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# BULLETIN

## OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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Volume 98, No. 38

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### DIRECTORY

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**MINUTES** of Regular Meetings,  
**Tuesday, September 17, 2013**

Morning Calendar .....795

**Affecting Calendar Numbers:**

199-00-BZ	76-19 Roosevelt Avenue, Queens
220-07-BZ	847 Kent Avenue, Brooklyn
519-57-BZ	2071 Victory Boulevard, Staten Island
189-96-BZ	85-10/12 Roosevelt Avenue, Queens
272-12-A	1278 Carroll Street, Brooklyn
70-13-A	84 Withers Street, Bronx
41-11-A	1314 Avenue S, Brooklyn
29-12-A	159-17 159 <sup>th</sup> Street, Queens
71-13-A	261 Walton Avenue, Bronx
75-13-A	5 Beekman Street, Manhattan
87-13-A	174 Canal Street, Manhattan
61-13-BZ	1385 Broadway, Manhattan
82-13-BZ	1957 East 14 <sup>th</sup> Street, Brooklyn
96-13-BZ	1054 Simpson Street, Bronx
35-11-BZ	226-10 Francis Lewis Boulevard, Queens
279-12-BZ	27-24 College Point Boulevard, Queens
299-12-BZ	40-56 Tenth Avenue, Manhattan
322-12-BZ	701 Avenue P, Brooklyn
6-13-BZ	2899 Nordstrom Avenue, Brooklyn
105-13-BZ	1932 East 24 <sup>th</sup> Street, Brooklyn
133-13-BZ	1915 Bartow Avenue, Bronx
161-13-BZ	8 West 19 <sup>th</sup> Street, Manhattan
169-13-BZ	227 Clinton Street, Brooklyn

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# DOCKETS

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New Case Filed Up to September 17, 2013

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**268-13-BZ**

2849 Cropsey Avenue, North East side of Cropsey Avenue, approximately 25.9 feet Northwest from the corner formed by the intersection of Bay 50th St. and Cropsey Avenue, Block 6917, Lot(s) 55, Borough of **Queens, Community Board: 13**. Special Permit (§73-621) to permit the increase in lot coverage from 55.28% to 58% to an existing 3-story building contrary to §23-141 zoning resolution. R5 zoning district. R5 district.

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**269-13-BZ**

110 West 73rd Street, South side of 73rd Street between Columbus Avenue and Amsterdam Avenue, Block 1144, Lot(s) 37, Borough of **Manhattan, Community Board: 7**. Special Permit (§73-42) to permit the expansion of the Arte Café restaurant, conforming use across, a district boundary line onto the subject premises. R8B zoning district. R8B district.

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**270-13-BZ**

288 Dover Street, Dover Street, south of Oriental Boulevard, Block 8417, Lot(s) 38, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to enlarge an existing two story dwelling in a residential zoning district, seeks to vary the floor area ratio. R3-1 zoning district. R3-1 district.

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**271-13-BZ**

129 Norfolk Street, Norfolk Street, between Shore Boulevard and Oriental Boulevard, Block 8757, Lot(s) 43, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to enlarge a one story dwelling in a R3-1 residential zoning district, into a two story dwelling, to vary the lot coverage, the side yard and rear yard requirements.. R3-1 district.

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**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.**

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# CALENDAR

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OCTOBER 8, 2013, 10:00 A.M.

APPEALS CALENDAR

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, October 8, 2013, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

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**SPECIAL ORDER CALENDAR**

**605-84-BZ**

APPLICANT – Sheldon Lobel, P.C., for Order Sons of Italy in America Housing Development Fund Company, Inc., owners.

SUBJECT – Application March 26, 2013 – Amendment to legalize the installation of an emergency generator at the premises of a previously granted variance (§72-21) to an existing seven story senior citizen multiple dwelling which is contrary to Z.R. Section 23-45 (front yard requirements). R-5 zoning district.

PREMISES AFFECTED – 2629 Cropsy Avenue, Cropsy Avenue between Bay 43rd Street and Bay 44th Street, Block 6911, Lot 6, Borough of Brooklyn.

**COMMUNITY BOARD #13BK**

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**163-04-BZ**

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Mylaw Realty Corporation, owner; Crunch Fitness, lessee.

SUBJECT – Application July 26, 2013 – Extension of Time to Obtain a Certificate of Occupancy for a previously granted physical culture establishment

(*Crunch Fitness*) within portions of an existing building which expired on July 17, 2013. C2-4(R7A) zoning district.

PREMISES AFFECTED – 671/99 Fulton Street, northwest corner of intersection of Fulton Street and S. Felix Street, Block 2096, Lot 66, 99, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

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**177-07-BZ**

APPLICANT – Sheldon Lobel, P.C., for Dankov Corporation, owner.

SUBJECT – Application July 23, 2013 – Extension of time to complete construction of a previously approved Variance (§72-21) which permitted the construction of a two story, two family residential building on a vacant corner lot which expired on June 23, 2013. R5 zoning district.

PREMISES AFFECTED – 886 Glenmore Avenue, southeast corner of the intersection of Glenmore Avenue and Milford Street, Block 4208, Lot 17, Borough of Brooklyn.

**COMMUNITY BOARD #5BK**

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**194-13-A thru 205-13-A**

APPLICANT – Sanna & Loccisano P.C. by Joseph Loccisano, for Leonello Savo, owner.

SUBJECT – Application July 3, 2013 – Proposed construction of single detached residence not fronting on a legally mapped street contrary to General City Law 36. R3X (SSRD) zoning district.

PREMISES AFFECTED – 36, 35, 31, 27, 23, 19, 15, 11, 12, 16, 20, 24 Savona Court, west side of Savona Court, 326.76' south of the corner form by Station Avenue and Savona Court, Block 7534, Lot 320, 321, 322, 323, 324, 325, 326, 327, 330, 331, 332, 335, Borough of Staten Island.

**COMMUNITY BOARD #3SI**

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**237-13-A thru 242-13-A**

APPLICANT – Rothkrug Rothkrug & Spector LLP, for RLP LLC, owners.

SUBJECT – Application August 12, 2013 – Appeals from decisions of Borough Commissioner denying permission for proposed construction of eight buildings that do not front on a legally mapped street. R3X(SRD) zoning district.

PREMISES AFFECTED – 11, 12, 15, 16, 19, 20 Nino Court, 128.75 ft. south of intersection of Bedell Avenue and Hylan Boulevard, Block 7780, Lot 22, 30, 24, 32, 26, 34, Borough of Staten Island.

**COMMUNITY BOARD #3SI**

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**247-13-A**

APPLICANT – Sheldon Lobel, P.C., for Castle Hill Equities, LLC, owners.

SUBJECT – Application August 22, 2013 – Common Law Vested Rights and seeks to renew Building Permit No. 402483013-01-NB and all related building permits to allow the applicant to continue development of the proposed 6-story residential building at the site, for a term of three years. R5A zoning district.

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

**COMMUNITY BOARD #14Q**

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# CALENDAR

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## ZONING CALENDAR

### 77-12-BZ

APPLICANT – Moshe M. Friedman, P.E., for Goldy Jacobowitz, owner.

SUBJECT – Application April 3, 2012 – Variance (§72-21) to permit a new residential building which is contrary to use regulations, ZR42-00. M1-1 zoning district.

PREMISES AFFECTED – 91 Franklin Ave, 82'-3" south side corner of Franklin Avenue and Park Avenue, Block 1899, Lot 24, Borough of Brooklyn.

**COMMUNITY BOARD #3BK**

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### 55-13-BZ

APPLICANT – Stuart A. Klein, Esq., for Yeshivas Novominsk, owners.

SUBJECT – Application February 1, 2013 – Variance (§72-21) to permit the enlargement of an existing yeshiva dormitory. R5 zoning district.

PREMISES AFFECTED – 1690 60th Street, north side of 17th Avenue between 60th and 61st Street, Block 5517, Lot 39, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

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### 122-13-BZ

APPLICANT – Law Office of Fredrick A Becker, for Jacqueline and Jack Sakkal, owners.

SUBJECT – Application April 29, 2013 – Special Permit (73-621) for the enlargement of an existing two-family home to be converted into a single family home contrary to floor area (ZR 23-141). R2X (OP) zoning district.

PREMISES AFFECTED – 1080 East 8th Street, west side of East 8th Street between Avenue J and Avenue K, Block 6528, Lot 33, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

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### 129-13-BZ

APPLICANT – Lewis E. Garfinkel, for Tammy Greenwald, owner.

SUBJECT – Application May 7, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (§23-141(a)); side yards (§23-461(a)); less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1010 East 22nd Street, west side of East 22nd Street, 264' south of Avenue I, Block 7585, Lot 61, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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### 158-13-BZ

APPLICANT – Kramer Levin Naftalis & Frankel LLP, for Golf & Body NYC, owners.

SUBJECT – Application May 20, 2013 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Golf & Body*) within a portion of an existing building. C6-6(MID) zoning district.

PREMISES AFFECTED – 883 Avenue of the Americas, southwest corner of the Avenue of the Americas and west 32nd Street, Block 807, Lot 1102, Borough of Manhattan.

**COMMUNITY BOARD #5M**

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### 159-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Melvin Friedland & Lawrence Friedland, owners; 3799 Broadway Fitness Group, LLP, lessees.

SUBJECT – Application May 24, 2013 – Special Permit (§73-36) to legalize the operation of a physical culture establishment (*Planet Fitness*) within a portion of an existing building; Special Permit (§73-52) to permit the extension of the proposed PCE use into 25' feet of the residential portion of a zoning lot that is split between a C4-4 and R8 zoning districts.

PREMISES AFFECTED – 3791-3799 Broadway, west side of Broadway between 157th Street and 158th Street, Block 2134, Lot 180, Borough of Manhattan.

**COMMUNITY BOARD #12M**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, SEPTEMBER 17, 2013  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**199-00-BZ**

APPLICANT – Alfonso Duarte, P.E., for EN PING C/O Baker, Esq., owner; KAZ Enterprises Inc., lessee.

SUBJECT – Application March 28, 2013 – Extension of term of a previously granted special permit (§73-244) for the continued operation of a UG 12 eating and drinking establishment without restrictions on entertainment (*Club Atlantis*) which expired on March 13, 2013. C2-3/R6 zoning district.

PREMISES AFFECTED – 76-19 Roosevelt Avenue, northwest corner of Roosevelt Avenue and 77th Street, Block 1287, Lot 37, Borough of Queens.

**COMMUNITY BOARD #3Q**

**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 Montanez .....5

Negative:.....0

**THE RESOLUTION** –

WHEREAS, this is a re-opening and an extension of term of a previously granted special permit for an eating and drinking establishment without restrictions on entertainment (Use Group 12), which expired on March 13, 2013, and an amendment to permit minor layout changes; and

WHEREAS, a public hearing was held on this application on August 20, 2013, after due notice by publication in *The City Record*, and then to decision on September 17, 2013; and

WHEREAS, Community Board 3, Queens, recommends approval of this application; and

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

WHEREAS, the subject site is located on the northwest corner of the intersection of Roosevelt Avenue and 77th Street, within a C2-3 (R6) zoning district; and

WHEREAS, the site is occupied by an eating and drinking establishment with entertainment, operated as Club Evolution, within a portion of a one-story building that occupies the entire zoning lot; and

WHEREAS, the building is also occupied by an enclosed garage for five vehicles, a restaurant (owned by the owner of the subject eating and drinking establishment), and

four retail stores; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 13, 2001, when, under the subject calendar number, the Board granted a special permit under ZR § 73-244 to permit the legalization of an existing eating and drinking establishment with entertainment and dancing; and

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

WHEREAS, most recently, on May 11, 2010, the Board granted a three-year extension of term, which expired on March 13, 2013; and

WHEREAS, the applicant now requests an extension of term and an amendment of the resolution to permit a change in the location of the steps leading to the DJ booth and the addition of an elevated platform across from the bar; and

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

*Therefore it is Resolved*, that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on March 13, 2001, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: “to extend the term for a period of three years from March 13, 2013, to expire on March 13, 2016, *on condition* that the use and operation shall substantially conform to the previously approved drawings; and *on further condition*:

THAT the term of this grant shall expire on March 13, 2016;

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

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect and shall be listed on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; 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.” (DOB Application No. 401018206)

Adopted by the Board of Standards and Appeals, September 17, 2013.

**220-07-BZ**

APPLICANT – Eric Palatnik, P.C., for Kornst Holdings, LLC, owner.

SUBJECT – Application July 11, 2013 – Extension of time to complete construction of a previously granted variance (§72-21) which permitted the construction of a new four-story residential building containing four dwelling units, which expires on November 10, 2013. M1-1 zoning district. PREMISES AFFECTED – 847 Kent Avenue, East side of Kent Avenue, between Park Avenue and Myrtle Avenue, Block 1898, Lot 10, Borough of Brooklyn.

# MINUTES

## COMMUNITY BOARD #3BK

**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 Montanez .....5

Negative:.....0

**THE RESOLUTION** –

WHEREAS, this is an application for an extension of time to complete construction of a four-story residential building (Use Group 2) within an M1-1 district, contrary to ZR § 42-10; the time to complete construction expires on November 10, 2013; and

WHEREAS, a public hearing was held on this application on August 20, 2013, after due notice by publication in *The City Record*, and then to decision on September 17, 2013; and

WHEREAS, the site is located on the east side of Kent Avenue between Park Avenue and Myrtle Avenue within an M1-1 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since November 10, 2009 when, under the subject calendar number, the Board granted a use variance to permit the construction of a four-story residential building (Use Group 2) in an M1-1 zoning district; under the terms of the grant, the applicant had four years in which to complete construction and obtain a certificate of occupancy, in accordance with ZR § 72-23; and

WHEREAS, the applicant represents that construction has not commenced at the site due to the prior owner's financial difficulties and that, consequently, construction will not be complete and a certificate of occupancy will not be issued by November 10, 2013; and

WHEREAS, thus, the applicant requests a four-year extension of time to complete construction; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to complete construction 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 November 10, 2009, so that as amended this portion of the resolution shall read: "to grant an extension of time to complete construction for a term of four years, to expire on September 17, 2017; *on condition* that the use and operation of the site shall comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT substantial construction shall be completed by September 17, 2017;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB Application No. 310020410)

Adopted by the Board of Standards and Appeals September 17, 2013.

## 519-57-BZ

APPLICANT – Eric Palatnik, P.C., for BP Amoco Corporation, owner.

SUBJECT – Application June 19, 2013 – Extension of term (§11-411) of an approved variance which permitted the operation and maintenance of a gasoline service station (Use Group 16B) and accessory uses, which expired on June 19, 2013. R3-1/C2-1 zoning district.

PREMISES AFFECTED – 2071 Victory Boulevard, northwest corner of Bradley Avenue and Victory Boulevard, Block 462, Lot 35, Borough of Staten Island.

## COMMUNITY BOARD #1SI

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

## 189-96-BZ

APPLICANT – John C Chen, for Ping Yee, owner; Club Flamingo, lessee.

SUBJECT – Application May 14, 2013 – Extension of Term of a previously granted Special Permit (§73-244) of a UG12 Eating and Drinking establishment with entertainment and dancing, which expires on May 19, 2013. C2-3/R6 zoning district.

PREMISES AFFECTED – 85-10/12 Roosevelt Avenue, south side of Roosevelt Avenue, 58' east side of Forley Street, Block 1502, Lot 4, Borough of Queens.

## COMMUNITY BOARD #4Q

**ACTION OF THE BOARD** – Laid over to October 8, 2013, at 10 A.M., for continued hearing.

## APPEALS CALENDAR

### 272-12-A

APPLICANT – Michael Cetera, for Aaron Minkowicz, owner.

SUBJECT – Application September 6, 2012 – Appeal challenging Department of Buildings' determination that an existing non-conforming single family home may not be enlarged per §52-22. R2 zoning district.

PREMISES AFFECTED – 1278 Carroll Street, between Brooklyn Avenue and Carroll Avenue, Block 1291, Lot 19, Borough of Brooklyn.

## COMMUNITY BOARD #9BK

**ACTION OF THE BOARD** – Appeal Denied.

# MINUTES

## THE VOTE TO GRANT –

Affirmative: .....0

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

## THE RESOLUTION –

WHEREAS, the subject appeal comes before the Board in response to a Final Determination, dated August 14, 2012, issued by the Department of Buildings (“DOB”) (the “Final Determination”); and

WHEREAS, the Final Determination states, in pertinent part:

The request to allow structural alterations to the existing attached single-family residence that is substantially occupied by a non-conforming use within the R2 district in order to accommodate the proposed horizontal enlargement at the rear is hereby denied.

Within the R2 district, only single-family detached residences in Use Group 1 are permitted residential uses, in accordance with ZR 22-00. The existing attached single-family residence is non-conforming Use Group 2. For the existing building that is substantially occupied by a non-conforming use, no structural alterations are permitted, per ZR 52-22; and

WHEREAS, a public hearing was held on this appeal on July 23, 2013, after due notice by publication in *The City Record*, and then to decision on September 17, 2013; and

WHEREAS, the site had visits by Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, the appeal is filed on behalf of the owner of the subject site, who contends that DOB’s determination was erroneous (the “Appellant”); and

WHEREAS, DOB and the Appellant have been represented by counsel throughout this appeal; and

WHEREAS, the site is located on the south side of Carroll Street, between New York Avenue and Brooklyn Avenue, within an R2 zoning district; and

WHEREAS, the site is occupied by an attached, three-story, single-family residential building (the “Building”); and

WHEREAS, the last-issued certificate of occupancy for the Building, No. 112580, issued June 4, 1945, authorizes an accessory doctor’s office on the first story and a single-family residence on the second and third stories; and

WHEREAS, on August 23, 2007, the Appellant obtained Permit No. 302240625 to perform certain work at the Building, including removal of the accessory doctor’s office, various structural alterations (the “Permit”), and the construction of a rear extension; and

WHEREAS, by letter dated May 20, 2009, DOB notified the Appellant that the Permit was issued in error, and by letter dated September 2, 2010, DOB revoked the Permit; and

WHEREAS, at the Appellant’s request, DOB reviewed the grounds for the Permit revocation and on August 14, 2012,

DOB issued the Final Determination, affirming its earlier determination that the Permit was issued in error, and clarifying that the Permit failed to comply with ZR § 52-22, in that it authorized structural alterations to a building substantially occupied by a non-conforming use; and

WHEREAS, the Appellant requests that the Board reject DOB’s determination that the Building is substantially occupied by a non-conforming use, and either: (1) confirm that the Building is occupied by a conforming use and that the Permit authorized an alteration to a non-complying building in accordance with ZR § 54-31; or (2) confirm that although the Building is substantially occupied by a non-conforming use, the Permit authorized structural alterations performed in order to accommodate a conforming use, in accordance with ZR § 52-22; and

## RELEVANT ZONING RESOLUTION PROVISIONS

### *ZR § 12-10 Definitions*

#### Attached (Building)

A #Building# shall be considered #attached# when it #abuts# two #lot lines# other than a #street line#, or another #Building# or #Buildings# other than a #semi-detached Building#.

#### Detached (Building)

A "detached" #Building# is a #Building# surrounded by #yards# or other open area on the same #zoning lot#.

\* \* \*

#### Non-complying, or non-compliance

A "non-complying" #Building or other structure# is any lawful #Building or other structure# which does not comply with any one or more of the applicable district #bulk# regulations either on December 15, 1961 or as a result of a subsequent amendment thereto.

A "non-compliance" is a failure by a #non-complying Building or other structure# to comply with any one of such applicable #bulk# regulations.

\* \* \*

#### Non-conforming, or non-conformity

A "non-conforming" #use# is any lawful #use#, whether of a #Building or other structure# or of a #zoning lot#, which does not conform to any one or more of the applicable #use# regulations of the district in which it is located, either on December 15, 1961 or as a result of any subsequent amendment thereto; and

\* \* \*

#### Single-family residence

A "single-family residence" is a #Building# containing only one #dwelling unit#, and occupied by only one #family#.

### *ZR § 22-00 General Provisions*

#### Use Groups Permitted in Residence Districts

##### USE GROUPS

Residential | Community Facility

# MINUTES

Districts	1	2	3	4
#Single-family detached residences#	R2	x		x
				x

## ZR §22-11 Use Group 1

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

Use Group 1 consists of #single-family detached residences#

A. #Residential uses#

#single-family detached residences#

B. #Accessory uses#

\*\*\*

## ZR §22-12 Use Group 2

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

Use Group 1 consists of all other types of #residences#

\*\*\*

## ZR § 52-22 Structural Alterations

No structural alterations shall be made in a #Building or other structure# substantially occupied by a #non-conforming use#, except when made:

- in order to comply with requirements of law; or
- in order to accommodate a conforming #use#; or
- in order to conform to the applicable district regulations on performance standards; or
- in the course of an #enlargement# permitted under the provisions of Sections 52-41 to 52-46, inclusive, relating to Enlargements or Extensions, or except as set forth in Sections 52-81 to 52-83, inclusive, relating to Regulations Applying to Non-Conforming Signs; and

## THE APPELLANT'S POSITION

WHEREAS, the Appellant asserts that: (1) the Building is occupied by a conforming use and that the Permit authorized an alteration to a non-complying building in accordance with ZR § 54-31; or (2) in the alternative, although the Building is occupied by a non-conforming use, the Permit authorized structural alterations performed in order to accommodate a conforming use pursuant to ZR § 52-22, in that the enlarged portion of the building provided complying side yards and contained a conforming use (a single-family residence); and

WHEREAS, the Appellant contends that the Building is a non-complying building occupied by a conforming use in an R2 district, and that the Permit authorized an alteration permitted under ZR § 54-31; and

WHEREAS, the Appellant states that, under the Zoning Resolution, a "use" is not a Use Group; while a use is the purpose for which a building is designed or arranged, a Use Group is a mere classification; and

WHEREAS, as such, the prohibition of a Use Group does not mean the use type—single-family residence, multi-family residence, college, eating and drinking establishment—

classified in that Use Group is necessarily prohibited; and

WHEREAS, the Appellant states that because the Building is the residence for a single family, such use falls within Use Group 1, which per ZR § 22-11, consists of "single-family detached residences"; and

WHEREAS, the Appellant asserts that whether the Building is attached or detached is a bulk consideration, and is not determinative on the question of whether the use occupying the Building is conforming or non-conforming; thus, the Appellant contends that although Use Group 2 (which per ZR § 22-12, consists of all types of residences other than "single-family detached residences") is prohibited in an R2 district, because single-family residences *are* permitted, the Building, which is an attached single-family residence is considered a conforming use, and the fact that such Building is attached rather than detached merely renders the Building non-complying; and

WHEREAS, the Appellant asserts that as a non-complying building occupied by a conforming use, the Building may be altered in accordance with Article V, Chapter 4, which governs non-complying buildings; and

WHEREAS, accordingly, the Appellant contends that the Permit, which authorized the construction of an addition at the rear of the Building that complied with the bulk requirements applicable in an R2 district, was properly issued and should not have been revoked; and

WHEREAS, the Appellant notes that DOB previously supported its interpretation classifying the Building as a non-complying building occupied by a conforming use, and specifically authorized structural alterations and the construction of an addition at the rear of the Building, provided that such addition included side yards complying with the underlying district regulations; and

WHEREAS, further, DOB approved seven other permit applications filed by the Appellant between 2001 and 2007 and proposing structural alterations to single-family attached buildings within the subject R2 district; in each case, the Appellant asserts that DOB approved the applications as permitted alterations to non-complying buildings and never classified the buildings as occupied by non-conforming use; thus, the Appellant asserts that DOB has arbitrarily changed its interpretation of the Zoning Resolution; and

WHEREAS, in the alternative, the Appellant states that the Permit authorized structural alterations to a building substantially occupied by a non-conforming use and that such alterations were to accommodate a conforming use and were permitted by ZR § 52-22; and

WHEREAS, the Appellant asserts that even if the use of the Building is considered "non-conforming" because it is not an attached single-family residence, the work proposed under the Permit is properly classified as structural alterations made in order to accommodate a conforming use; and

WHEREAS, the Appellant states that the Permit authorizes the construction of a building segment that, unlike the existing Building, is not attached to the buildings on the adjacent lots; as such, this portion of the Building is occupied by a "detached single-family residence," which is a

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conforming use in the R2 district; and

WHEREAS, accordingly, the Appellant states that the Permit authorized structural alterations in order to accommodate a conforming use; and

WHEREAS, the Appellant asserts that the instant appeal is distinguishable from the Board's decision in BSA Cal. No. 16-96-A (Pleasant Valley Village, Staten Island) primarily on the ground that that case involved the Board's classification of new attached buildings as non-conforming under ZR § 22-12 following a rezoning of the district from R3-2 to R3A, while this case involves the extension of a single existing attached building and no rezoning; and

WHEREAS, finally, the Appellant asserts that the owner acquired a common law vested right to complete construction and obtain a certificate of occupancy because it: (1) completed work under the Permit prior to DOB's new interpretation of the Zoning Resolution and prior to February 2, 2011 (the effective date of the Key Terms Amendment, which the Appellant suggests gave rise to DOB's new interpretation); (2) made substantial expenditures; and (3) would suffer serious loss if the vested right is not recognized; and

## DOB'S POSITION

WHEREAS, DOB asserts that: (1) the Building is substantially occupied by a non-conforming use; and (2) the Permit erroneously authorized structural alterations and was properly revoked; and

WHEREAS, DOB states that the Building contains non-conforming uses and is restricted by ZR § 52-22's limitations on structural alterations in a building occupied by non-conforming uses; and

WHEREAS, DOB notes that pursuant to ZR § 52-22, "no structural alterations shall be made in a building or other structure substantially occupied by a non-conforming use"; and

WHEREAS, DOB states that ZR § 12-10 defines a non-conforming use as "any lawful use . . . of a building or other structure . . . which does not conform to any one or more of the applicable use regulations of the district in which it is located, either on December 15, 1961 or as a result of any subsequent amendment thereto"; and

WHEREAS, DOB states that the 1945 CO for the Building authorizes a single-family residence and an accessory doctor's office as lawful uses in the Building, which is an attached, row-house style building; and

WHEREAS, DOB contends that at the time that the Permit was issued (as now), only single-family detached residences (Use Group 1) and accessory uses are allowed as-of-right in the R2 district, per ZR § 22-11; and

WHEREAS, DOB states that all other types of residences (including single-family attached residences) are classified under Use Group 2, per ZR § 22-12; and

WHEREAS, DOB states that ZR § 22-00 does not allow Use Group 2 uses in the R2 district; and

WHEREAS, accordingly, DOB contends that the Building is substantially occupied by a non-conforming use; and

WHEREAS, DOB asserts that the Permit authorized structural alterations contrary to ZR § 52-22; and

WHEREAS, specifically, DOB states that the work includes structural alteration of portions of the Building consisting of the construction of new floors, walls and window openings as well as the lowering of foundations; and

WHEREAS, DOB notes that while there are exceptions to ZR § 52-22's general prohibition on structural alteration, none applies in this case; and

WHEREAS, DOB disagrees with the Appellant that the structural alterations are "made in order to accommodate a conforming use" in accordance with exception (b), because DOB finds that the existing use and the use proposed within the new portion of the Building are both non-conforming Use Group 2; DOB notes that the new portion of the Building is fully integrated with the existing portion of the Building and that the Building, as a whole, contains a single-family attached residence; and

WHEREAS, as to the prior erroneous interpretations involving existing single-family attached residences cited by the Appellant, DOB states that ZR § 22-11 was apparently misinterpreted as a bulk regulation in the respect that it requires single-family residences to be configured so that they are surrounded by yards or other open area on a zoning lot; however, DOB represents that this reading is plainly incorrect since ZR § 22-11 is a use regulation found under Article II Chapter 2 use regulations and not in the Chapter 3 bulk regulations; and

WHEREAS, DOB also states that given that a non-conforming use is defined in ZR § 12-10 as a lawful use of a building which does not conform to any one or more of the applicable use regulations of the district in which it is located on December 15, 1961, and that the use regulation ZR § 22-11 effective in 1961 only allows single-family detached residences in the R2 zoning district, the Building is occupied by a non-conforming use; thus, DOB asserts that no rational explanation can be provided to support the interpretation that an attached single-family residence is a conforming use in the R2 district, where only single-family detached residences are permitted; and

WHEREAS, DOB notes that it has applied the law correctly in the past, and it cites the position it took in BSA Cal. No. 16-96-A; in that case, DOB properly classified multi-family residences rezoned from the R3-2 zoning district to the R3A zoning district as construction that will be non-conforming under ZR § 22-12, which prohibits multi-family buildings in the R3A district; and

WHEREAS, as to the Appellant's argument that the portion of the Building created under the Permit should be treated as a detached building because it is surrounded by two side yards, and therefore is complying construction, DOB asserts that such an interpretation is unsupported by the ZR § 12-10 definitions of "detached," "attached," "semi-detached" and "abut"; and

WHEREAS, further, DOB states that the Zoning Resolution classifies an entire building as being within the category of attached, detached or semi-detached, and does

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not classify portions of buildings in different categories; accordingly, DOB asserts the new portion of the Building is properly classified as a portion of an attached building, rather than a separate detached building; and

WHEREAS, therefore, DOB contends that it properly revoked the Permit as authorizing structural alterations to a Building substantially occupied by a non-conforming use, in violation of ZR § 52-22; and

## CONCLUSION

WHEREAS, the Board agrees with DOB that the Permit erroneously authorized structural alterations to a building substantially occupied by a non-conforming use; and

WHEREAS, the Board finds that, according to the plain text of ZR § 22-11, single-family detached residences and their accessory uses are classified as Use Group 1, and, all other types of residences are, per ZR § 22-12, classified as Use Group 2; and

WHEREAS, the Board agrees with DOB that the use of the Building is properly classified—both prior to the issuance of the Permit (when the Building included a residence and an accessory doctor's office), and as altered by the Permit—as a single-family attached residence (Use Group 2); and

WHEREAS, the Board finds that according to ZR § 22-00, only Use Group 1 is permitted as-of-right in an R2 district; and

WHEREAS, the Board finds that ZR §§ 22-00, 22-11 and 22-12 are use regulations and a failure to adhere to a use regulation, renders a use, by definition, a non-conforming use; and

WHEREAS, accordingly, the Board finds that the Building is substantially occupied by a non-conforming Use Group 2 use; and

WHEREAS, the Board rejects the Appellant's assertion that because an R2 district permits single-family residences and prohibits attached buildings, its use is conforming and its building is non-complying; the Board finds that such an interpretation is clearly contrary to the plain text of ZR § 22-11; and

WHEREAS, the Board notes that while the Building may also be a non-complying building subject to Article V, Chapter 4, it is further restricted by the applicable provisions of Article V, Chapter 2, including ZR § 52-22, which prohibits structural alterations; and

WHEREAS, additionally, the Board disagrees with the Appellant that the Permit authorized structural alterations made to accommodate a conforming use pursuant to ZR § 52-22(b); and

WHEREAS, the Board agrees with DOB that the structural alterations were made to expand the living space of the single-family attached residence; thus, they were made to accommodate the existing, non-conforming use; and

WHEREAS, the Board rejects the Appellant's argument that because complying yards were provided in the new portion of the Building, the use within that portion is considered conforming single-family detached residence (Use Group 1); and

WHEREAS, the Board finds no authority for such a

proposition in the Zoning Resolution, and finds the assertion particularly dubious in this case given that the plans show that the new portion of the Building is fully integrated with the existing portion of the Building and that the Building, as a whole, contains a residence for a single family; and

WHEREAS, turning to the Appellant's arguments regarding the Board's precedent, the Board notes, as DOB observed, that in BSA Cal. No. 16-96-A, it classified multi-family residences rezoned from the R3-2 zoning district to the R3A zoning district as construction that will be non-conforming under ZR § 22-12, which prohibits multi-family buildings in the R3A district; and

WHEREAS, the Board rejects the Appellant's assertion that BSA Cal. No. 16-96-A is distinguishable because new buildings were involved rather than an existing building; that new buildings were involved was not relevant to the question of whether such building became non-conforming as a result of a rezoning; rather, the classification of the buildings was based—as it is in this case—on the definition of “non-conforming”, and just as the new buildings in BSA Cal. No. 16-96-A did not comply with a use regulation as a result of an amendment to the Zoning Resolution, so does the Building in this case not comply with a use regulation that became effective when the Zoning Resolution was adopted; and

WHEREAS, further, the Board notes that, more recently, in BSA Cal. No. 306-05-BZ (206A Beach 3rd Street, Queens), the Board found that “the use of the property for attached residences, is specifically not permitted by the use provisions ZR § 22-00 in an R3X district; and therefore, the proposed development is non-conforming as to use”; and

WHEREAS, as to the Appellant's assertion that the owner is entitled to a common law vested right to complete construction, the Board does not agree; and

WHEREAS, the Board notes that a common law vested right to continue construction after a change in zoning generally exists if the owner has undertaken substantial construction, made substantial expenditures, and serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, thus, vested right cases by their very nature involve the prerequisite of an amendment to the Zoning Resolution that changes the law under which the permit was approved; in the instant matter, the Board finds that the Appellant lacks both; and

WHEREAS, for reasons already discussed, the Board finds that the owner does not possess a lawfully issued permit because the Permit was issued contrary to the clear and unambiguous requirements of ZR § 52-22, which, the Board notes, has not been amended since 1989; and

WHEREAS, further, the Board finds that although the Appellant generally identifies the Key Terms Amendment as the amendment that resulted in DOB's interpretation that the Building is occupied by a non-conforming use, the Appellant does not specify which provision(s) were amended and how such amendment(s) resulted in DOB's interpretation; the Board notes that DOB makes no such assertion; on the contrary DOB asserts that its interpretation is long-standing;

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and

WHEREAS, likewise, the Board is unaware of anything in the Key Terms Amendment that would compel a different interpretation of ZR § 52-22 (or ZR §§ 12-10, 22-00, 22-11 or 22-12, for that matter); accordingly, it is unnecessary to determine whether the owner has undertaken substantial construction or made substantial expenditures, and the Board rejects the Appellant's request for recognition of a vested right; and

WHEREAS, finally, the Board notes that while DOB may have historically approved applications contrary to ZR § 52-22, the Court of Appeals has held that DOB cannot be estopped from revoking its approval of a building permit issued in violation of the Zoning Resolution (Parkview Associates v. City of New York, 71 N.Y.2d 274 (1988)); and

*Therefore it is Resolved*, that the Board denies the appeal and affirms DOB's revocation of the Permit based on its determination that the Permit erroneously authorized structural alterations to a building substantially occupied by a non-conforming use, in violation of ZR § 52-22.

Adopted by the Board of Standards and Appeals, September 17, 2013.

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## 70-13-A

APPLICANT – Goldman Harris LLC, for JIM Trust (c/o Esther Freund), owners; OTR Media Group, Inc., lessee.  
SUBJECT – Application February 13, 2013 – Appeal of Department of Buildings' determination that the subject advertising sign is not entitled to non-conforming use status.

M1-2/R6 (MX-8) zoning districts.  
PREMISES AFFECTED – 84 Withers Street, between Meeker Avenue and Leonard Street on the south side of Withers Street, Block 2742, Lot 15, Borough of Bronx.

### COMMUNITY BOARD #1BX

**ACTION OF THE BOARD** – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Negative:.....0

Adopted by the Board of Standards and Appeals, September 17, 2013.

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## 41-11-A

APPLICANT – Eric Palatnik, P.C., for Sheryl Fayena, owner.

SUBJECT – Application April 12, 2011 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development under the prior R-6 zoning district. R4 Zoning District.

PREMISES AFFECTED – 1314 Avenue S, between East 13th and East 14th Streets, Block 7292, Lot 6, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

**ACTION OF THE BOARD** – Laid over to October

29, 2013, at 10 A.M., for continued hearing.

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## 29-12-A

APPLICANT – Vincent Brancato, owner  
SUBJECT – Application February 8, 2012 – Appeal seeking to reverse Department of Building's padlock order of closure (and underlying OATH report and recommendation) based on determination that the property's commercial/industrial use is not a legal non-conforming use. R3-2 Zoning district.

PREMISES AFFECTED – 159-17 159<sup>th</sup> Street, Meyer Avenue, east of 159<sup>th</sup> Street, west of Long Island Railroad, Block 12178, Lot 82, Borough of Queens.

### COMMUNITY BOARD #12Q

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to October 8, 2013, at 10 A.M., for decision, hearing closed.

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## 71-13-A

APPLICANT – Goldman Harris LLC, for Tuck-It-Away Associates-Deegan, LLC, owners; OTR Media Group, Inc., lessee.

SUBJECT – Application February 13, 2013 – Appeal of Department of Buildings' determination that the subject advertising sign is not entitled to non-conforming use status. M1-4 /R6A (MX-13) zoning districts.

PREMISES AFFECTED – 261 Walton Avenue, through-block lot on block bounded by Gerard and Walton Avenues and East 138th and 140th Streets, Block 2344, Lot 60, Borough of Bronx.

### COMMUNITY BOARD #1BX

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

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## 75-13-A

APPLICANT – Law Office of Fredrick A. Becker, for 5 Beekman Property Owner LLC by Ilya Braz, owner.

SUBJECT – Application February 20, 2013 – Appeal of §310(2) of the MDL relating to the court requirements (MDL §26(7)) to allow the conversion of an existing commercial building to a transient hotel. C5-5(LM) zoning district.

PREMISES AFFECTED – 5 Beekman Street, south side of Beekman Street from Nassau Street to Theater Alley, Block 90, Lot 14, Borough of Manhattan.

### COMMUNITY BOARD #1M

**ACTION OF THE BOARD** – Laid over to October 8, 2013, at 10 A.M., for deferred decision.

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## 87-13-A

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

SUBJECT – Application March 6, 2013 – Appeal challenging Department of Buildings’ determination that the existing sign is not entitled to non-conforming use status. C6-1G zoning district.

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

### COMMUNITY BOARD #3M

**ACTION OF THE BOARD** – Laid over to September 24, 2013, at 10 A.M., for adjourned hearing.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*

## ZONING CALENDAR

### 61-13-BZ

#### CEQR #13-BSA-093M

APPLICANT – Ellen Hay, Slater & Beckerman, P.C., for B. Bros. Broadway Realty, owner; Crunch LLC, lessee.

SUBJECT – Application February 7, 2013 – Special Permit (§73-36) to legalize the operation of a physical culture establishment (*Crunch*). M1-6GC zoning district.

PREMISES AFFECTED – 1385 Broadway, west side Broadway between West 37th and West 38th Streets, Block 813, Lot 55, 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 Otley-Brown, Commissioner Hinkson and Commissioner Montanez .....5

Negative:.....0

#### THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated January 9, 2013, acting on Department of Buildings Application No. 121517670, reads in pertinent part:

Proposed Physical Culture Establishment within M1-6 zoning district is not permitted as-of-right and a special permit from the Board of Standards and Appeals is required; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in an M1-6 zoning district within the Special Garment District, the legalization of an existing physical culture establishment (“PCE”) in portions of the cellar, first floor, mezzanine, and second floor of an existing 23-story commercial building, contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this

application on August 13, 2013, after due notice by publication in *The City Record*, and then to decision on September 17, 2013; and

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

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

WHEREAS, the subject site is located on the southwest intersection of West 38th Street and Broadway, within an M1-6 zoning district within the Special Garment District; and

WHEREAS, the site has 104 feet of frontage along Broadway, 174.51 feet of frontage along West 38th Street and 18,850 sq. ft. of lot area; and

WHEREAS, the site is occupied by a 23-story commercial building; and

WHEREAS, the PCE occupies approximately 20,168 sq. ft. of floor area in the first floor, mezzanine, and second floor of the building, with additional space in the cellar; and

WHEREAS, the Board has exercised jurisdiction over the subject site since February 8, 2000, when, under BSA Cal. No. 138-99-BZ, the Board permitted the legalization of an existing PCE operating in portions of the cellar, first floor, mezzanine, and second floor, for a term of nine years, to expire on April 22, 2009; and

WHEREAS, the applicant notes that the PCE has been in operation since the expiration of the prior grant in 2009; and

WHEREAS, the PCE is currently operated as Crunch; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; the applicant states that massages will not be performed at the PCE; and

WHEREAS, the hours of operation for the PCE will be Monday through Thursday, from 5:30 a.m. to 10:00 p.m., Friday from 5:30 a.m. to 9:00 p.m., Saturday, from 8:00 a.m. to 6:00 p.m., and closed Sunday; and

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

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

WHEREAS, 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 Board notes that the term of this grant has been reduced to reflect the operation of the PCE after the expiration of the special permit granted under BSA Cal. No. 138-99-BZ on April 22, 2009 until the date of this grant; and

WHEREAS, the Board finds that, under the conditions

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 13BSA093M, dated February 7, 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 in an M1-6 zoning district within the Special Garment District, the legalization of an existing PCE in portions of the cellar, first floor, mezzanine, and second floor of an existing 23-story commercial building, contrary to ZR § 42-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received July 24, 2013" – Six (6) sheets; and *on further condition*:

THAT the term of this grant will expire on April 22, 2019;

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

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, September 17, 2013.

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## **82-13-BZ CEQR #13-BSA-106K**

APPLICANT – Law Office of Fredrick A. Becker, for Michal Cohen and Isaac Cohen, owners.

SUBJECT – Application March 1, 2013 – Special Permit (§73-622) for the enlargement of an existing single-family home, contrary to floor area (§23-141), side yards (§23-461) and less than the required rear yard (§23-47). R5 zoning district.

PREMISES AFFECTED – 1957 East 14th Street, east side of East 14th Street between Avenue S and Avenue T, Block 7293, Lot 64, 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 Otteley-Brown, Commissioner Hinkson and Commissioner Montanez .....5  
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 30, 2013, acting on Department of Buildings Application No. 320470496, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141 in that the proposed floor area ratio exceeds the maximum permitted;
2. Proposed plans are contrary to ZR 23-461 in that the proposed side yards are less than the minimum required;
3. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R5 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this

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application on August 13, 2013, after due notice by publication in *The City Record*, and then to decision on September 17, 2013; and

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

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

WHEREAS, the subject site is located on the east side of East 14th Street, between Avenue S and Avenue T, within an R5 zoning district; and

WHEREAS, the site has a total lot area of 4,000 sq. ft. and is occupied by a single-family home with a floor area of 2,673.5 sq. ft. (0.67 FAR); and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from of 2,673.5 sq. ft. (0.67 FAR) to 5,059.11 (1.27 FAR); the maximum permitted floor area is 5,000 sq. ft. (1.25 FAR); and

WHEREAS, the applicant also proposes to decrease its rear yard depth from 38'-7" to 20'-0" (a minimum rear yard depth of 30'-0" is required) and maintain its existing side yards, which have widths of 4'-0" and 7'-0" (the requirement is two side yards with a minimum total width of 13'-0" and a minimum width of 5'-0" each); and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, in particular, the applicant represents that the proposed 1.27 FAR is consistent with the bulk in the surrounding area and notes that there are five homes on the block directly west of the subject block (Block 7292) and seven homes on the block directly east of the subject block (Block 7294) with an FAR of 1.28 or greater; and

WHEREAS, accordingly, the Board agrees with the applicant that the proposed bulk is compatible with the character of the neighborhood; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-622 and 73-03.

*Therefore it is resolved*, that the Board of Standards

and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R5 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received July 25, 2013"- (10) sheets and "September 3, 2013"-(1) sheet; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 5,059.11 (1.27 FAR), a minimum rear yard depth of 20'-0", and side yards with minimum widths of 4'-0" and 7'-0", as illustrated on the BSA-approved plans;

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

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

Adopted by the Board of Standards and Appeals, September 17, 2013.

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## **96-13-BZ CEQR #13-BSA-117X**

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Urban Health Plan, Inc., owner.

SUBJECT – Application April 2, 2013 – Variance (§72-21) to permit construction of ambulatory diagnostic treatment health facility (UG4), contrary to rear yard regulations (§23-47). R7-1 and C1-4 zoning districts.

PREMISES AFFECTED – 1054 Simpson Street, 121.83 feet north of intersection of Westchester Avenue, Block 2727, Lot 4, Borough of Bronx.

### **COMMUNITY BOARD #2BX**

**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 Montanez .....5  
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough Commissioner, dated February 25, 2013, acting on Department of Buildings ("DOB") Application No.

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210032249, reads in pertinent part:

Proposed ambulatory diagnostic treatment health care facility (UG-4) in an R7-1 and C1-4 (R7-1) zoning district without the required rear yard in the R7-1 portion of the site is contrary to ZR Section 23-46; and

WHEREAS, this is an application under ZR § 72-21, to permit the construction of a six-story and one-story ambulatory diagnostic and treatment health care facility (Use Group 4), the one-story portion of which does not provide the required rear yard, contrary to ZR § 24-36; and

WHEREAS, a public hearing was held on this application on July 9, 2013, after due notice by publication in the *City Record*, with a continued hearing on August 13, 2013, and then to decision on September 17, 2013; and

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

WHEREAS, this application is brought on behalf of Urban Health Care Plan, Inc. ("Urban Health"), a not-for-profit institution; and

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

WHEREAS, City Councilmember Maria del Carmen Arroyo provided written testimony in support of this application; and

WHEREAS, the subject site is a square interior lot located on the east side of Simpson Street between Westchester Avenue and East 167th Street, partially within an R7-1 zoning district and partially within an R7-1 (C1-4) zoning district; and

WHEREAS, the site has 100 feet of frontage along Simpson Street, a lot depth of 100 feet, a lot area of 10,000 sq. ft., and was previously occupied as a parking lot; and

WHEREAS, the applicant represents that on March 10, 2011, DOB issued Permit No. 210032249-01-NB (the "Permit") for the construction of a six-story ambulatory diagnostic and treatment health care facility (Use Group 4) with 43,233 sq. ft. of floor area (4.3 FAR); and

WHEREAS, the applicant states that the Permit erroneously authorized construction within the required rear yard contrary to ZR § 24-36 and construction commenced; subsequently, the error was discovered; and

WHEREAS, accordingly, the applicant filed the subject variance seeking to proceed according to the original design (the "Proposed Facility"), which was for a six-story building that included a one-story portion (23'-0" in height) with a basement and a cellar within the 30-foot required rear yard for the full width of the R7-1 portion of the zoning lot; the applicant notes that the one-story building extends the full width of the zoning lot but it is a permitted obstruction within the R7-1 (C1-4) portion of the zoning lot; and

WHEREAS, the applicant notes that Urban Health is a well-established, nationally-recognized community health center, which has existed in the South Bronx for nearly 40 years, and works closely with neighborhood hospitals,

schools, and community organizations, including Bronx Lebanon Hospital, the Lincoln Medical and Mental Health Center, New York Presbyterian Hospital, the Jane Addams Academic Careers High School, PS 48, 75, 333 and 335, and the St. Vincent de Paul Adult Day Treatment Program; and

WHEREAS, the applicant represents that Urban Health's stated mission is to continuously improve the health status of underserved communities by providing affordable, comprehensive, and high-quality primary and specialty medical care in a culturally proficient, barrier free, individualized, and family-oriented manner, with an emphasis on prevention through education; and

WHEREAS, the applicant states that Urban Health seeks a variance due to the tremendous success of its existing health care facility at 1050 Southern Boulevard (the "Southern Boulevard Facility"), which abuts a portion of the rear lot line of the site and provides medical care to a growing number of patients, many of whom lack insurance and would otherwise seek care within a hospital emergency room; and

WHEREAS, the applicant notes that the closure of Westchester Square Hospital has significantly increased the demand for such services, and the applicant represents that the Proposed Facility will allow Urban Health to increase the number of patient visits per year from approximately 200,000 to approximately 400,000; and

WHEREAS, the applicant states that the Proposed Facility will include the following: (1) in the cellar, a pediatrics unit with a variety of exam and treatment rooms, and storage, employee lockers and bathrooms, and mechanical rooms; (2) at the basement level, the Adult Walk-in Unit waiting room, exam and treatment rooms, and staff support areas; (3) on the first floor, the Adult Medicine Appointment Unit exam and treatment rooms; (4) on the second floor, administrative offices, and obstetrics and gynecology facilities; (5) on the third floor, specialized pediatric facilities; (6) on the fourth floor, mental health facilities, a multi-purpose room, and a conference room; and (7) on the fifth floor, the staff dining room and exercise facility; and

WHEREAS, the applicant represents that the following are unique physical conditions inherent to the zoning lot, which create practical difficulties and unnecessary hardship in developing the site in strict conformance with underlying zoning regulations: (1) the angle of the district boundary line across the site; and (2) the programmatic needs of Urban Health; and

WHEREAS, the applicant states that the site is divided by a district boundary in a manner that creates practical difficulties and unnecessary hardship; specifically, the boundary divides the site beginning in the southwest corner and running at an approximately 40-degree angle in a northeasterly direction and resulting in a site with two distinct portions: a southeast triangular-shaped portion that is fully within the R7-1 (C1-4) zoning district, where a building for an ambulatory and diagnostic health treatment facility is a permitted obstruction in the rear yard up to a height of 23 feet and a northwest trapezoidal-shaped portion that is fully within the R7-1 district where a building for an ambulatory and

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diagnostic health treatment facility is *not* a permitted obstruction in the rear yard; and

WHEREAS, thus, the applicant states that compliance with the rear yard requirements of both districts would result in undersized, oddly-shaped and inefficient floor plates at the basement and first story in the Proposed Facility and would prevent the connection of the Proposed Facility with the Southern Boulevard Facility; and

WHEREAS, the applicant states that the following are the programmatic needs of Urban Health, which require the requested waiver: (1) the ability to connect the Proposed Facility to the Southern Boulevard Facility in the area where the rear yard is required; (2) the need to fully utilize the portions of cellar, basement, and first floor (3,740 sq. ft. of floor space spanning three levels) that encroach upon the required rear yard but which were included in the original design and will accommodate vital functions of Urban Health; and

WHEREAS, as to the ability to connect the facilities, the applicant represents that interconnection allows the Proposed Facility to be integrated with the Southern Boulevard Facility, which will result in efficient distribution of patient care and staff resources; and

WHEREAS, as to the need to fully utilize all portions of the originally-designed basement and first floor, the applicant represents that, absent the requested waiver, it will be forced to reduce the Adult Walk-in Unit program floor space in the basement by 50 percent, resulting in a loss of 80 medical visits per day, and it will be forced to eliminate approximately 25 percent of the patient examination and treatment space on the first floor, resulting in a loss of approximately 50 medical visits and 25 counseling sessions per day; and

WHEREAS, accordingly, based upon the above, the Board finds that the angle of the district boundary line, when considered in conjunction with the programmatic needs of Urban Health, creates unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, accordingly, based upon the above, the Board finds that the limitations and inefficiencies of the site, when considered in conjunction with the programmatic needs of Urban Health, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since Urban Health is a non-profit institution and the variance is needed to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

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

WHEREAS, the applicant represents that the neighborhood is characterized by a mix of residential and community facility uses, except along Westchester Avenue

where the 2 and 5 trains run on elevated tracks, where commercial uses predominate; and

WHEREAS, the applicant represents that the Proposed Facility is harmonious with the surrounding neighborhood in terms of both use and bulk; and

WHEREAS, the applicant notes that the Proposed Facility complies with all use and bulk regulations of the underlying R7-1 and R7-1 (C1-4) zoning districts, with the exception of the rear yard requirement in the R7-1 portion of the lot for a distance of only 20 linear feet; further, the portion of the site for which the variance is sought directly abuts properties under the ownership and control of Urban Health; and

WHEREAS, the applicant also notes that it purchased the site in 1995 and could have constructed the proposal as-of-right until ZR § 24-33 was amended in 2004 to remove certain community facilities from the list of permitted obstructions within a required rear yard in an R7-1 zoning district; importantly, a community facility classified as a hospital (which performs many of the same functions as the Proposed Facility) would be a permitted obstruction up to a height of 23 feet under ZR § 24-33; thus, the proposal is within the spirit of the Zoning Resolution's preference in certain residential districts for community facilities that provide certain medical services; and

WHEREAS, finally, the applicant represents, as stated above, that Urban Health is a well-established, nationally recognized community health center, which has existed in the South Bronx for nearly 40 years and at the Southern Boulevard Facility since 2001; as such, the Proposed Facility will provide a direct benefit to members of the surrounding community by increasing the availability of health care and improving its quality; and

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

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

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

WHEREAS, as noted above, the Proposed Facility complies with all use and bulk regulations of the underlying R7-1 and R7-1 (C1-4) zoning districts, with the exception of the rear yard requirement in the R7-1 portion of the lot; and

WHEREAS, accordingly, the Board finds that the requested relief is the minimum necessary; and

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

*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

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the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit the construction of a six-story and one-story ambulatory diagnostic and treatment health care facility (Use Group 4), the one-story portion of which does not provide the required rear yard, contrary to ZR § 24-36; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received June 10, 2013"– fourteen (14) sheets and "Received August 5, 2013" – one (1) sheet; and *on further condition*;

THAT the following shall be the bulk parameters of the building: a maximum of 43,233 sq. ft. of floor area (4.3 FAR), a maximum of six stories, and a maximum building height of 72'-0", as indicated on the BSA-approved plans;

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

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

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

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

Adopted by the Board of Standards and Appeals, September 17, 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

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 October 22, 2013, at 10 A.M., for decision, hearing closed.

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## 279-12-BZ

APPLICANT – Akerman Senterfitt LLP, for Bacele Realty, owner.

SUBJECT – Application September 20, 2012 – Variance (§72-21) to permit a bank (UG 6) in a residential zoning district, contrary to §22-00. R4/R5B zoning district.

PREMISES AFFECTED – 27-24 College Point Boulevard, northwest corner of the intersection of College Point Boulevard and 28th Avenue, Block 4292, Lot 12, Borough of Queens.

### COMMUNITY BOARD #7Q

**ACTION OF THE BOARD** – Laid over to October 8, 2013, at 10 A.M., for continued hearing.

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## 299-12-BZ

APPLICANT – Goldman Harris LLC, for 544 Hudson Street, owner.

SUBJECT – Application October 18, 2012 – Variance (§72-21) to permit the construction of a 12-story commercial building, contrary to floor area (§43-12), height and setback (§43-43), and rear yard (§43-311/312) regulations. M1-5 zoning district.

PREMISES AFFECTED – 40-56 Tenth Avenue, east side of Tenth Avenue between West 13th and West 14th Streets, Block 646, Lot 1, Borough of Manhattan.

### COMMUNITY BOARD #2M

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

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## 322-12-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Marc Edelstein, owner.

SUBJECT – Application December 6, 2012 – Variance (§72-21) to permit the enlargement of a single-family residence, contrary to open space and lot coverage (§23-141); less than the minimum required front yard (§23-45) and perimeter wall height (§23-631). R5 (OP) zoning district.

PREMISES AFFECTED – 701 Avenue P, 1679-87 East 7th Street, northeast corner of East 7th Street and Avenue P, Block 6614, Lot 60, 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 October 8, 2013, at 10 A.M., for decision, hearing closed.

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## 6-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Yeshiva Ohr Yisrael, owner.

SUBJECT – Application January 11, 2013 – Variance (§72-21) to permit the construction of a synagogue and school, contrary to floor area and lot coverage (§24-11), side yard (§24-35), rear yard (§24-36), sky exposure plane (§24-521), and parking (§25-31) regulations. R3-2 zoning district.

PREMISES AFFECTED – 2899 Nostrand Avenue, east side of Nostrand Avenue, Avenue P and Marine Parkway, Block 7691, Lot 13, Brooklyn of Brooklyn.

### COMMUNITY BOARD #18BK

**ACTION OF THE BOARD** – Laid over to October 29, 2013, at 10 A.M., for continued hearing.

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## 105-13-BZ

APPLICANT – Law Office of Fred A Becker, for Nicole Orfali and Chaby Orfali, owners.

SUBJECT – Application April 18, 2013 – Special Permit (§73-622) for the enlargement of an existing single home, contrary to floor area, open space and lot coverage (§23-141); side yard (§23-461); perimeter wall height (§23-631) and less than the minimum rear yard (§23-47). R3-2 zoning district.

PREMISES AFFECTED – 1932 East 24th street, west side of East 24th street, between Avenue S and Avenue T, Block 7302, Lot 19, Borough of Brooklyn.

### COMMUNITY BOARD #15BK

**ACTION OF THE BOARD** – Laid over to October 22, 2013, at 10 A.M., for continued hearing.

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## 133-13-BZ

APPLICANT – Sheldon Lobel, PC, for Evangelical Church Letting Christ Be known, Inc., owner.

SUBJECT – Application May 10, 2013 – Variance (§72-21) to permit the construction of a new two-story community facility (UG 4A house of worship) (*Evangelical Church*) building is contrary to parking (§25-31), rear yard (§24-33(b) & §24-36), side yard (§24-35(a)) and front yard requirements (§25-34) zoning requirements. R4 zoning district.

PREMISES AFFECTED – 1915 Bartow Avenue, northwest corner of Bartow Avenue and Grace Avenue, Block 4799, Lot 16, Borough of Bronx.

### COMMUNITY BOARD #12BX

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 October 22, 2013, at 10 A.M., for decision, hearing closed.

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## 161-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Bencco Properties, LLC, owner; Soul Cycle West 19th street, lessee.

SUBJECT – Application May 28, 2013 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Soul Cycle*) within a portion of an existing building. C6-4A zoning district.

PREMISES AFFECTED – 8 West 19th Street, south side of W. 19th Street, 160’ west of intersection of W. 19th Street and 5th Avenue, Block 820, Lot 7503, Borough of Manhattan.

### COMMUNITY BOARD #5M

**ACTION OF THE BOARD** – Laid over to October 22, 2013, at 10 A.M., for deferred decision.

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## 169-13-BZ

APPLICANT – Greenberg Traurig, for Joseph Schottland, owner.

SUBJECT – Application June 5, 2013 – Special Permit (§73-621) to legalize the enlargement of a two-family residence, contrary to floor area regulations (§23-145). R6 (LH-1) zoning district.

PREMISES AFFECTED – 227 Clinton Street, east side of Clinton Street, 100’ north of the corner formed by the intersection of Congress Street and Clinton Street, Block 2297, Lot 5, Borough of Brooklyn.

### COMMUNITY BOARD #6BK

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

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*