.; and

WHEREAS, the subject building is six stories with a floor area of approximately 119,997.4 sq. ft. (4.80 FAR), and was formerly occupied by a factory; and

WHEREAS, the applicant represents that the Yeshiva meets the requirements of the special permit authorized by ZR § 73-19 for permitting a school in an M1 zoning district; and

WHEREAS, ZR § 73-19 (a) requires an applicant to demonstrate the inability to obtain a site for the development of a school within the neighborhood to be served and with a size sufficient to meet the programmatic needs of the school within a district where the school is permitted as-of-right; and

WHEREAS, the applicant states that the school serves an estimated 1,920 students from pre-nursery through ninth grade; and

WHEREAS, the Yeshiva’s program includes 86 classrooms, 142 teachers, and 26 support staff positions; and

WHEREAS, the applicant states that the Yeshiva’s program requires a minimum lot area of 20,000-25,000 sq. ft. and a building with a floor area of approximately 120,000 sq. ft. with an additional 20,000 sq. ft. of space in the cellar; and

WHEREAS, accordingly, the applicant searched for two years in South Williamsburg in R6 or equivalent zoning districts, which would allow for an FAR of 4.80 and accommodate the programmatic needs; and

WHEREAS, the applicant represents that it specifically evaluated the feasibility of 11 sites that were either vacant or under-developed within the catchment area of the school, and which could potentially be redeveloped for a school that could accommodate the projected enrollment; and

WHEREAS, the applicant submitted a chart identifying the sites (on Bedford Avenue, Flushing Avenue, Myrtle Avenue, Park Avenue, Willoughby Avenue, and Skillman Street) and summarizing the insufficiencies; and

WHEREAS, the applicant states that, of the 11 sites it evaluated, only two had lot area greater than 20,000 sq. ft. (one was a vacant lot which has since been developed by HPD and one is a banquet hall parking lot not available for sale); six of the smaller sites are in the process or have recently been developed for residential use; and the remaining three are used as parking and a gas station and are not available for sale; and

WHEREAS, the applicant submitted a letter from a real estate broker stating that the Yeshiva sought an existing building for immediate occupancy, but also considered vacant lots, which were not available due to an active residential market that resulted in residential development on the vacant lots; and

WHEREAS, further, the applicant submitted communication between its representation, City Councilperson Letitia James, and the Department of Education (DOE), seeking space to lease in DOE buildings; the applicant represents that no available DOE space was identified; and

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WHEREAS, the applicant maintains that the results of the site search reflects that there is no practical possibility of obtaining a site of adequate size in a nearby zoning district where a school would be permitted as-of-right; and

WHEREAS, accordingly, the Board finds that the requirements of ZR § 73-19 (a) are met; and

WHEREAS, ZR § 73-19 (b) requires an applicant to demonstrate that the proposed school is located no more than 400 feet from the boundary of a district in which such a school is permitted as-of-right; and

WHEREAS, the applicant submitted a radius diagram which reflects that directly across Wythe Avenue there is an R6 zoning district and directly across Rutledge Street there is an R7-1 zoning district, and therefore the site is within 400 feet of at least two zoning districts where the proposed use would be permitted as-of-right; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (b) are met; and

WHEREAS, ZR § 73-19 (c) requires an applicant to demonstrate how it will achieve adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district; and

WHEREAS, the applicant states that adequate separation from noise, traffic and other adverse effects of the surrounding M1-2 zoning district will be provided through the building's 12-inch thick exterior masonry with four-inch wood stud interior walls and double-paned glass windows; and

WHEREAS, the noise analysis submitted by the applicant indicates that the existing windows comply with the required noise attenuation and no additional mitigation measures are recommended; and

WHEREAS, the Board finds that the exterior wall and window construction of the building and the adjacency of residential zoning districts with residential uses directly across Wythe Avenue and Rutledge Street will adequately separate the Yeshiva from noise, traffic and other adverse effects of any of the uses within the surrounding M1-2 zoning district; thus, the Board finds that the requirements of ZR § 73-19 (c) are met; and

WHEREAS, ZR § 73-19 (d) requires an applicant to demonstrate how the movement of traffic through the street on which the school will be located can be controlled so as to protect children traveling to and from the school; and

WHEREAS, the applicant states that approximately 1,800 students arrive by bus, and that the school operates approximately 15 buses; and

WHEREAS, the applicant further states that the buses arrive between 7:40 a.m. and 10:00 a.m., and that their arrival is spread out so that the buses arrive at the school in a staggered manner with a maximum of six buses parked in front of the school at one time; and

WHEREAS, the applicant further states that there are two teachers/monitors on each bus with young children and constant radio contact between the bus and a monitor at the school who is solely responsible for buses and stands in front of the school; there are also two monitors on the street

in front of the school at the time of arrival and departure; and

WHEREAS, the applicant states that the students are also dismissed in a staggered manner from 2:30 p.m. for the youngest to 6:00 p.m. for the oldest; and

WHEREAS, the Yeshiva confirms that its 15 buses make a total of 35 runs each day at designated times; and

WHEREAS, the applicant states that when buses are not in use, they are parked nearby at 671 Myrtle Avenue and 41 South 11th Street, off street; and

WHEREAS, the applicant states that the street system has significant capacity to enable the buses to access the school without disruption; and

WHEREAS, the Department of Transportation submitted a letter stating that it does not object to the proposed legalization of the school from a traffic safety perspective; and

WHEREAS, the Board finds that the above-mentioned measures maintain safe conditions for children going to and from the School; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (d) are met; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-19; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board notes that the Fire Department has inspected the site on numerous occasions and that its only violation is that the operating Interior Fire Alarm and full Sprinkler Systems require application and approval by DOB; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR §73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) 12BSA088K, dated March 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

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

WHEREAS, DEP reviewed and accepted the October 2012 Construction Health and Safety Plan; and

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

WHEREAS, DEP reviewed the applicant's May 15, 2012 stationary source air quality screening analysis and determined that the proposed project is not anticipated to result in significant stationary source air quality impacts; and

WHEREAS, DEP reviewed the applicant's October 2012 noise analysis and concurs with the conclusions regarding the required sound attenuation levels and measures; and

WHEREAS, DEP determined that, with these noise measures, the proposed project is not anticipated to result in significant noise impacts; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-19 and 73-03 and grants a special permit, to allow the legalization of a six-story yeshiva (Use Group 3), on a site within an M1-2 zoning district; *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 7, 2013" - Eleven (11) sheets; and *on further condition*:

THAT a certificate of occupancy will be obtained by March 12, 2015;

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

THAT the sound attenuation measures in the proposed building will be maintained as reflected on the BSA-approved plans;

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

configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 12, 2013.

***The resolution has been amended. Corrected in Bulletin No. 25, Vol. 98, dated June 26, 2013.**

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*CORRECTION

This resolution adopted on May 21, 2013, under Calendar No. 315-12-BZ and printed in Volume 98, Bulletin No. 21, is hereby corrected to read as follows:

315-12-BZ

CEQR #13-BSA-057Q

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

SUBJECT – Application November 20, 2012 – Special Permit (§73-50) to allow for a community facility and commercial 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 – 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 October 22, 2012, acting on Department of Buildings Application No. 420229194, reads in pertinent part:

[t]he rear lot line of this zoning lot coincides with the residential district boundary. Provide 30 ft. rear yard as per ZR 33-292; and

WHEREAS, this is an application under ZR §§ 73-50 and 73-03, to legalize, on a site in a C4-3 zoning district abutting an R5B zoning district, the construction of an eight-story commercial and community facility building with an open area 23 feet above curb level with a minimum depth of 20 feet, contrary to ZR § 33-292; and

WHEREAS a public hearing was held on this application on February 26, 2013 after due notice by publication in *The City Record*, with continued hearings on March 19, 2013 and April 23, 2013, and then to decision on May 21, 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 Ottley-Brown; and

WHEREAS, Community Board 1, Queens, recommends approval of the application on condition that (1) the rear wall with a height of 23 feet be completely finished with stucco; (2) the mechanical equipment on the roof setback at the rear be installed on vibration pads and encased with sound-attenuating materials to reduce noise and vibrations; (3) the entire parapet wall at the rear setback be high enough to conceal rooftop mechanical equipment; (4) the front of the building and setback area be well-lit when the building is not in operation;

and (5) the applicant remedy damages to the adjacent owners on 31st and 32nd streets by agreeing to pay repair costs; and

WHEREAS, certain members of the surrounding community provided written and oral testimony in support of the application; and

WHEREAS, certain members of the surrounding community provided written and oral testimony in opposition to the application (“the Opposition”); and

WHEREAS, the Opposition’s primary concerns are that: (1) no grant should be given until all damage to adjacent properties has been repaired and owners’ costs recouped; (2) the insurance claims process has been unsatisfactory; (3) the applicant has not provided evidence of the need for the special permit; and (4) the potential nuisance of light and noise on the adjacent properties; and

WHEREAS, the subject site is an interior zoning lot (comprising Tax Lots 27 and 31) located on the east side of 31st Street between 23rd Avenue and 23rd Road, with 125 feet of frontage on 31st Street, a depth of 90 feet, and a total lot area of 11,250 sq. ft.; and

WHEREAS, the site is located within a C4-3 zoning district that abuts an R5B zoning district to its rear; and

WHEREAS, pursuant to ZR § 33-292, an open area 23 feet above curb level with a minimum depth of 30 feet is required on a zoning lot within a C4-3 district with a rear lot line that abuts the rear lot line of a zoning lot in a residence district; and

WHEREAS, the applicant proposes to legalize a partially-constructed eight-story community facility building that provides an open area along the rear lot line beginning above the roof of the first story (23 feet above curb level), with a depth of 20 feet (the “20-foot yard”), rather than the required 30 feet; and

WHEREAS, the applicant represents that the building complies in all other respects with the applicable provisions of the Zoning Resolution; and

WHEREAS, under ZR § 73-50, the Board may grant a waiver of the rear yard (open area) requirements set forth in ZR § 33-29 in appropriate cases; and

WHEREAS, the applicant states that the instant application is an appropriate case for a waiver of the requirements set forth in ZR § 33-29; and

WHEREAS, the applicant states that the non-complying 20-foot yard is attributable to a design error by the project architect and that the error was discovered after approximately 80 percent of the building was completed; and

WHEREAS, the applicant states that in order to comply with ZR § 33-292 at this stage of construction, the rearmost 10-foot portion of the building at the first seven stories would have to be demolished by hand and reconstructed with a completely redesigned structural system; the applicant represents that such work is infeasible; and

WHEREAS, as to the infeasibility, the applicant represents that the line of columns at the rear of the building begin below ground at the foundation and continue to the

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roof level, and cannot practically be moved without the construction of new footings and the removal of the parking ramps; and

WHEREAS, additionally, the roof water tanks would have to be relocated to a different portion of the roof and such portion would have to be structurally reinforced to carry the additional loads, at significant design and construction costs; and

WHEREAS, lastly, the removal of 10 feet of building depth would result in a building depth of 45 feet at the fourth through eighth stories, which the applicant asserts is inadequate to provide an efficient floor plate for a modern medical office use; and

WHEREAS, the applicant asserts that the waiver will not have an adverse effect on the surrounding area; and

WHEREAS, the applicant represents that of the seven other zoning lots located on the 31st Street frontage, six extend to the rear lot line; and

WHEREAS, the applicant also notes that prior to the construction of the subject building, Lot 27 was occupied by a one-story commercial building that extended to its rear lot line and Lot 31 was occupied by a three-story residential building that provided an approximately 20-foot rear yard consistent with the proposed; and

WHEREAS, the applicant notes that there is a lack of adequate medical facilities in the neighborhood and states that the proposed facility is desired by the community at large; and

WHEREAS, the applicant notes that the proposed tenants include University Orthopedics of NYC, Metropolitan Gastroenterology and Endoscopy Center of Queens; and

WHEREAS, the applicant notes that if the building were redesigned to comply with ZR § 33-292, the building height would be increased from 158 feet to 182 feet; such increase in height would be as of right and result in longer shadows being cast on neighboring buildings; further, the decreased floor plates would be detrimental to the proposed medical use, which the applicant states requires large floor plates so as to minimize the movement of patients from floor to floor; and

WHEREAS, the applicant submitted a shadow study demonstrating the increased neighborhood impact of a taller building; and

WHEREAS, during the public review and hearing process, the Opposition raised concerns about the impact of the building on the residences directly abutting the site; specifically, the Opposition raised concerns regarding: (1) the visibility, noise and potential contamination from exhaust and intake vents and stair pressurization fans at the rear first story roof; (2) glass blocks within the rear wall at the first story and basement, which would allow light to transfer outside the building; (3) open violations from the Department of Buildings (“DOB”); and (4) damages allegedly sustained by the adjacent properties during the course of construction of the subject building and related DOB violations; and

WHEREAS, accordingly, the Board directed the applicant to (1) redesign the exhaust and vent system so that it was further from the adjacent residents at the rear; (2) remove the glass blocks in the rear wall and replace with concrete block and stucco that will be opaque; (3) describe the nature of any outstanding violations; and (4) address the Opposition’s concerns about property damage; and

WHEREAS, in response, the applicant: (1) relocated exhaust vents from the rear of the building to the front setback; (2) relocated intake vents and stair pressurization fans to be as far as functionally possible from the rear parapet; (3) provided a detailed statement from the project engineer certifying the make, model, size, functionality and necessity of the intake vents and stair pressurization fans; (4) submitted a visibility study indicating that the intake vents and stair pressurization fans will not be visible from the tallest of the residences abutting the rear lot line (23-26 32nd Street); (5) amended the plans to show the replacement of glass blocks with solid masonry; and (6) submitted evidence of a request from the project architect to the Queens DOB Commissioner for permission to perform work in order to remove the conditions that gave rise to the violations; and

WHEREAS, as to the damages allegedly sustained by the adjacent properties during the course of construction at the subject building and related DOB violations, the applicant asserts that such matters are under the purview of the general contractor and its insurance company and that it is prohibited, by contract, from intervening in the insurance negotiations; and

WHEREAS, further, the applicant represents that the violations were all issued in response to the neighbors’ complaints and, thus, cannot be resolved absent the neighbors’ cooperation, particularly given that a number of the violations are not actually issued to the subject lot, but to the neighbors’, and that other violations require access to the neighbors’ property; and

WHEREAS, a search of the Buildings Information System reflects that there are three outstanding violations on the site: (1) ECB Violation No. 34959031Y was issued on September 18, 2012 and alleged a failure to safeguard persons and property affected by construction operations, contrary to New York City Building Code § 3301.2; the respondent was found in violation on January 22, 2013, and no certificate of correction has been approved by DOB; (2) ECB Violation No. 34959207Z was issued on January 15, 2013 and alleged a failure to safeguard persons and property affected by construction operations, contrary to BC § 3301.2; the respondent was found in violation on April 30, 2013, and no certificate of correction has been approved by DOB; and (3) DOB Violation No. 073112C0101SA was issued on July 31, 2012 and alleged that the borough commissioner had issued an intent to revoke the permit and approval for Job No. 420229194 and a Stop Work Order, pursuant to New York City Administrative Code § 28-207.2; and

WHEREAS, the Board notes that disputes between

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neighbors and the resolution of property damage caused by construction are beyond its purview and it cannot get involved in such disputes; however, it strongly encourages the parties to work together to achieve a resolution fairly and expeditiously; and

WHEREAS, the applicant represents that the negotiations between the contractor's insurance company and the neighbors' insurance companies are ongoing; and

WHEREAS, the applicant also notes that, on April 15, 2013, one of the neighbors has commenced an action in New York State Supreme Court, Sesumi v. Pali Realty, LLC et al., Index No. 7428/13, Queens County, for alleged property damages; and

WHEREAS, the Opposition also raised additional concerns regarding light pollution from the building, the sufficiency of the roof drains, the functioning of the electrical and mechanical systems and equipment, the general contractor's means and methods of construction, and the completeness of plans submitted in connection with this application; and

WHEREAS, as to these concerns, the Board finds that the applicant adequately addressed them and that all construction methods and plans are subject to DOB review and approval; and

WHEREAS, the Board notes that the construction activities have given rise to certain damage to property and disputes with adjacent property owners, but that such effects are the result of physical construction work and not the land use and planning effects that the Board considers in determining whether or not the open area required by ZR § 33-292 must be provided; and

WHEREAS, further, the Board notes that the use and building are permitted as of right but for the rear ten feet of building depth above a height of 23 feet; and

WHEREAS, the Board notes that the portion of the new building which appears to have created the most conflict with the adjacent property owners is actually the portion of the building (and its rear wall) within the rear yard *below* 23 feet, which is permitted as-of-right pursuant to ZR § 33-292; and

WHEREAS, the Board finds that the extra ten feet of building depth at the rear above a height of 23 feet has not led to the adjacent property owners' concerns in the short-term and is compatible with the adjacent uses in the long-term, pursuant to ZR §§ 73-03 and 73-50; however, the impact of the physical construction work upon adjacent properties may be considered by the Board in determining the appropriate conditions and safeguards to impose along with the grant of a special permit pursuant to ZR § 73-03; and

WHEREAS, the Board notes that the applicant has satisfied all of the Community Board's requests related to building design and site conditions, in that: (1) the rear wall will be completely finished with stucco; (2) the mechanical equipment on the roof setback at the rear will be installed on vibration pads and encased with sound-attenuating materials to reduce noise and vibrations; (3) the entire parapet wall at the

rear setback is high enough to conceal rooftop mechanical equipment; and (4) the front of the building and setback area will be well-lit when the building is not in operation; and

WHEREAS, as to the Community Board's additional request that the applicant remedy damages to the adjacent owners on 31st and 32nd streets, the Board notes that both parties have testified that there are ongoing negotiations between the property owners' and contractor's insurance companies to resolve the damages; and

WHEREAS, based on the record, the Board finds that the application meets the requirements of ZR § 73-03(a) in that the disadvantages to the community at large are outweighed by the advantages derived from such special permit; and that the adverse effect, if any, will be minimized by appropriate conditions; and

WHEREAS, the proposed project will not interfere with any pending public improvement project and therefore satisfies the requirements of ZR § 73-03(b); and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-50 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR §§ 73-50 and 73-03, to permit, on a site in a C4-3 zoning district abutting an R5B zoning district, the construction of an eight-story community facility building with an open area 23 feet above curb level with a minimum depth of 20 feet, contrary to ZR § 33-292, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received April 2, 2013" – sixteen (16) sheets; and *on further condition*;

THAT the vents atop the rear first story roof will be for intake only;

THAT the stair pressurization fans atop the rear first story roof will be operated only in an emergency;

THAT all lighting will be directed away from adjacent residences, as reflected on the plans;

THAT the glass blocks at the rear wall will be replaced by masonry and stucco;

THAT the mechanical equipment on the roof setback at the rear will be installed on vibration pads and encased with sound-attenuating materials to reduce noise and vibrations;

THAT the entire parapet wall at the rear setback will be built to a sufficient height, as reflected on the BSA-approved plans and approved by DOB, to conceal rooftop mechanical equipment;

THAT the front of the building and setback area will be well-lit when the building is not in operation;

THAT the above conditions be noted on the Certificate of Occupancy;

THAT DOB will not issue a Temporary Certificate of Occupancy (or Final Certificate of Occupancy) and the building will not be occupied until all violations on the site

MINUTES

have been cured to DOB's satisfaction;

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

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

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

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

Adopted by the Board of Standards and Appeals, May 21, 2013.

***The resolution has been amended on June 20, 2013. Corrected in Bulletin No. 25, Vol. 98, dated June 26, 2013.**