
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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DOCKETS

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223-13-BZ

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224-13-A

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225-13-A

810 Kent Avenue, East Side of Kent Avenue Between Little Nassau Street and Park Avenue, Block 1883, Lot(s) 35,36, Borough of **Brooklyn, Community Board: 3**. Variance (§72-21) to permit residential development contrary to ZR 42--00. M1-2 zoning district M1-2 district.

226-13-A

29 Kayla Court, West Side of Kayla Court, 154.4 feet west and 105.12 feet south of intersection of Summit Avenue and Kayla Court., Block 951, Lot(s) 23, Borough of **Staten Island, Community Board: 2**. Proposed construction of a one-family dwelling that does not front a legally mapped street, contrary to Section 36 Article 3 of the General City Law. R3-2 /R2 NA-1 Zoning District. R3-2/R2 (NA-1)(district.

227-13-A

45 Water Street, North of Water Street between New Dock Street and Old Dock Street, Block 26, Lot(s) 1, Borough of **Brooklyn, Community Board: 3**. Variance pursuant to the NYC Building Code (Appendix G, Section G304.1.2) to allow for the redevelopment of an historic structure (St. Ann's Warehouse) within Brooklyn Bridge Park to be located below the flood zone. M3-1 district.

228-13-BZ

157 Columbus Avenue, Northeast corner of West 67th Street and Columbus Avenue, Block 1120, Lot(s) 7501, Borough of **Manhattan, Community Board: 7**. Special Permit (§73-36) to allow a physical culture establishment (health Club) located in the cellar level of an existing 31-story condominium building. C4-7 zoning district. C4-7 district.

229-13-BZ

3779-3861 Nostrand Avenue, Block bounded by Nostrand Avenue, Avenue Z, Haring Street and Avenue Y., Block 7446, Lot(s) 1, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-36) to allow physical culture establishment (Blink Fitness) within an existing commercial building. C2-2/R3-2 zoning district. C2-2(R3-2) district.

230-13-A

29-19 Newtown Avenue, Property is situated on the northeasterly side of Newtown Avenue 151.18' northwesterly from the corner formed by the intersection Newtown Avenue and 30th Street, Block 597, Lot(s) 7, Borough of **Queens, Community Board: 4**. Proposed construction of a four story residential building located within the bed of a mapped street(29th Street) contrary to General City Law Section 35 . R6A /R6B zoning district . R6A&R6B district.

231-13-A

29-15 Newtown Avenue, Property is situated on the northeasterly side of Newtown Ave.,203.19' northwesterly from the corner formed by the intersection of Newtown Ave. and 30th Street, Block 596, Lot(s) 9, Borough of **Queens, Community Board: 4**. Proposed construction of a six story residential building located within the bed of a mapped street (29th Street) contrary to General City Law Section 35 . R6A/R6B zoning district . R6A & R6B district.

232-13-BZ

364 Bay Street, Northwest corner of intersection of Bay Street and Grant Street., Block 503, Lot(s) 1 + 19, Borough of **Staten Island, Community Board: 1**. Special Permit (§73-36) to allow a physical culture establishment within portions of proposed commercial building. M1-1 zoning district. M1-1 district.

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233-13-BZ

2413 Avenue R, North side of Avenue R between East 24th Street and Bedford Avenue., Block 6807, Lot(s) 48, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to permit the enlargement of a single family residence located in a residential (R3-2) zoning district. R3-2 district.

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

CALENDAR

SEPTEMBER 10, 2013, 10:00 A.M.

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

SPECIAL ORDER CALENDAR

699-46-BZ

APPLICANT – Eric Palatnik, P.C., for Gurcharan Singh, owner.

SUBJECT – Application September 17, 2012 – Amendment (§11-412) of a previously approved variance which permitted the operation of an Automotive Service Station (UG 16B) with accessory contrary to residential zoning regulations. The amendment seeks to reconfigure the existing building; convert existing service bays to convenience store, increase the number of pump islands; permit a drive-thru to the proposed convenience store. R3X zoning district.

PREMISES AFFECTED – 224-01 North Conduit Avenue, between 224th Street and 225th Street, Block 13088, Lot 44, Borough of Queens.

COMMUNITY BOARD #13Q

723-84-BZ

APPLICANT – Gerald J. Caliendo, RA, AIA, for Alameda Project Partners Ltd/Cristine Briguglio, owners.

SUBJECT – Application June 6, 2013 – Extension of term of a previously approved variance (§72-21) which permitted the occupancy of a portion of the first floor of the building to be used as a medical office, which expired on October 30, 2012. R1-2 zoning district.

PREMISES AFFECTED – 241-02 Northern Boulevard, southeast corner of intersection Northern Boulevard and Alameda Avenue, Block 8178, Lot 1, Borough of Queens.

COMMUNITY BOARD #11Q

161-99-BZ & 162-99-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Banner Garage LLC, owner; TSI East 76 LLC dba New York Sports Club, lessee.

SUBJECT – Application January 25, 2012 – Extension of the term of a previously granted Special Permit (§73-36) which permitted the operation of a physical culture establishment (PCE) health club which expired on June 28, 2010; Amendment to permit a change in the hours of operation; Extension of time to obtain a Certificate of Occupancy which expired on June 28, 2004; Waiver of the Rules. C2-5 (R8B) zoning district.

PREMISES AFFECTED – 349 & 353 East 76th Street, northerly side of East 76th Street between 2nd Avenue and

1st Avenue, Block 1451, Lot 4 & 16, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEALS CALENDAR

66-13-A

APPLICANT – OTR Media Group, Inc., for Wall & Associates, owner; OTR 161 Street, LLC, lessee.

SUBJECT – Application February 13, 2013 – Appeal challenging Department of Buildings’ determination that pursuant to ZR Section 122-20 no advertising signs are permitted regardless of its non-conforming use status. R8/C1-4 Grand Concourse Preservation.

PREMISES AFFECTED – 111 E. 161 Street, between Gerard and Walton Avenues, Block 2476, Lot 57, Borough of Bronx.

COMMUNITY BOARD #4BX

123-13-A

APPLICANT – Bryan Cave, for Speakeasy 86 LLC c/o Newcastle Realty Services, owner; TSI West 41 LLC dba New York Sports Club, lessee.

SUBJECT – Application April 29, 2013 – Appeal challenging the determination of the Department of Buildings’ to revoke Permit No. 120174658 on the basis that a lawful commercial use had not been established and the use as a restaurant has been discontinued since 2007. R6 Zoning District.

PREMISES AFFECTED – 86 Bedford Avenue, northeastern side of Bedford Street between Barrow and Grove Streets, Block 588, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #2M

ZONING CALENDAR

78-11-BZ & 33-12-A thru 37-12-A

APPLICANT – Sheldon Lobel, P.C., for Indian Cultural and Community Center, Incorporated, owner.

SUBJECT – Applications May 27, 2011 and February 9, 2012 – Variance (§72-21) for the construction of a mixed-use building containing residential and community facility uses, that don’t have frontage on a legally mapped street contrary to General City Law Section 36. C8-1/R3-2 Zoning Districts.

PREMISES AFFECTED – 78-70 Winchester Boulevard, Premises is a landlocked parcel located just south of Union Turnpike and west of 242nd Street, Block 7880, Lots 550, 500 Borough of Queens.

COMMUNITY BOARD #13Q

CALENDAR

303-12-BZ

APPLICANT – Eric Palatnik, P.C., for Tabernacle of Praise, Inc., owner.

SUBJECT– Application October 25, 2013 – Variance (§72-21) to permit the development of a sub-cellar, cellar and three story Church, with accessory religious based educational and social facilities (*Tabernacle of Praise*), contrary to rear yard setback, sky exposure plane (slope), and wall height. C8-1 zoning district.

PREMISES AFFECTED – 1106-1108 Utica Avenue, between Beverly Road and Clarendon Road, Block 4760, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #17BK

120-13-BZ

APPLICANT – Eric Palatnik, P.C., for Okun Jacobson & Doris Kurlender, owner; McDonald’s Corporation, lessee.

SUBJECT – Application April 25, 2013 – Special Permit (§73-243) to allow for an eating and drinking establishment (UG 6) (*McDonald’s*) with an accessory drive-through facility. C1-2/R3-2 zoning district.

PREMISES AFFECTED – 1815 Forest Avenue, north side of Forest Avenue, 100’ west of intersection of Forest Avenue and Morningstar Road, Block 1180, Lots 6 and 49, Borough of Staten Island.

COMMUNITY BOARD #1SI

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

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, AUGUST 13, 2013
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

102-95-BZ

APPLICANT – Law Office of Fredrick A. Becker, for 50 West Realty Company LP, owner; Renegades Associates/dba Splash Bar, lessee.

SUBJECT – Application April 22, 2013 – Extension of Term of a Special Permit (§73-244) for the continued operation of a UG12 Easting/Drinking Establishment (*Splash*) which expired on March 5, 2013; Amendment to modify the interior of the establishment. C6-4A zoning district.

PREMISES AFFECTED – 50 West 17th Street, south side of West 17th Street between 5th Avenue and 6th Avenue, Block 818, Lot 78, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application withdrawn.

THE VOTE TO WITHDRAW –

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

Adopted by the Board of Standards and Appeals, August 13, 2013.

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 – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of term for the continued use of an automotive service station, which expired on April 18, 2011, and an amendment to legalize deviations from the previously-approved plans, change the hours of operation of the automobile repair shop, and permit the rental of two vehicles from the station; and

WHEREAS, a public hearing was held on this application on May 7, 2013, after due notice by publication in *The City Record*, with continued hearings on June 4, 2013, June 18, 2013, and July 23, 2013, and then to decision on August 13, 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 3, Queens, recommends approval of this application; and

WHEREAS, the subject site is a rectangular lot that spans the full width of the north side of Roosevelt Avenue between 91st Street and 92nd Street, within a C2-4 (R6) zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since November 12, 1941 when, under BSA Cal. No. 361-37-BZ, the Board, pursuant to 1916 Zoning Resolution § 7h, granted a use variance to permit the transient parking and storage of more than five automobiles in a business use district for a term of two years; and

WHEREAS, on April 18, 1961, the Board approved an amendment to the grant allowing, in addition to the parking and storage of automobiles, the construction and maintenance of a gasoline service station, auto laundry, lubricatorium, office, sale of auto accessories, and minor auto repairs with hand tools only, for a term of 20 years; and

WHEREAS, subsequently, the grant was extended and amended by the Board at various times, and expired on April 18, 2001; and

WHEREAS, most recently, on November 29, 2005, under the subject calendar number, the Board reinstated the prior grant pursuant to ZR § 11-411 for a term of ten years, to expire on April 18, 2011; and

WHEREAS, the applicant now requests an additional extension of the term, and an amendment to legalize deviations from the previously-approved plans, change the hours of operation of the auto repair shop, and permit the rental of two vehicles from the site; and

WHEREAS, as to the deviations from the previously-approved plans, the applicant seeks to legalize a modification to the number and configuration of parking spaces; the applicant notes that it modified the site to accommodate the installation of a remediation shed, which the New York State Department of Environmental Conservation required in connection with DEC Spill No. 98-08815; and

WHEREAS, as to the proposed change in the hours of operation of the auto repair shop, the applicant seeks an

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expansion from Monday through Friday, from 6:00 a.m. to 6:00 p.m. and Saturday, from 6:00 a.m. to 6:00 p.m. to Monday through Saturday, from 7:00 a.m. to 7:00 p.m. and Sunday, from 8:00 a.m. to 6:00 p.m.; and

WHEREAS, as to the rental of vehicles from the site, the applicant seeks to legalize its current practice of renting two U-Haul vans or small trucks on an hourly basis seven days per week between the hours of 7:00 a.m. and 7:00 p.m.; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term and pursuant to ZR § 11-412, the Board may permit amendments; and

WHEREAS, at hearing, the Board directed the applicant to address the following site conditions: (1) inadequate landscaping along the 91st Street frontage; (2) bent bollards along the northwest lot line; and (3) damaged sidewalks along the Roosevelt Avenue frontage; in addition, the Board instructed the applicant to explore the feasibility of removing the curb cut on 91st Street; and

WHEREAS, in response, the applicant provided photographs reflecting improved landscaping and repaired bollards; the applicant also submitted: (1) a statement indicating that it intends to eventually replace the existing bollards with concrete bollards; and (2) a sidewalk replacement plan, which will be implemented upon the renewal of the term of the grant; and

WHEREAS, as to the 91st Street curb cut, the applicant's engineer prepared tanker truck circulation diagrams showing the existing circulation plan (using the 91st Street curb cut) and a modified circulation plan (without the 91st Street curb cut); based on the diagram, the applicant represents that maneuvering will become unduly burdensome without the 91st Street curb cut; the applicant also notes that removal of the curb cut would require the relocation of a manhole that is partially located within the curb cut and partially within the street, and that such relocation must be coordinated with the Department of Environmental Protection; finally, the applicant notes that the curb cut was approved by the Board and has operated for more than 25 years without incident; and

WHEREAS, accordingly, the Board agrees with the applicant that it is infeasible to remove the 91st Street curb cut and it may remain; and

WHEREAS, based upon the above, the Board finds, pursuant to ZR §§ 11-411 and 11-412, that the requested extension of term and amendments are appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, dated November 29, 2005, 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 allow rental of commercial vehicles from the site, *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked 'Received June 6, 2013'-(5) sheets; and

on further condition:

THAT the term of this grant will be for ten years, to expire on April 18, 2021;

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

THAT signage will comply with C1 district regulations;

THAT a maximum of two commercial vans or trucks may be stored at the site for rental on a daily basis;

THAT the hours of operation for auto repair will be limited to Monday through Saturday, from 7:00 a.m. to 7:00 p.m. and Sunday, from 8:00 a.m. to 6:00 p.m.;

THAT the hours of operation for commercial vehicle rental will be limited to seven days per week, from 7:00 a.m. and 7:00 p.m.;

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

THAT a new certificate of occupancy will be obtained by August 13, 2014;

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

HAT DOB 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. 420344755)

Adopted by the Board of Standards and Appeals, August 13, 2013.

45-08-BZ

APPLICANT – Rampulla Associates Architects, for 65 Androvette Street, LLC, owner.

SUBJECT – Application June 10, 2013 – Extension Time to Complete Construction of Variance (§72-21) to construct a new four-story, 81 unit age restricted residential facility which expired on May 19, 2013. M1-1 (Area M), SRD & SGMD zoning district.

PREMISES AFFECTED – 55 Androvette Street, North side of Androvette Street at the corner of Manley Street, Block 7407, Lot 1, 80, 82 (tentative 1), Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of time to complete construction of a three-story residential building (Use Group 2); and

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

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and

WHEREAS, the site is located on the northwest corner of the intersection of Androvette Street and Manley Street, within an M1-1 zoning district within Special Area M of the Special South Richmond Development District; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 19, 2009 when, under the subject calendar number, the Board granted a use variance to permit the construction of a three-story residential building (Use Group 2) in a manufacturing district; and

WHEREAS, substantial construction was to be completed by May 19, 2013, in accordance with ZR § 72-23; and

WHEREAS, the applicant represents that since the date of the grant, it has obtained necessary approvals from the New York State Department of Environmental Conservation, the Department of Environmental Protection, and the City Planning Commission; however, construction has been delayed due to financing issues arising out of the recession; and

WHEREAS, thus, the applicant requests an 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 *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated May 19, 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 May 19, 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 May 19, 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. 510006814)

Adopted by the Board of Standards and Appeals August 13, 2013.

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

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

378-04-BZ

APPLICANT – Sheldon Lobel, PC, for Krzysztof Ruthkoski, owner.

SUBJECT – Application May 16, 2013 – Extension of Time to Complete Construction of a previously granted variance (§72-21) for the construction of a four-story residential building with an accessory four-car garage, which expired on December 11, 2011 and an Amendment to reduce the scope and non-compliance of the approval; waiver of the Rules. M1-1 zoning district.

PREMISES AFFECTED – 94 Kingsland Avenue, northeast corner of the intersection formed by Kingsland Avenue and Richardson Street, Block 2849, Lot 1, 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 September 10, 2013, at 10 A.M., for decision, hearing closed.

107-11-BZ

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

SUBJECT – Application March 8, 2013 – Amendment of a previously granted variance (§72-21) to waive bulk regulations for the enlargement of a synagogue and rabbi’s residence (*Congregation Yeshiva Bais Yitzchok*); amendment classifies the enlargement as a new building, which requires a waiver of parking regulations (§25-31). R4-1 zoning district.

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

COMMUNITY BOARD #14BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin,

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

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

APPEALS CALENDAR

89-07-A

APPLICANT – Eric Palatnik, P.C., for Pleasant Plains Holding LLC, owner.

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

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – 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 Staten Island Borough Commissioner, dated March 3, 2007, acting on Department of Buildings Application Nos. 500866057, 500866128, 500866119, 500866100, and 500866093 reads in pertinent part:

Proposed development within the bed of a mapped street is contrary to Article 3, Section 35 of the General City Law. Therefore, approval from the Board of Standards and Appeals is required; and

WHEREAS, a public hearing was held on this application on September 25, 2012, after due notice by publication in *The City Record*, with continued hearings on October 30, 2012, January 8, 2013, February 26, 2013, June 4, 2013 and July 23, 2013, and then to decision August 13, 2013; and

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

WHEREAS, Community Board 3, Staten Island, recommends disapproval of this application; and

WHEREAS, this application was filed in 2007 to allow the construction of six three-story, two-family dwellings and one two-story, one-family dwelling in the bed of Thornycroft Avenue, a mapped street, portions of which are unbuilt; and

WHEREAS, the subject site is located north of Oakdale

Street west of the mapped but unbuilt portion of Thornycroft Avenue, within an R3-2 zoning district within the Special South Richmond Development District; and

WHEREAS, the applicant notes that by letter dated April 29, 2010, it advised the Board that, due to the construction of a baseball field on the corner of Thornycroft Avenue and Oakdale Street and the improvement of sidewalks and curb cuts along Thornycroft Avenue for a distance of 200 feet from Oakdale Street, the original proposal was no longer feasible; accordingly, the application was amended to eliminate two of the seven homes to be constructed in the bed of the street; and

WHEREAS, accordingly, the applicant withdrew BSA Cal. Nos. 90-07-A and 91-07-A (concerning 460 and 464 Thornycroft Avenue); and

WHEREAS, further, the applicant represents that its prosecution of this application has been delayed at various times due to its attempts to resolve outstanding issues related to the Department of Environmental Protection (“DEP”), Department of Transportation (“DOT”), and the Fire Department; and

WHEREAS, by letter dated June 5, 2007, the DEP states that: (1) there is an existing watercourse crossing the property; (2) there are no existing sewers or watermains in Thornycroft Avenue between Oakdale Street and St. Alban’s Place; (3) Amended Drainage Plan No. D-2-2, sheet 2 of 9 calls for a future 12-inch diameter sanitary sewer and a 48-inch diameter sewer in the bed of Thornycroft Avenue between Oakdale Street and St. Alban’s Place; and (4) it requires the applicant to submit a survey/plan showing the width of the widening portion of Thornycroft Avenue between Oakdale Street and St. Alban’s Place, and the location and width of the existing watercourse; and

WHEREAS, following a series of letters between the applicant and DEP regarding its initial requirements and requests, including an exchange that resulted in DEP’s acknowledgment that a watercourse does not cross the property, DEP issued a letter, dated March 26, 2012, providing that it has reviewed the applicant’s Builders Pavement Plan, which shows Thornycroft Avenue with a width of 34’-0”, which will be available for the installation, maintenance, and/or reconstruction of any future sewers, and therefore has no further objections to the proposed application; and

WHEREAS, by letter dated August 17, 2007, the DOT states in part that the proposed site plan does not reflect any provisions for a cul-de-sac or turnaround at the dead end of Thornycroft Avenue; as such, the developer would be required to construct half the mapped width of Thornycroft Avenue plus five feet for the entire length of the unopened portion of Thornycroft Avenue and construct curbs and sidewalks for the entire length of the property abutting Oakdale Street and Winchester Avenue, following the same width and alignment as currently exists; and

WHEREAS, subsequently, by letter dated December 16, 2010, DOT states that it has reviewed the revised proposal and has no objections; however, by letter dated September 12,

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2012, DOT requested a title search to determine ownership of a portion of Thornycroft Avenue that the applicant proposes to improve; and

WHEREAS, by letter dated June 18, 2013, DOT states that the New York City Law Department has conducted a title search and determined that the City has title to such portion of Thornycroft Avenue; however, DOT also states that the improvement of Thornycroft Avenue is not presently included in DOT's Capital Improvement Program; and

WHEREAS, by letter dated July 22, 2013, the Fire Department states that it has reviewed the site plan, including the turn-around, and has no objection to it, provided that the following note is added to the site plan: "No parking in any part of the turn-around"; and

WHEREAS, in response, the applicant submitted an amended site plan including the note requested by the Fire Department; and

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

Therefore it is Resolved that the decision of the Staten Island Borough Commissioner, dated March 3, 2007, acting on Department of Buildings Application Nos. 500866057, 500866128, 500866119, 500866100, 500866093 is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received August 9, 2013" (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT signs be posted stating that there is "No parking in any part of the turn-around";

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

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

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, August 13, 2013.

92-07-A thru 94-07-A

APPLICANT – Eric Palatnik, P.C., for Pleasant Plains Holding LLC, owner.

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

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – 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 Staten Island Borough Commissioner, dated March 3, 2007, acting on Department of Buildings Application Nos. 500866057, 500866128, 500866119, 500866100, and 500866093 reads in pertinent part:

Proposed development within the bed of a mapped street is contrary to Article 3, Section 35 of the General City Law. Therefore, approval from the Board of Standards and Appeals is required; and

WHEREAS, a public hearing was held on this application on September 25, 2012, after due notice by publication in *The City Record*, with continued hearings on October 30, 2012, January 8, 2013, February 26, 2013, June 4, 2013 and July 23, 2013, and then to decision August 13, 2013; and

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

WHEREAS, Community Board 3, Staten Island, recommends disapproval of this application; and

WHEREAS, this application was filed in 2007 to allow the construction of six three-story, two-family dwellings and one two-story, one-family dwelling in the bed of Thornycroft Avenue, a mapped street, portions of which are unbuilt; and

WHEREAS, the subject site is located north of Oakdale Street west of the mapped but unbuilt portion of Thornycroft Avenue, within an R3-2 zoning district within the Special South Richmond Development District; and

WHEREAS, the applicant notes that by letter dated April 29, 2010, it advised the Board that, due to the construction of a baseball field on the corner of Thornycroft Avenue and Oakdale Street and the improvement of sidewalks and curb cuts along Thornycroft Avenue for a distance of 200 feet from Oakdale Street, the original proposal was no longer feasible; accordingly, the application was amended to eliminate two of the seven homes to be constructed in the bed

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of the street; and

WHEREAS, accordingly, the applicant withdrew BSA Cal. Nos. 90-07-A and 91-07-A (concerning 460 and 464 Thornycroft Avenue); and

WHEREAS, further, the applicant represents that its prosecution of this application has been delayed at various times due to its attempts to resolve outstanding issues related to the Department of Environmental Protection (“DEP”), Department of Transportation (“DOT”), and the Fire Department; and

WHEREAS, by letter dated June 5, 2007, the DEP states that: (1) there is an existing watercourse crossing the property; (2) there are no existing sewers or watermains in Thornycroft Avenue between Oakdale Street and St. Alban’s Place; (3) Amended Drainage Plan No. D-2-2, sheet 2 of 9 calls for a future 12-inch diameter sanitary sewer and a 48-inch diameter sewer in the bed of Thornycroft Avenue between Oakdale Street and St. Alban’s Place; and (4) it requires the applicant to submit a survey/plan showing the width of the widening portion of Thornycroft Avenue between Oakdale Street and St. Alban’s Place, and the location and width of the existing watercourse; and

WHEREAS, following a series of letters between the applicant and DEP regarding its initial requirements and requests, including an exchange that resulted in DEP’s acknowledgment that a watercourse does not cross the property, DEP issued a letter, dated March 26, 2012, providing that it has reviewed the applicant’s Builders Pavement Plan, which shows Thornycroft Avenue with a width of 34’-0”, which will be available for the installation, maintenance, and/or reconstruction of any future sewers, and therefore has no further objections to the proposed application; and

WHEREAS, by letter dated August 17, 2007, the DOT states in part that the proposed site plan does not reflect any provisions for a cul-de-sac or turnaround at the dead end of Thornycroft Avenue; as such, the developer would be required to construct half the mapped width of Thornycroft Avenue plus five feet for the entire length of the unopened portion of Thornycroft Avenue and construct curbs and sidewalks for the entire length of the property abutting Oakdale Street and Winchester Avenue, following the same width and alignment as currently exists; and

WHEREAS, subsequently, by letter dated December 16, 2010, DOT states that it has reviewed the revised proposal and has no objections; however, by letter dated September 12, 2012, DOT requested a title search to determine ownership of a portion of Thornycroft Avenue that the applicant proposes to improve; and

WHEREAS, by letter dated June 18, 2013, DOT states that the New York City Law Department has conducted a title search and determined that the City has title to such portion of Thornycroft Avenue; however, DOT also states that the improvement of Thornycroft Avenue is not presently included in DOT’s Capital Improvement Program; and

WHEREAS, by letter dated July 22, 2013, the Fire Department states that it has reviewed the site plan, including

the turn-around, and has no objection to it, provided that the following note is added to the site plan: “No parking in any part of the turn-around”; and

WHEREAS, in response, the applicant submitted an amended site plan including the note requested by the Fire Department; and

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

Therefore it is Resolved that the decision of the Staten Island Borough Commissioner, dated March 3, 2007, acting on Department of Buildings Application Nos. 500866057, 500866128, 500866119, 500866100, 500866093 is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received August 9, 2013” (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT signs be posted stating that there is “No parking in any part of the turn-around”;

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

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

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, August 13, 2013.

95-07-A

APPLICANT – Eric Palatnik, P.C., for Pleasant Plains Holding LLC, owner.

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

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

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Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated March 3, 2007, acting on Department of Buildings Application Nos. 500866057, 500866128, 500866119, 500866100, and 500866093 reads in pertinent part:

Proposed development within the bed of a mapped street is contrary to Article 3, Section 35 of the General City Law. Therefore, approval from the Board of Standards and Appeals is required; and

WHEREAS, a public hearing was held on this application on September 25, 2012, after due notice by publication in *The City Record*, with continued hearings on October 30, 2012, January 8, 2013, February 26, 2013, June 4, 2013 and July 23, 2013, and then to decision August 13, 2013; and

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

WHEREAS, Community Board 3, Staten Island, recommends disapproval of this application; and

WHEREAS, this application was filed in 2007 to allow the construction of six three-story, two-family dwellings and one two-story, one-family dwelling in the bed of Thornycroft Avenue, a mapped street, portions of which are unbuilt; and

WHEREAS, the subject site is located north of Oakdale Street west of the mapped but unbuilt portion of Thornycroft Avenue, within an R3-2 zoning district within the Special South Richmond Development District; and

WHEREAS, the applicant notes that by letter dated April 29, 2010, it advised the Board that, due to the construction of a baseball field on the corner of Thornycroft Avenue and Oakdale Street and the improvement of sidewalks and curb cuts along Thornycroft Avenue for a distance of 200 feet from Oakdale Street, the original proposal was no longer feasible; accordingly, the application was amended to eliminate two of the seven homes to be constructed in the bed of the street; and

WHEREAS, accordingly, the applicant withdrew BSA Cal. Nos. 90-07-A and 91-07-A (concerning 460 and 464 Thornycroft Avenue); and

WHEREAS, further, the applicant represents that its prosecution of this application has been delayed at various times due to its attempts to resolve outstanding issues related to the Department of Environmental Protection (“DEP”), Department of Transportation (“DOT”), and the Fire Department; and

WHEREAS, by letter dated June 5, 2007, the DEP states that: (1) there is an existing watercourse crossing the property; (2) there are no existing sewers or watermains in Thornycroft Avenue between Oakdale Street and St. Alban’s Place; (3) Amended Drainage Plan No. D-2-2, sheet 2 of 9 calls for a future 12-inch diameter sanitary sewer and a 48-inch diameter sewer in the bed of Thornycroft Avenue between Oakdale Street and St. Alban’s Place; and (4) it

requires the applicant to submit a survey/plan showing the width of the widening portion of Thornycroft Avenue between Oakdale Street and St. Alban’s Place, and the location and width of the existing watercourse; and

WHEREAS, following a series of letters between the applicant and DEP regarding its initial requirements and requests, including an exchange that resulted in DEP’s acknowledgment that a watercourse does not cross the property, DEP issued a letter, dated March 26, 2012, providing that it has reviewed the applicant’s Builders Pavement Plan, which shows Thornycroft Avenue with a width of 34’-0”, which will be available for the installation, maintenance, and/or reconstruction of any future sewers, and therefore has no further objections to the proposed application; and

WHEREAS, by letter dated August 17, 2007, the DOT states in part that the proposed site plan does not reflect any provisions for a cul-de-sac or turnaround at the dead end of Thornycroft Avenue; as such, the developer would be required to construct half the mapped width of Thornycroft Avenue plus five feet for the entire length of the unopened portion of Thornycroft Avenue and construct curbs and sidewalks for the entire length of the property abutting Oakdale Street and Winchester Avenue, following the same width and alignment as currently exists; and

WHEREAS, subsequently, by letter dated December 16, 2010, DOT states that it has reviewed the revised proposal and has no objections; however, by letter dated September 12, 2012, DOT requested a title search to determine ownership of a portion of Thornycroft Avenue that the applicant proposes to improve; and

WHEREAS, by letter dated June 18, 2013, DOT states that the New York City Law Department has conducted a title search and determined that the City has title to such portion of Thornycroft Avenue; however, DOT also states that the improvement of Thornycroft Avenue is not presently included in DOT’s Capital Improvement Program; and

WHEREAS, by letter dated July 22, 2013, the Fire Department states that it has reviewed the site plan, including the turn-around, and has no objection to it, provided that the following note is added to the site plan: “No parking in any part of the turn-around”; and

WHEREAS, in response, the applicant submitted an amended site plan including the note requested by the Fire Department; and

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

Therefore it is Resolved that the decision of the Staten Island Borough Commissioner, dated March 3, 2007, acting on Department of Buildings Application Nos. 500866057, 500866128, 500866119, 500866100, 500866093 is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received August 9, 2013” (1) sheet; that the

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proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT signs be posted stating that there is “No parking in any part of the turn-around”;

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

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

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, August 13, 2013.

268-12-A thru 271-12-A

APPLICANT – Eric Palatnik, P.C., for Mr. Frank Naso, owner.

SUBJECT – Application September 6, 2012 – Proposed construction of a single family semi-detached building not fronting a mapped street, contrary to General City Law Section 36. R3-1 zoning district.

PREMISES AFFECTED – 8/10/16/18 Pavillion Hill Terrace, corner of Homer Street and Swan Street, Block 569, Lot 318, 317, 316, 285, Borough of Staten Island.

COMMUNITY BOARD #1SI

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, August 13, 2013.

308-12-A

APPLICANT – Francis R. Angelino, Esq., for LIC Acorn Development LLC, owner.

SUBJECT – Application November 8, 2012 – Request that the owner has a common law vested right to continue construction and obtain a Certificate of Occupancy under the prior M1-3 zoning district. M1-2/R5D zoning district.

PREMISES AFFECTED – 39-27 29th Street, east side 29th Street, between 39th and 40th Avenues, Block 399, Lot 9, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Application granted.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins,

Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application requesting a Board determination that the owner of the premises has obtained the right to complete construction of a five-story commercial building under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on June 4, 2013, after due notice by publication in *The City Record*, with a continued hearing on July 9, 2013, and then to decision on August 13, 2013; and

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

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

WHEREAS, the site is located on the east side of 29th Street, between 39th Avenue and 40th Avenue; and

WHEREAS, the site has a lot area of 2,556.8 sq. ft. and approximately 26 feet of frontage along 29th Street; and

WHEREAS, the applicant proposes a change of use and an enlargement of the existing two-story manufacturing building at the site; the proposal would result in a five-story building with a sixth-story penthouse with 11,287.65 sq. ft. of floor area (4.41 FAR) occupied by offices (Use Group 6) (the “Building”); and

WHEREAS, the subject site is currently located within an M1-2/R5B zoning district within the Special Long Island City Mixed Use District, but was formerly located within an M1-3D zoning district; and

WHEREAS, the Building complies in all respects with the former M1-3D zoning district parameters; and

WHEREAS, however, on October 7, 2008 (the “Enactment Date”), the City Council voted to adopt the Dutch Kills Rezoning, which rezoned the site to M1-2/R5B; and

WHEREAS, as a result of the rezoning, the Building does not comply with the district parameters regarding maximum floor area; and

WHEREAS, a threshold matter for the vested rights analysis is that a permit be issued lawfully prior to the Enactment Date and that the work was performed pursuant to such lawful permit; and

WHEREAS, the applicant states that New Building Permit No. 410113657-01-AL (the “Permit”) was issued to the owner by the Department of Buildings (“DOB”) on July 24, 2008; and

WHEREAS, by letter dated July 3, 2013, DOB confirmed that the Permit was lawfully issued; and

WHEREAS, the applicant notes that ZR § 11-31(c)(1) classifies the construction authorized under the Permit as a “minor development”; and

WHEREAS, the applicant notes that, per ZR §§ 11-331 and 11-332, where all work on foundations for a minor development has been completed prior to the effective date of an applicable amendment to the Zoning Resolution, work may

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continue for two years, and if after two years, construction has not been completed and a certificate of occupancy has not been issued, the permit shall automatically lapse and the right to continue construction shall terminate; and

WHEREAS, the applicant states that, as of the Enactment Date, the entire foundation for the Building was completed; and

WHEREAS, accordingly, the applicant states, on November 18, 2008, DOB recognized the owner's right to continue construction under the Permit for two years from the Enactment Date (October 7, 2010), pursuant to ZR § 11-331; and

WHEREAS, however, as of October 7, 2010, construction was not complete and a certificate of occupancy had not been issued; therefore, on that date the Permit lapsed by operation of law; and

WHEREAS, the applicant notes that it did not, pursuant to ZR § 11-332, seek renewal of the Permit from the Board within 30 days of such lapse; and

WHEREAS, accordingly, the applicant now seeks to proceed pursuant to the common law doctrine of vested rights; and

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

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

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

WHEREAS, as to substantial construction, the applicant states that prior to October 7, 2008, the owner had completed the following work: interior demolition, excavation, underpinning, the entire foundation, and the setting of base plates for structural columns; further, between October 7, 2008 and October 7, 2010 (the date that the Permit lapsed), the applicant states that the following was completed: completion of base plates, structural columns, installation of all floor beams and columns, installation of all decking, pouring of concrete on all floors, installation of

roof beams, decking and bulkhead, installation of HVAC duct work on all floors, some installation of electrical conduits on each floor, installation of exterior façade in the enlargement, including windows, and some demolition of the exterior façade in the existing portion of the building, and some installation of insulation; and

WHEREAS, the applicant represents that the Building is approximately 50 percent complete; and

WHEREAS, in support of this assertion, the applicant submitted the following evidence: invoices, concrete delivery slips, construction contracts, plans highlighting the work completed, and photographs of the site showing certain aspects of the completed work; and

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

WHEREAS, the Board concludes that, given the size of the site, and based upon a comparison of the type and amount of work completed in this case with the type and amount of work discussed by New York State courts, a significant amount of work was performed at the site during the relevant periods; and

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

WHEREAS, the applicant states that since the Enactment Date, when DOB recognized that the Permit had vested by operation of law, the owner has expended \$731,738.25, including hard and soft costs and irrevocable commitments, out of \$1,172,738.87 budgeted for the entire project; the applicant also notes that since the lapse of the Permit on October 7, 2010, an additional \$157,292.56 has been expended in soft costs and obligations owed; and

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

WHEREAS, thus, the expenditures to date represent approximately 75 percent of the projected total cost; and

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

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

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

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WHEREAS, the applicant states that if the owner is not permitted to vest the Building under the former M1-3D zoning and must comply with the M1-2/R5B zoning, the maximum permitted floor area ratio would be reduced from 5.0 FAR to 2.0 FAR, representing a loss of 7,670.4 sq. ft., which is approximately 60 percent of the development; and

WHEREAS, the applicant also notes that the owner planned to initially occupy a portion of the Building upon completion and lease the remainder, and eventually use the entire Building for its growing business; therefore, if the Building must be reduced in size to comply with the M1-2/R5B zoning, not only will the owner have insufficient space to accommodate its growing business, but it will also be deprived of significant rental income in the years before it requires the entire space; and

WHEREAS, the applicant also states that because construction is nearly 50 percent complete, its contractor estimates that redesigning, demolishing and rebuilding portions of the Building to bring it into compliance will cost an estimated \$825,000; and

WHEREAS, the Board agrees with the applicant that that the owner would incur substantial additional costs in reconstructing the Building to comply with the current zoning; and

WHEREAS, the Board also agrees with the applicant that the reduction in the floor area and dwelling units results in a significant decrease in the market value of the Building; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed and the expenditures made both before and after the Enactment Date, the representations regarding serious loss, and the supporting documentation for such representations, and agrees that the applicant has satisfactorily established that a vested right to complete construction of the Building has accrued to the owner of the premises.

Therefore it is Resolved that this application made pursuant to the common law of vested rights requesting a reinstatement of Permit No. 410113657-01-AL, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for two years from the date of this grant.

Adopted by the Board of Standards and Appeals, August 13, 2013.

200-10-A, 203-10-A thru 205-10-A

APPLICANT – Sheldon Lobel, PC, for William Davies LLC, owner.

SUBJECT – Application June 21, 2013 – Extension of time to complete construction and obtain a Certificate of Occupancy of a previous vested rights approval, which expires on June 21, 2013. Prior zoning district R5. R4-1 zoning district.

PREMISES AFFECTED – 1359, 1365, 1367 Davies Road, southeast corner of Davies Road and Caffrey Avenue, Block 15622, Lot 15, 13, 12 Borough of Queens.

COMMUNITY BOARD #14Q

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 September 10, 2013, at 10 A.M., for decision, hearing closed.

157-12-A

APPLICANT – Sheldon Lobel, P.C., for John F. Westerfield, owner; Welmar Westerfield, lessee.

SUBJECT – Application May 21, 2012 – Appeal challenging Department of Buildings’ determination that the subject property not be developed as an "existing small lot" pursuant to ZR §23-33 as it does not meet the definition of ZR §12-10. R1-2 zoning district.

PREMISES AFFECTED – 184-27 Hovenden Road, Block 9967, Lot 58, Borough of Queens.

COMMUNITY BOARD #8Q

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 September 24, 2013, at 10 A.M., for decision, hearing closed.

58-13-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Sylvaton Holdings LLC, owners.

SUBJECT – Application February 5, 2013 – Proposed construction of a twelve-family residential building located partially within the bed of a mapped but unbuilt street contrary to General City Law Section 35. R4/M3-1 Zoning District.

PREMISES AFFECTED – 4 Wiman Place, west side of Wiman Place, south of Sylvaton Terrace and north of Church Lane, Block 2827, Lot 205, Borough of Staten Island.

COMMUNITY BOARD #1SI

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

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.

MINUTES

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

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 September 17, 2013, at 10 A.M., for decision, hearing closed.

98-13-A

APPLICANT – Eric Palatnik, P.C., for Scott Berman, owner.

SUBJECT – Application April 8, 2013 – Proposed two-story two family residential development which is within the unbuilt portion of the mapped street on the corner of Haven Avenue and Hull Street, contrary to General City Law 35. R3-1 zoning district.

PREMISES AFFECTED – 107 Haven Avenue, Corner of Hull Avenue and Haven Avenue, Block 3671, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #2SI

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

Jeff Mulligan, Executive Director

Adjourned: P.M.

ZONING CALENDAR

195-12-BZ

CEQR #12-BSA-145Q

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

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

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

COMMUNITY BOARD #10Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, a reinstatement, an extension of term for the continued use of an office (Use Group 6) and accessory parking for four automobiles in an R4 zoning district, which expired on May 13, 2000, and an extension of time to obtain a certificate of occupancy, which expired on March 31, 1993; and

WHEREAS, a public hearing was held on this application on November 27, 2012, after due notice by publication in *The City Record*, with continued hearings on March 12, 2013, June 4, 2013, and July 9, 2013, and then to decision on August 13, 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 10, Queens, recommends approval of this application; and

WHEREAS, the site is located on the northeast corner of the intersection of Cross Bay Boulevard and 109th Avenue, within an R4 zoning district; and

WHEREAS, the Board has exercised jurisdiction over the subject site since October 20, 1959 when, under BSA Cal. No. 64-59-BZ, the Board granted a use variance to permit the construction of an office building and accessory parking for four automobiles, contrary to 1916 Zoning Resolution §§ 7e and 7h; the Board granted the variance for a term of 20 years; and

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

WHEREAS, most recently, on March 31, 1992, the Board: (1) granted an approval to extend the term for ten years from May 13, 1990 to expire on May 13, 2000; and

MINUTES

(2) granted an extension of time to obtain a certificate of occupancy until March 31, 1993; and

WHEREAS, the applicant now seeks to reinstate the variance under BSA Cal. No. 64-59-BZ; and

WHEREAS, the Board notes that, under its Rules, an applicant requesting reinstatement of a pre-1961 use variance must demonstrate that: (1) the use has been continuous since the expiration of the term; (2) substantial prejudice would result if reinstatement is not granted; and (3) the use permitted by the grant does not substantially impair the appropriate use and development of adjacent properties; and

WHEREAS, as to continuity, the applicant represents that, although the term expired in 2000, the office use and parking have been continuous from 1959 to the present; and

WHEREAS, further, the applicant represents that substantial prejudice would result if reinstatement is not granted, because without reinstatement it would be unable to obtain a certificate of occupancy; and

WHEREAS, the applicant also represents that the office and parking use permitted by the grant are harmonious with the commercial character of the immediate area and Cross Bay Boulevard in general, and have existed for more than 50 years with no adverse effects; and

WHEREAS, based on the applicant's representations, the Board finds that reinstatement of the subject variance is appropriate; and

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

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

WHEREAS, at hearing, the Board directed the applicant to address the oversized, illuminated accessory signage, open Department of Buildings ("DOB") violations, and lack of plantings along the Cross Bay Boulevard frontage; and

WHEREAS, in response, the applicant provided photographs reflecting the removal of the oversized, illuminated accessory signage and submitted records from DOB showing the dismissal of all violations and payment of associated fines; and

WHEREAS, in addition, the applicant submitted an amended plan reflecting the installation of planters along the Cross Bay Boulevard frontage; and

WHEREAS, based on the above, the Board finds that the requested reinstatement, extension of term, and extension of time to obtain a certificate of occupancy are appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR 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 each and every one of the required findings under ZR § 11-411 to permit, within an R4 zoning district, the reinstatement of a prior Board approval of office use (Use Group 6) with accessory parking for four automobiles at the

subject site, *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked 'Received May 31, 2013' - (7) sheets and 'July 3, 2013' - (1) sheet; and *on further condition*:

THAT the term of this grant will be for ten years, to expire on August 13, 2023;

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

THAT signage will comply with C1 district regulations;

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

THAT a new certificate of occupancy will be obtained by August 13, 2014;

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

THAT DOB 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. 420344755)

Adopted by the Board of Standards and Appeals, August 13, 2013.

50-13-BZ

CEQR #13-BSA-086K

APPLICANT – Lewis E. Garfinkel, for Mindy Rebenwurz, owner.

SUBJECT – Application January 29, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141); side yard (§23-461); and rear yard (§23-47) regulations. R2 zoning district.

PREMISES AFFECTED – 1082 East 24th Street, west side of East 24th Street, 100' north of corner of Avenue K and East 24th Street, Block 7605, Lot 79 Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 18, 2013, acting on Department of Buildings Application No. 320377187, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141(a) in that the proposed floor area ratio exceeds the permitted 0.50;
2. Proposed plans are contrary to ZR 23-141(a) in that the proposed open space is less than the required 150 percent;

MINUTES

3. Plans are contrary to ZR 23-141(a) in that the existing minimum side yard is less than the required minimum 5'-0";

4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than 30'-0"; and

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

WHEREAS, a public hearing was held on this application on June 4, 2013, after due notice by publication in *The City Record*, with a continued hearing on July 9, 2013, and then to decision on August 13, 2013; and

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

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

WHEREAS, the subject site is located on the west side of East 24th Street, between Avenue K and Avenue J, within an R2 zoning district; and

WHEREAS, the site has a total lot area of 3,800 sq. ft. and is occupied by a single-family home with a floor area of 2,108 sq. ft. (0.56 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 2,108 sq. ft. (0.56 FAR) to 3,748 sq. ft. (1.0 FAR); the maximum permitted floor area is 1,875 sq. ft. (0.50 FAR); and

WHEREAS, the applicant also proposes to maintain its existing non-complying side yard, which has a width of 3'-8" and reduce its complying side yard from a width of 12'-3" to a width of 8'-6" (the requirement is two side yards with a minimum total width of 13'-0" and a minimum width of 5'-0" each), reduce its rear yard depth from 32'-1" to 20'-0" (a minimum rear yard depth of 30'-0" is required), and reduce its open space from 127 percent to 55 percent (a minimum open space of 150 percent is required); 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 1.0 FAR is in keeping with the bulk in the surrounding area; and

WHEREAS, at hearing the Board directed the applicant to submit a neighborhood study to support this representation; and

WHEREAS, in response, the applicant submitted a study of single-family homes within 400 feet of the site; based on the study, 13 homes have an FAR of 1.0 or greater,

including four that were enlarged pursuant to a special permit from the Board; and

WHEREAS, accordingly, the Board agrees with the applicant that the proposed bulk is in keeping 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 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 R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio ("FAR"), open space, side yards, and rear yard, contrary to ZR §§ 23-141 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 May 7, 2013"- (10) sheets and "June 25, 2013"-(2) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 3,748 sq. ft. (1.0 FAR), side yards with minimum widths of 3'-8" and 8'-6", a minimum open space of 55 percent, and a minimum rear yard depth of 20'-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; no approval has been given by the Board as to the use and layout of the cellar;

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, August 13, 2013.

MINUTES

57-13-BZ

CEQR #13-BSA-092K

APPLICANT – Eric Palatnik, P.C., for Lyudmila Kofman, owner.

SUBJECT – Application February 2, 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); and rear yard (§23-47) regulations. R3-1 zoning district.

PREMISES AFFECTED – 282 Beaumont Street, south of Oriental Boulevard, Block 8739, Lot 71, 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, the decision of the Brooklyn Borough Commissioner, dated January 16, 2013, acting on Department of Buildings Application No. 320525614, reads in pertinent part:

1. Proposed floor area ratio is contrary to ZR 23-141;
2. Proposed open space is contrary to ZR 23-141;
3. Proposed lot coverage is contrary to 23-141;
4. Proposed rear yard is contrary to ZR 23-47; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space, lot coverage, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on June 4, 2013, after due notice by publication in *The City Record*, with a continued hearing on July 9, 2013, and then to decision on August 13, 2013; and

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

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

WHEREAS, the subject site is located on the west side of Beaumont Street, between Oriental Boulevard and the Manhattan Beach Esplanade, within an R3-1 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 1,965.71 sq. ft. (0.49 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 1,965.71 sq. ft. (0.49 FAR) to 3,965.31 sq. ft. (0.99 FAR); the maximum permitted floor area is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant also proposes to reduce its rear yard depth from 32’-4” to 20’-0” (a minimum rear yard depth of 30’-0” is required), reduce its open space from 65 percent to 56.8 percent (a minimum open space of 65 percent is required), and increase its lot coverage from 35 percent to 43.2 percent (a maximum lot coverage of 35 percent is permitted); 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 0.99 FAR is in keeping with the bulk in the surrounding area; and

WHEREAS, to support this representation, the applicant submitted a study of the 62 single-family homes within 400 feet of the site; based on the study, ten homes (18 percent) have an FAR of 1.0 or greater; and

WHEREAS, accordingly, the Board agrees with the applicant that the proposed bulk is in keeping 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 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 R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space, lot coverage, and rear yard, contrary to ZR §§ 23-141 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 June 26, 2013”- (12) sheets; and *on*

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further condition:

THAT the following will be the bulk parameters of the building: a maximum floor area of 3,965.31 sq. ft. (0.99 FAR), a minimum open space of 56.8 percent, a maximum lot coverage of 43.2 percent, and a minimum rear yard depth of 20'-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; no approval has been given by the Board as to the use and layout of the cellar;

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, August 13, 2013.

84-13-BZ

CEQR #13-BSA-108K

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 184 Kent Avenue Fee LLC, owner; SoulCycle Kent Avenue, LLC, lessee.

SUBJECT – Application March 5, 2013 – Special Permit (§73-36) to allow a physical culture establishment (*SoulCycle*) within portions of an existing cellar and seven-story mixed-use building. C2-4/R6 zoning district.

PREMISES AFFECTED – 184 Kent Avenue, northwest corner of intersection of Kent Avenue and North 3rd Street, Block 2348, Lot 7501, 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

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 29, 2013, acting on Department of Buildings Application No. 320690711, reads in pertinent part:

Proposed physical culture establishment in C2-4 (R6) zoning district is contrary to ZR 32-10 and required special permit; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C2-4 (R6) zoning district, the legalization of a physical culture establishment ("PCE") on portions of the first story of an existing seven-story mixed residential and commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on June 4, 2013, after due notice by publication in *The City Record*, and then to decision on August 13, 2013; and

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

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

WHEREAS, the subject site is located at the southwest corner of the intersection of Kent Avenue and North Third Street; and

WHEREAS, the site has approximately 439 feet of frontage along North Third Street, approximately 178 feet of frontage along Kent Avenue, and 78,142 sq. ft. of lot area; and

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

WHEREAS, the applicant notes that on December 19, 2000, under BSA Cal. No. 191-00-BZ, the Board granted a variance permitting the conversion of the building from a warehouse to a mixed residential and commercial building, contrary to the use regulations in effect at the time (at the time, the site was in an M3-1 zoning district); subsequently, on December 18, 2001, the Board authorized an amendment to the variance permitting the creation of a courtyard and the redistribution of floor area to create additional dwelling units; and

WHEREAS, the applicant also notes that the building is subject to a Historic Preservation Deed of Easement in favor of the Trust of Architectural Easements, which prohibits exterior changes to the building without the Trust's consent; and

WHEREAS, the PCE occupies a total of 4,538 sq. ft. of floor area on the first story of the building; and

WHEREAS, the PCE is operated as SoulCycle; the applicant represents that the PCE has operated since May 18, 2013; 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 Saturday, from 5:30 a.m. to 11:00 p.m. and Sunday, from 7:00 a.m. to 9:00 p.m.; and

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

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

WHEREAS, the PCE will not interfere with any

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pending public improvement project; and

WHEREAS, at hearing, the Board raised concerns about: (1) the sufficiency of the sound attenuation measures; (2) the notification of the building's residents of the application for the PCE; and (3) open notices of violation from the Environmental Control Board regarding the building; and

WHEREAS, in response, the applicant submitted an amended plan noting the proposed sound attenuation measures; the applicant also submitted a statement confirming that notices regarding the PCE application were posted near the residential entrances to the building and explaining that the open violations relate to construction of the proposed PCE and that such violations are resolved or will be resolved by the Board's grant of the special permit; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 13BSA108K, dated February 25, 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 a C2-4 (R6) zoning district, the legalization of a PCE on portions of the first story of an existing seven-story mixed residential

and commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received June 25, 2013" – Three (3) sheets; and *on further condition*:

THAT the term of this grant will expire on May 18, 2023;

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

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, August 13, 2013.

108-13-BZ CEQR #13-BSA-128M

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for EOP-Retail, owner; Equinox 1095 6th Avenue, Inc, lessee. SUBJECT – Application April 19, 2013 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Equinox*). C5-3, C6-6, C6-7 & C5-2 (Mid)(T) zoning districts.

PREMISES AFFECTED – 100/28 West 42nd Street aka 101/31 West 41st Street, West side of 6th Avenue between West 41st Street and West 42nd Street, Block 00994, Lot 7501, 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 Executive Zoning

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Specialist, dated April 16, 2013, acting on Department of Buildings Application No. 121331157, reads in pertinent part:

ZR 32-10 & 73-36; proposed physical culture establishment is prohibited and requires Board of Standards and Appeals approval; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located partially within a C5-3 zoning district, partially within a C6-6 zoning district, partially within a C5-2.5 zoning district, and partially within a C6-7 zoning district within the Special Midtown District and the Theater Subdistrict, the operation of a physical culture establishment (“PCE”) in portions of the first story, cellar and sub-cellar of a 41-story commercial building, contrary to ZR § 32-10; and

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

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

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

WHEREAS, the subject site is a rectangular lot, spanning the full length of Avenue of the Americas between West 41st Street and West 42nd Street, with 197.5 feet of frontage along Avenue of the Americas, and 300 feet of frontage along both West 41st Street and West 42nd Street, with a total lot area of approximately 59,250 sq. ft.; and

WHEREAS, the site is located partially within a C5-3 zoning district, partially within a C6-6 zoning district, partially within a C5-2.5 zoning district, and partially within a C6-7 zoning district within the Special Midtown District and the Theater Subdistrict and is occupied by a 41-story commercial building with 1,066,500 sq. ft. of floor area; and

WHEREAS, the Board has exercised jurisdiction over the site since January 21, 1975 when, under BSA Cal. No. 613-74-BZ, the Board granted a variance to permit the installation of an illuminated sign at the rooftop level, on the north and south facades of building; and

WHEREAS, the proposed PCE will occupy approximately 1,098 sq. ft. of floor area on the first story, 7,098 sq. ft. of floor space in the cellar, and 21,589 sq. ft. of floor space in the sub-cellar; and

WHEREAS, the PCE will be operated as Equinox; and

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

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

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

the public welfare; and

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

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

WHEREAS, at hearing, the Board raised concerns about the proposed signage for the PCE; and

WHEREAS, in response, the applicant submitted amended plans reflecting that the PCE signage would comply with the underlying district regulations; and

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 13BSA128M, dated April 17, 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 partially within a C5-3 zoning district, partially within a C6-6 zoning district, partially within a C5-2.5 zoning district, and partially within a C6-7 zoning district within the Special Midtown District and the Theater Subdistrict, the operation of a PCE in portions of the first story, cellar and sub-cellar

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of a 41-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received July 25, 2013” – Seven (7) sheets and *on further condition*:

THAT the term of this grant will expire on August 23, 2023;

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

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

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

THAT the PCE will comply with Local Law 58/87, as reviewed and approved by DOB;

THAT the signage will comply with the applicable provisions for the underlying zoning district;

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, August 13, 2013.

236-12-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Thomas Savino, owner.

SUBJECT – Application July 31, 2012 – Variance (§72-21) to permit the extension of an existing medical office, contrary to use ((§ 22-10) and side yard regulations (§24-35). R2 zoning district.

PREMISES AFFECTED – 1487 Richmond Road, northwest corner of intersection of Richmond Road and Norden Street, Block 869, Lot 372, Borough of Staten Island.

COMMUNITY BOARD #2SI

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

282-12-BZ

APPLICANT – Eric Palatnik, P.C., for Izhak Lati, owner.
SUBJECT – Application September 24, 2012 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to side yard requirements (§23-461), and a variance (§72-21), contrary to front yard requirements (§23-45). R5 zoning district.

PREMISES AFFECTED – 1995 East 14th Street, northeast corner of East 14th Street and Avenue T, Block 7293, Lot 48, Borough of Brooklyn.

COMMUNITY BOARD #15BK

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

301-12-BZ

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

SUBJECT – Application October 22, 2012 – Special permit (§73-52) to allow a 25 foot extension of an existing commercial use into a residential zoning district, and §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

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

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

ACTION OF THE BOARD – Laid over to September 17, 2013, at 10 A.M., for continued hearing.

338-12-BZ

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

SUBJECT – Application December 13, 2012 – Special Permit (§73-36) to allow the legalization of a physical culture establishment (*Metro Gym*) located in an existing one-story and cellar commercial building. C2-2/R5B zoning district.

PREMISES AFFECTED – 164-20 Northern Boulevard, west side of the intersection of Northern Boulevard and

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Sanford Avenue, Block 5337, Lot 17, Borough of Queens.

COMMUNITY BOARD # 7Q

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 September 10, 2013, at 10 A.M., for decision, hearing closed.

13-13-BZ & 14-13-BZ

APPLICANT – Slater & Beckerman, P.C., for The Green Witch Project LLC, owners.

SUBJECT – Application January 25, 2013 – Variance (§72-21) to allow two single-family residential buildings, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 98 & 96 DeGraw Street, north side of DeGraw Street, between Columbia and Van Brunt Streets, Block 329, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Laid over to September 24, 2013, at 10 A.M., for deferred decision.

61-13-BZ

APPLICANT – Ellen Hay, Wachtel Masyr & Missry LLP, 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 – Laid over to September 17, 2013, at 10 A.M., for continued hearing.

77-13-BZ

APPLICANT – Friedman & Gotbaum, LLP by Shelly S. Friedman, Esq., for 45 Great Jones Street LLC, for Joseph Lauto, owner.

SUBJECT – Application February 22, 2013 – Variance (§72-21) to permit residential use, contrary to ZR 42-00 and ground floor commercial use contrary to ZR§42-14(D)(2)(b). M1-5B zoning district.

PREMISES AFFECTED – 45 Great Jones Street, between Lafayette and Bowery Streets, on the south side of Great Jones Street, Block 530, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #2M

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

82-13-BZ

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

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 September 17, 2013, at 10 A.M., for decision, hearing closed.

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 (§23-141) and less than the required rear yard (§23-47). R2 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

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 September 10, 2013, at 10 A.M., for decision, hearing closed.

96-13-BZ

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

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2727, Lot 4, Borough of Bronx.

COMMUNITY BOARD #2BX

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
September 17, 2013, at 10 A.M., for decision, hearing
closed.

170-13-BZ

APPLICANT – Venable LLP, for The Mount Sinai
Hospital, owner.

SUBJECT – Application June 6, 2013 – Variance (§72-21)
to allow the enlargement of Mount Sinai Hospital of Queens
contrary to §24-52 (height & setback); §24-11 (lot
coverage); §24-36 (rear yard); and §§24-382 & 33-283 (rear
yard equivalents). R6 & C1-3 zoning districts.

PREMISES AFFECTED – 25-10 30th Avenue, block
bounded by 30th Avenue, 29th Street, 30th Road and
Crescent street, Block 576, Lot 12; 9; 34; 35, Borough of
Queens.

COMMUNITY BOARD #1Q

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

Jeff Mulligan, Executive Director

Adjourned: P.M.

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*CORRECTION

This resolution adopted on November 15, 2012, under Calendar No. 187-11-BZ and printed in Volume 97, Bulletin No. 45, is hereby corrected to read as follows:

187-11-BZ

CEQR #12-BSA-048K

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

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

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

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

Absent: Vice Chair Collins1

THE RESOLUTION –

WHEREAS, decision of the Brooklyn Borough Commissioner, dated November 15, 2011, acting on Department of Buildings Application No. 320372725, reads:

Proposed residential building cannot be built in M1-1 zoning district, as per Section 42-00 ZR; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-1 zoning district, the residential conversion (UG 2) of an existing four-story manufacturing building, contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on May 1, 2012, after due notice by publication in the *City Record*, with continued hearings on June 5, 2012, and July 10, 2012, and then to decision on November 15, 2012 (the October 30, 2012 decision date was postponed due to the storm-related office closure); and

WHEREAS, the building 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 3, Brooklyn, recommends disapproval of this application; and

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

WHEREAS, the site has 37’-9” of frontage on Sandford Street, a depth of 100 feet, and a lot area of 3,775 sq. ft.; and

WHEREAS, the site is currently occupied by a four-story manufacturing building, with a total floor area of 12,836 sq. ft. (3.4 FAR); and

WHEREAS, the building was constructed in approximately 1931 and has been vacant for three years; and

WHEREAS, the applicant proposes to convert the building to residential use with commercial use at a portion of the ground floor, and to make a slight modification to the building envelope to improve the circulation of the building, resulting in a building with a total floor area of 12,566.5 sq. ft. (3.33 FAR); and

WHEREAS, specifically, the applicant proposes to use a 1,376 sq. ft. (0.37 FAR) portion of the first floor for conforming commercial use, and to convert the remaining 11,190.5 sq. ft. (2.96 FAR) of the building to 14 residential units; and

WHEREAS, the applicant originally proposed to convert the subject building to residential and ground floor commercial uses, and to enlarge the existing building by constructing a partial fifth floor at the roof level, resulting in a total floor area of 14,447 sq. ft. (3.83 FAR) and two additional dwelling units (16 total dwelling units); and

WHEREAS, at hearing, the Board raised concerns regarding the proposed enlargement and additional floor area, and directed the applicant to remove the partial fifth floor; and

WHEREAS, in response, the applicant submitted revised plans removing the partial fifth floor enlargement and reflecting the current proposal; and

WHEREAS, because residential use is not permitted in the underlying M1-1 zoning district, the subject use variance is requested; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in occupying the subject site in conformance with underlying district regulations: the existing building is obsolete for conforming manufacturing use; and

WHEREAS, the applicant represents that the building is obsolete for modern manufacturing due to (1) the small and narrow footprint of the building, (2) wood decking and joists which cannot support loads required for manufacturing, (3) an inoperable elevator and twisted stairwell, (4) the low floor-to-ceiling heights, (5) the lack of a loading birth, and (6) the site’s mid-block frontage along a narrow street with low traffic volume; and

WHEREAS, as to the building’s small and narrow footprint, the applicant states that the building is unusually narrow at 37’-9” with a floorplate of 3,209 square feet, which renders it unmarketable for conforming occupancy; and

WHEREAS, as to the uniqueness of this condition, the applicant submitted a lot study which examined 133 lots within the surrounding M1-1 and M1-2 area and found 28 were occupied with conforming uses and have a street frontage of 38’-0” or less; and

WHEREAS, the lot study submitted by the applicant indicates that of those 28 lots, 25 are distinguishable from the subject property because the lots are either: (1) connected to buildings on adjoining narrow lots; (2) part of a larger assemblage; (3) configured to allow off-street parking/loading; (4) occupied by a residential use; or (5)

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located along Nostrand Avenue, a busy thoroughfare; and

WHEREAS, accordingly, the lot study indicates that only three lots of the total 133 lots within the study area were deemed to be comparable to the subject site in terms of their lot width and conforming occupancy; and

WHEREAS, as to the building's load capacity, the applicant represents that the existing floors with wood decking and joists do not have the structural capacity to carry the requisite load capacity for conforming uses; and

WHEREAS, specifically, the applicant states that the 2008 Building Code requires a minimum uniformly distributed live load of 125 p.s.f. and a minimum concentrated live load of 2000 lbs; however, the building's current load capacity measures between 107 and 69 p.s.f. and therefore cannot support a manufacturing warehouse load; and

WHEREAS, the applicant represents that, aside from its low load-bearing capacity, the building's dated floor system consisting of wood decking over wood joists is nearly 50 percent of the building and, aside from any structural stability related work, would require the entire floor and sub-floor to be removed, the affected joists replaced, and the sub-floors and floors reinstalled to achieve a level condition, resulting in significant additional costs associated with the reconstruction of the wood joists and wood decking; and

WHEREAS, as to the inadequate elevator shaft and staircases, the applicant states that the building lacks a functioning elevator and the size of the elevator, at 8'-0" by 8'-0", is not large enough to appropriately market the building for conforming tenancy; and

WHEREAS, the applicant states that the ability to vertically transport products and goods to and from the building's upper levels is further compromised by the existing main stairwell, which would need to be demolished and re-installed because of its uneven and sagging condition; and

WHEREAS, as to the floor-to-ceiling height, the applicant notes that the floor-to-ceiling height varies from 12'-0" to 9'-10" throughout the building; and

WHEREAS, the applicant represents that typical wholesale showroom minimum ceiling heights are 14'-0", and ceiling heights needed for warehousing goods requires a minimum ceiling height of 25'-0" to facilitate the stacking of palettes, and as such, the low ceiling heights of the existing building contribute to the functional obsolescence of the building for conforming manufacturing use; and

WHEREAS, as to the street conditions, the applicant states that Sandford Street, although mapped at a width of 50'-0", is paved for a width of only approximately 30'-0", and off-street parking is permitted on both sides of the street; this coupled with a lack of a loading berth constrains vehicle delivery and access to the site and trailer/truck loading for a conforming use; and

WHEREAS, the applicant states that the building has been vacant for nearly three years, and that the owner has actively attempted to market the space within the building for over two years for a conforming use, but has been unsuccessful; and

WHEREAS, based upon the above, the Board finds that the combination of the small and narrow footprint, wood decking and joists which cannot support load required for manufacturing, inoperable elevator and twisted stairwell, low floor to ceiling height, lack of a loading berth, and mid-block frontage along a narrow, low traffic street create unnecessary hardship and practical difficulty in using the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant provided a feasibility study analyzing: (1) the building used in conformance with M1-1 zoning district regulations; (2) the original proposal with a fifth floor addition; and (3) the proposed four-story residential building with ground floor commercial use; and

WHEREAS, the applicant's feasibility study reflects that the building occupied by a conforming use does not provide a reasonable return but that the proposed building does result in a reasonable return; and

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

WHEREAS, the applicant represents that the proposed residential use 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 notes that although zoned M1-1, the site is two blocks west of an R6 zoning district, and two blocks east of an MX-4 (M1-2/R6A) district, which both permit residential uses as-of-right; and

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

WHEREAS, the land use map submitted by the applicant shows residential uses immediately to the north and west of the site, and across Sandford Street; and

WHEREAS, the applicant represents that the conforming uses in the surrounding area are mostly non-intrusive, one-story garages and undeveloped property; and

WHEREAS, based upon the above, the Board finds that the proposed residential conversion of the subject building will neither alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the unique physical characteristics of the site; and

WHEREAS, as noted above, the applicant initially proposed to construct a partial fifth story enlargement to the existing building, which would have resulted in a floor area of 14,447 sq. ft. (3.83 FAR) and two additional dwelling units (16 total dwelling units); and

WHEREAS, in response to concerns raised by the Board, the applicant revised its proposal to remove the fifth

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story enlargement; and

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

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

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

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment Statement (“EAS”) 12BSA048K, dated April 30, 2011; and

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

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

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

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

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an M1-1 zoning district, the residential conversion (UG 2) of an existing four-story manufacturing building, which is contrary to ZR § 42-00, *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 May 22, 2012”- eight (8) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a total floor area of 12,566.5 (3.33 FAR); a residential floor area of 11,190.5 (2.96 FAR); a commercial floor area of 1,376 sq. ft. (0.37 FAR); a total height of 48’-0”;

and 14 residential units, as illustrated on the BSA-approved plans;

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

THAT substantial construction will be completed in accordance with ZR § 72-23;

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

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

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

Adopted by the Board of Standards and Appeals, November 15, 2012.

***The resolution has been revised to correct the street name to “Sandford” and to change the number of residential units from “12 to 14” residential units. Corrected in Bulletin Nos. 31-33, Vol. 98, dated August 22, 2013.**

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*CORRECTION

This resolution adopted on July 16, 2013, under Calendar No. 54-13-BZ and printed in Volume 98, Bulletin No. 29, is hereby corrected to read as follows:

54-13-BZ

CEQR #12-BSA-089K

APPLICANT – Sheldon Lobel, P.C., for Ricky Novick, owner.

SUBJECT – Application January 31, 2013 – Variance (§72-21) for the enlargement of existing single-family residence, contrary to front yard (§113-54) as there is a parking space within the required front yard, minimum required side yards (§113-543), and side yards (§23-461a) regulations. R5/OPSD zoning district.

PREMISES AFFECTED – 1338 East 5th Street, western side of East 5th Street between Avenue L and Avenue M, Block 6540, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #12BK

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 13, 2013, and acting on Department of Buildings Application No. 320329471 reads, in pertinent part:

Proposed side yards are contrary to ZR 113-543, 23-461(a), pertaining to R4A

Proposed parking space is not permitted in front yard pursuant to ZR 113-54; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R5 zoning district within the Special Ocean Parkway District, the enlargement of an existing single-family detached home that does not provide the required side yards and provides parking within the required front yard, contrary to ZR §§ 23-461, 113-543, and 113-54; and

WHEREAS, a public hearing was held on this application on May 14, 2013, after due notice by publication in *The City Record*, with a continued hearing on June 11, 2013, and then to decision on July 16, 2013; and

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

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

WHEREAS, the subject site is located on the west side of East Fifth Street between Avenue L and Avenue M; and

WHEREAS, the site is located within an R5 district within the Special Ocean Parkway District and has approximately 41 feet of frontage along East Fifth Street; and

WHEREAS, the site is a triangular lot ranging in lot width from approximately 41 feet at the front lot line to 9.38 feet at the rear lot line; the lot depth ranges from 104.9 feet to 100 feet; the site has a lot area of approximately 2,521 sq. ft.; and

WHEREAS, the site is currently occupied by a two-story, detached, single-family home with approximately 2,135.40 sq. ft. of floor area (0.85 FAR); and

WHEREAS, the applicant notes that DOB permits for an as-of-right enlargement of the building have been obtained and construction has commenced but not yet been completed; and

WHEREAS, the applicant proposes to enlarge the existing first and second floor of the building contrary to the side yard and front yard requirements and increase the floor area from 2,135.40 sq. ft. (0.85 FAR) to 2,454.88 sq. ft. (0.97 FAR) (a maximum of 3,781.50 sq. ft. (1.50 FAR) is permitted); and

WHEREAS, specifically, the applicant proposes one side yard with a width of 1'-4" and one side yard with a width of 4'-0" (two side yards of no less than two feet each and ten feet total, with a minimum distance of eight feet between buildings is required, per ZR § 113-543); and a parking space within the required front yard (parking is not permitted within the front yard, per ZR § 113-54); the applicant notes that the proposed enlargement complies in all other respects with the applicable bulk regulations; and

WHEREAS, because the proposed enlargement does not comply with the R5/Special Ocean Parkway District regulations, a variance is requested; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying zoning regulations: the lot size and shape; limited width; and limited potential floor area; and

WHEREAS, the applicant states that the lot is triangular in shape, which limits the development of the site to a triangular building due to compliance with the side yard and accessory parking requirements; and

WHEREAS, the applicant submitted a deed chain showing that the lot shape is a historic condition, which has existed since at least 1928; and

WHEREAS, the applicant represents that a triangular building has constrained and inefficient floorplates, inadequate shared living space, and impedes realization of the maximum available FAR; and

WHEREAS, the applicant represents that the limited width of the lot—which, as noted above, is less than ten feet at the rear lot line—would result in a building that tapers to a width of approximately 5'-6" at the rear, which is too narrow to accommodate usable living space; and

WHEREAS, the applicant notes that the triangularity of the lot and its narrow width are atypical on the subject block, where the average lot is rectangular in shape with an average width of 21'-6"; and since many homes are semi-detached and share driveways, the average building on the block has a building width of 17'-5"; and

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WHEREAS, the applicant further notes that the only other triangular lot on the block is adjacent to the subject lot but is substantially larger, with approximately 3,900 sq. ft. of lot area, which is nearly 1,400 sq. ft. more than the subject site; and

WHEREAS, the applicant states that the shape and width of the lot reduce the potential building floor area well below what is permitted on the site and common on the block; specifically, the applicant states that it can only build 2,275 sq. ft. of floor area as-of-right, but homes in the neighborhood with average-sized, rectangular lots typically can build up to 2,600 sq. ft. as-of-right; and

WHEREAS, the applicant explored the feasibility of enlarging the building as-of-right i.e., with complying side yards and a parking space within the side lot ribbon, and determined that it would result in an increase in floor area of approximately 140 sq. ft. (70 sq. ft. on each story), which the applicant deemed impractical given the cost of construction; and

WHEREAS, accordingly, the applicant asserts that an as-of-right enlargement is infeasible; and

WHEREAS, based upon the above, the Board finds that the cited unique physical conditions create practical difficulties in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the Board agrees that because of the subject lot's unique physical conditions, there is no reasonable possibility that compliance with applicable zoning regulations will result in a habitable home; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, or impact adjacent uses; and

WHEREAS, the applicant states that the proposal essentially maintains existing distance between the subject building and the adjacent building to the south and will maintain a distance of greater than 20 feet from the adjacent building to the north; and

WHEREAS, the applicant states that the enlargement will occur in the rear of the building and will not be visible from East Fifth Street; and

WHEREAS, the applicant also notes that the proposed building is well within the maximum height and maximum permitted FAR in the district; thus, the impact of the enlargement on the surrounding community from a bulk perspective is both minimal and harmonious with the neighborhood character; and

WHEREAS, as to the parking space within the front yard, the applicant notes while the space is within the front yard, it is not located in front of the home, but on the side of the home where the side yard intersects with the front yard; as such, in terms of appearance it is comparable to parking spaces in the surrounding neighborhood; and

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

WHEREAS, the Board finds that the hardship herein

was not created by the owner or a predecessor in title, but is a result of the unique lot size and shape; and

WHEREAS, the applicant represents that the proposal is the minimum variance necessary to afford relief; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II under 6 NYCRR Part 617.5 and 617.13, §§ 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 § 72-21 to permit, within an R5 zoning district within the Special Ocean Parkway District, the enlargement of an existing single-family detached home that does not provide the required side yards and provides parking within the required front yard, contrary to ZR §§ 23-461, 113-543, and 113-54; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received January 31, 2013" - (10) and "May 28, 2013"-(2) sheets; and *on further condition*:

THAT the parameters of the proposed building will be limited to: two stories, a maximum floor area of 2,454.88 sq. ft. (0.97 FAR), side yards with minimum widths of 1'-4" and 4'-0", and one accessory off-street parking space within the front yard, as per 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;

THAT significant construction shall proceed in accordance with ZR § 72-23; 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, July 16, 2013.

***The resolution has been revised to correct the SUBJECT. Corrected in Bulletin Nos. 31-33, Vol. 98, dated August 22, 2013.**