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42-14-BZ

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43-14-A

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44-14-BZ

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45-14-BZ

337 99th Street, 99th Street, between 3rd and 4th Av4enuE, Block 6130, Lot(s) 43, Borough of **Brooklyn, Community Board: 10**. Special Permit (§73-622) to enlarge an existing semi-detached two story dwelling in a residential zoning district(R4-1) and to vary the floor area ratio requirements of the Zoning Resolution and to convert the one family home into a two family home. R4-1 district.

46-14-BZ

252/60 Atlantic Avenue, Southeast corner of intersection of Atlantic Avenue and Boerum Place, Block 181, Lot(s) 1, Borough of **Brooklyn, Community Board: 2**. Special Permit (§73:36) to allow the physical culture establishment (Blink Fitness) within portions of a new commercial building C2-4(R6-A) DB district.

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

CALENDAR

APRIL 8, 2014, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, April 8, 2014, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

457-56-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Medow-"The Shop" 148-152L.P., owner.

SUBJECT – Application November 19, 2013 – Application to extend term of variance permitting accessory parking of motor vehicles, customer parking, and loading and unloading in conjunction with adjacent factory building in an R6B zoning district.

PREMISES AFFECTED – 152-154 India Street, Southern side of India Street, 150 ft. east of intersection of India Street and Manhattan Avenue. Block 2541, Lot 12, Borough of Brooklyn

COMMUNITY BOARD #1BK

192-96-BZ

APPLICANT – Sheldon Lobel, PC, for 1832 Realty LLC, owner.

SUBJECT – Application January 7, 2014 – Amendment of a previously approved Variance (§72-21) which permitted a large retail store (UG 10) contrary to use regulations which expires on September 23 2022. The application seeks to eliminate the term. C1-2/R5 zoning district.

PREMISES AFFECTED – 1832 86th Street, aka 1854 86th Street; 1-29 Bay Street, 2-6 Bay 20th Street, located on the southwest side of 86th Street spanning the entire block frontage between Bay 19th St and Bay 20th Street. Block 6370, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #11BK

160-00-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for 243-02 So. Conduit Avenue, LLC, owner.

SUBJECT – Application April 2, 2013 – Pursuant to ZR 11-411 Extension of Term for the continued operation of an Automotive Service Station (Citgo) which expired on November 21, 2010; Extension of Time to obtain a Certificate of Occupancy which expired on November 21, 2001; Waiver of the Rules. C1-3/R3-2 zoning district.

PREMISES AFFECTED – 244-04 Francis Lewis Boulevard, southwest corner of South Conduit and Francis Lewis Boulevard, Block 13599, Lot 25, Borough of Queens.

COMMUNITY BOARD #13Q

247-09-BZ

APPLICANT – Michael T. Sillerman, Esq. of Kramer Levin Naftalis & Frankel LLP, for Central Synagogue, owner.

SUBJECT – Application February 26, 2014 – Extension of Time to Complete Construction of a previously granted Variance (72-21) for the expansion of a UG4 community use facility (Central Synagogue) which expired on February 23, 2014. C5-2 & C5-2.5 (MiD) zoning district.

PREMISES AFFECTED – 123 East 55th Street, North side of East 55th Street, between park and Lexington Avenue, Block 1310, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEALS CALENDAR

33-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Quentin Road Development LLC, owner.

SUBJECT – Application February 13, 2014 – Appeal challenging a Department of Building's Determination that the provisions of ZR 113-11 require the application of an equivalent residential FAR for the proposed community facility uses in a C4-2 zoning district, C8-2 (OP). C4-2 (OP) Zoning District.

PREMISES AFFECTED – 902 Quentin Road, Southeast corner of intersection of Quentin Road and East 9th Street. Block 6666, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ZONING CALENDAR

210-13-BZ

APPLICANT – Sheldon Lobel, P.C., for MDL+S LLC, owner; Richard Bundy, lessee.

SUBJECT – Application July 8, 2013 – Variance (§72-21) to legalize the operation of the existing physical culture establishment (The Physique) on the basement level of a building. C1-4/R7A zoning district.

PREMISES AFFECTED – 43-12 50th Street, Located on the west side of 50th Street between 43rd Avenue and Queens Boulevard. Block 138, Lot 25, Borough Queens.

COMMUNITY BOARD #2Q

233-13-BZ

APPLICANT – Law office of Fredrick A. Becker, for Kayvan Shadrour, owner.

SUBJECT – Application August 12, 2013 – Special Permit (§73-622) for an enlargement of an existing single family residence contrary to floor area, lot coverage and open space (ZR 23-141); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R3-2 zoning district.

PREMISES AFFECTED – 2413 Avenue R, North side of

CALENDAR

Avenue R between East 24th Street and Bedford Avenue.
Block 6807, Lot 48. Borough of Brooklyn.
COMMUNITY BOARD #15BK

302-13-BZ

APPLICANT – Francis R. Angelino, Esq., for Claret Commons Condominium, owner; Peloton, lessee.

SUBJECT – Application November 15, 2013 – Special Permit (§73-36) to allow physical culture establishment (PCE) “Peloton Fitness”. C6-3X zoning district.

PREMISES AFFECTED – 140 West 23rd Street, S/S West 23rd Street between 6th and 7th Avenues. Block 798, Lot 7503. Borough of Manhattan.

COMMUNITY BOARD #4M

305-13-BZ

APPLICANT – Akerman LLP, for Whitestone Plaza, LLC, owner; Whitestone Fitness D/B/A Dolphin Fitness, lessee.

SUBJECT – Application November 20, 2013 – Special Permit (§73-36) to allow physical culture establishment (PCE) “Dolphin Fitness”. M1-1 zoning district.

PREMISES AFFECTED – 30-50 Whitestone Expressway, Bounded by Ulmer Street to the north, Whitestone Expressway to the East and 31st Avenue to the south. Block 4363, Lot 100. Borough of Queens.

COMMUNITY BOARD #7Q

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, MARCH 25, 2014
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

923-77-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 1899-1905 McDonald Avenue Associates, LLC, owner.

SUBJECT – Application November 14, 2013 – Extension of Term of a previously approved Variance (§72-21) which permitted a one-story manufacturing building which expired on May 31, 2013. R5 (OP) zoning district.

PREMISES AFFECTED – 1905 McDonald Avenue, east side of McDonald Avenue, 105 ft. south of Quentin Road, Block 6658, Lot 86, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an extension of term for the continued operation of a manufacturing use (Use Group 17) on a site within an R5 zoning district, within the Special Ocean Parkway District, which expired on May 31, 2013; and

WHEREAS, a public hearing was held on this application on February 4, 2014, after due notice by publication in *The City Record*, with a continued hearing on March 4, 2014, and then to decision on March 25, 2014; and

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

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

WHEREAS, the subject site is an interior lot located on the east side of McDonald Avenue, between Quentin Road and Woodside Avenue, within an R5 zoning district, within the Special Ocean Parkway District; and

WHEREAS, the site has 6,326 sq. ft. of lot area and is occupied by a one-story manufacturing building with 6,043 sq. ft. of floor area (0.96 FAR); and

WHEREAS, the Board has exercised jurisdiction over the site since May 31, 1978, when, under the subject calendar number, the Board granted a variance permitting the

construction of a one-story manufacturing building within an R5 zoning district, contrary to use regulations and for a term of 15 years, to expire on May 31, 1993; and

WHEREAS, on March 8, 1994, the Board amended the grant to permit the construction of a mezzanine within the building and extended the term for ten years, to expire on May 31, 2003; and

WHEREAS, most recently, on March 30, 2004, the Board extended the term of the grant for ten years, to expire on May 31, 2013; and

WHEREAS, the applicant now requests an extension of the term of the grant for ten years; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may extend the term of a variance; and

WHEREAS, at hearing, the Board directed the applicant to: (1) remove the materials that are being stored outside of the building; and (2) confirm that the signage complies with the C1 district regulations; and

WHEREAS, in response, the applicant submitted: (1) photographs showing the removal of the improperly-stored materials; and (2) a signage analysis demonstrating compliance with the C1 district regulations; and

WHEREAS, the Board has reviewed the application and has determined that this application is appropriate to grant, with certain conditions.

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, as adopted on May 31, 1978, so that as amended this portion of the resolution will read: “to grant an extension of the variance for a term of ten years from the prior expiration, to expire on May 31, 2023, *on condition* that any and all work will substantially conform to the previously-approved BSA drawings; and *on further condition*;

THAT the term of the variance will expire on May 31, 2023;

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

THAT an amended certificate of occupancy will be obtained by March 25, 2015;

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s); 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 App. No. 320756801)

Adopted by the Board of Standards and Appeals, March 25, 2014.

MINUTES

1070-84-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Epsom Downs, Inc., owner.

SUBJECT – Application November 7, 2013 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a UG6 Eating and Drinking establishment (*The Townhouse*) which expired on July 9, 2010; Extension of time to obtain a Certificate of Occupancy which expired on January 9, 2003; Waiver of the Rules. R8 zoning district.

PREMISES AFFECTED – 234 East 58th Street, south side of East 58th Street, Block 1331, Lot 32, Borough of Manhattan.

COMMUNITY BOARD #6M

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 operation of an eating and drinking establishment (Use Group 6) on a site within an R8B zoning district, which expired on July 9, 2010, and an extension of time to obtain a certificate of occupancy, which expired on January 9, 2003; and

WHEREAS, a public hearing was held on this application on February 11, 2014, after due notice by publication in *The City Record*, with a continued hearing on March 4, 2014, and then to decision on March 25, 2014; and

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

WHEREAS, Community Board 6, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is an interior lot located on the south side of East 58th Street, between Second Avenue and Third Avenue, within an R8B zoning district; and

WHEREAS, the site has 3,015 sq. ft. of lot area and is occupied by a six-story mixed residential and commercial building with 13,650 sq. ft. of floor area (4.5 FAR); and

WHEREAS, the applicant notes that portions of the cellar and first floor of the building are occupied by an eating and drinking establishment known as “The Townhouse Bar,” which has been in operation for more than 20 years; and

WHEREAS, the Board has exercised jurisdiction over the site since July 9, 1985, when, under the subject calendar number, the Board granted a variance to permit the conversion of portions of the cellar and first story of an existing mixed residential and commercial building from showrooms (cellar) and apartments (first floor) to an eating and drinking establishment (Use Group 6) within what was then an R8 zoning district, contrary to use regulations and for a term of 15 years, to expire on July 9, 2000; and

WHEREAS, the grant was amended and extended over the years, most recently on January 9, 2001, when the Board extended the term for ten years, until July 9, 2010; a condition of the grant was that a new certificate of occupancy would be obtained by January 9, 2003; and

WHEREAS, accordingly, the applicant now requests an extension of the term of the grant for ten years and an extension of time to obtain a certificate of occupancy; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may extend the term of a variance; and

WHEREAS, at hearing, the Board directed the applicant to: (1) notify the tenants within the building of the application; and (2) confirm that the musical entertainment performed at the establishment is within the parameters of Use Group 6; and

WHEREAS, in response, the applicant submitted: (1) proof that the tenants were notified; and (2) an amended statement clarifying that there is not a set time or a cover charge for its musical performances; in addition, the applicant notes that the establishment’s capacity is below 200 persons; and

WHEREAS, the Board has reviewed the application and has determined that this application is appropriate to grant, with certain conditions.

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, as adopted on July 9, 1985, so that as amended this portion of the resolution will read: “to grant an extension of the variance for a term of ten years from the prior expiration, to expire on July 9, 2020, *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked ‘Received November 7, 2013’ - Five (5) sheets; and *on further condition*:

THAT the term of the variance will expire on July 9, 2020;

THAT the occupancy of the establishment will not exceed 200 persons;

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

THAT an amended certificate of occupancy will be obtained by March 25, 2015;

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

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

Adopted by the Board of Standards and Appeals, March 25, 2014.

MINUTES

799-89-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for 1470 Bruckner Boulevard Corp., owner.

SUBJECT – Application September 24, 2013 – Extension of Term of a previously approved Variance (ZR 72-21) for the continued operation of a UG 17 Contractor's Establishment (*Colgate Scaffolding*) which expired on December 23, 2013. C8-1/R6 zoning district.

PREMISES AFFECTED – 1460-1470 Bruckner Boulevard, On the South side of Bruckner Blvd between Colgate Avenue and Evergreen Avenue. Block 3649, Lot 27 & 30. Borough of Bronx.

COMMUNITY BOARD #9BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for an extension of term for a variance authorizing a contractor's establishment (Use Group 17) on a site partially within a C8-1 zoning district and partially within an R6 zoning district, which expired on December 23, 2013; and

WHEREAS, a public hearing was held on this application on January 28, 2014, after due notice by publication in *The City Record*, with a continued hearing on March 4, 2014, and then to decision on March 25, 2014; and

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

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

WHEREAS, the subject site spans the south side of Bruckner Boulevard between Colgate Avenue and Evergreen Avenue, and is located partially within a C8-1 zoning district and partially within an R6 zoning district; and

WHEREAS, the site is occupied by two one-story industrial buildings occupied as a contractor's establishment (Use Group 17) and accessory at-grade parking; and

WHEREAS, the site has been subject to the Board's jurisdiction since July 25, 1950, when, under BSA Cal. No. 380-50-BZ, the Board granted a variance to permit, in a residence district, the construction and maintenance of a building on Lot 30 for storage and sale of automobile parts and automobiles, an accessory office, and an automobile repair shop; on July 21, 1953, the Board granted a variance to permit, in a residence district, the construction and maintenance of a building on Lot 27 for an automobile repair shop with painting and welding; and

WHEREAS, subsequently, around 1989, one owner took control of the lots and began using them together as a contractor's establishment (Use Group 17), and on July 13, 1993, the Board granted a variance legalizing the consolidation and the use for a term of ten years, to expire

on July 13, 2003; and

WHEREAS, by resolution dated December 23, 2003, the Board granted an extension of the term of the variance for ten years, to expire on December 23, 2013; and

WHEREAS, the applicant now seeks to extend the term of the variance authorizing the contractor's establishment for ten years; and

WHEREAS, at hearing, the Board directed the applicant to: (1) remove barbed wire from the fence surrounding the site; (2) submit photographs showing the removal of debris from the parking areas on the site; and (3) confirm that the accessory signage was limited to Colgate Avenue and Bruckner Boulevard; and

WHEREAS, in response, the applicant submitted photographs showing the removal of the barbed wire and debris; in addition, the applicant confirmed that accessory signage was limited to Colgate Avenue and Bruckner Boulevard and would not be placed along Evergreen Avenue; and

WHEREAS, based upon its review of the record, the Board finds that an extension of term for ten years is appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated July 13, 1993, so that as amended the resolution reads: "to grant an extension of the variance for a term of ten years, to expire on December 23, 2023; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked 'Received September 24, 2013- Five (5) sheets; and *on further condition*:

THAT this grant will be limited to a term of ten years, to expire on December 23, 2023;

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."

Adopted by the Board of Standards and Appeals, March 25, 2014.

287-01-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Related Broadway Development LLC, owner; TSI West 94, LLC dba New York Sports club, lessee.

SUBJECT – Application November 20, 2013 – Extension of Term of a previously approved special permit (§73-36) permitting the operation of a physical culture establishment, which expired on April 16, 2011; Waiver of the Rules. C4-6/R8 zoning district.

PREMISES AFFECTED – 2523-2525 Broadway, west side of Broadway between West 93rd Street and West 94th Street, Block 1242, Lot 10, 55, Borough of Manhattan.

COMMUNITY BOARD #7M

MINUTES

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening, a waiver of the Rules of Practice and Procedure, an amendment, and an extension of term for a physical culture establishment (“PCE”), which expired on April 16, 2011; and

WHEREAS, a public hearing was held on this application on February 25, 2014, after due notice by publication in *The City Record*, and then to decision on March 25, 2014; 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 7, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is a corner lot with frontages along West 94th Street, West 95th Street, and Broadway, partially within a C4-6A zoning district and partially within an R8 zoning district, within a Special Enhanced Commercial District; and

WHEREAS, the site is occupied by a 21-story mixed residential and commercial building; and

WHEREAS, the PCE is located on portions of the cellar (8,723 sq. ft. of floor space) and first (800 sq. ft. of floor area) and second floors (6,987 sq. ft. of floor area) for a total PCE floor space of 16,060 sq. ft.; and

WHEREAS, the PCE is operated entirely within the C4-6A portion of the site; and

WHEREAS, the PCE is operated as New York Sports Club; and

WHEREAS, on April 16, 2002, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to permit, on a site partially within a C4-6A zoning district and partially within an R8 zoning district, within a Special Enhanced Commercial District, the legalization of an existing PCE for a term of nine years, to expire on April 16, 2011; and

WHEREAS, the applicant now seeks an amendment regarding the hours of operation and an extension of the term of the PCE special permit for ten years; and

WHEREAS, as to the hours of operation, the applicant noted that the operator has changed the hours of operation from Monday through Thursday, from 6:00 a.m. to 11:00 p.m., Friday, from 6:00 a.m. to 9:00 p.m. and Saturday and Sunday, from 9:00 a.m. to 7:00 p.m. to Monday through Thursday, from 5:00 a.m. to 12:00 a.m., Friday, from 5:00 a.m. to 10:00 p.m., Saturday, from 7:00 a.m. to 10:00 p.m., and Sunday, from 8:00 a.m. to 10:00 p.m.; and

WHEREAS, at hearing, the Board directed the applicant

to clarify whether any residential units are located directly above the PCE and to note on the plans the sound attenuation measures that have been installed; and

WHEREAS, in response, the applicant confirmed that no residential units are located directly above the PCE and submitted amended plans showing the existing sound attenuation measures; and

WHEREAS, based upon its review of the record, the Board finds that an extension of term for ten years 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 April 16, 2002, so that as amended the resolution reads: “to grant the noted modification to the PCE’s hours of operation and to grant an extension of the special permit for a term of ten years from the prior expiration; *on condition* that the use will substantially comply with the drawings filed with this application marked ‘Received November 20, 2013’- (6) sheets; and *on further condition*:

THAT this grant will be limited to a term of ten years, to expire on April 16, 2021;

THAT the hours of operation will be limited to Monday through Thursday, from 5:00 a.m. to 12:00 a.m., Friday, from 5:00 a.m. to 10:00 p.m., Saturday, from 7:00 a.m. to 10:00 p.m., and Sunday, from 8:00 a.m. to 10:00 p.m.;

THAT any massages will be performed only by New York State licensed massage professionals;

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

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

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

THAT 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.”

Adopted by the Board of Standards and Appeals, March 25, 2014.

201-02-BZ

APPLICANT – Eric Palatnik, P.C., for Paco Page, LLC, owner.

SUBJECT – Application May 17, 2013 – Extension of Term of a previously approved Variance (§72-21) for the construction of an automotive service station (UG 16B) with accessory convenience store which expired on January 28, 2013; Waiver of the rules. C1-1/R3X (SRD) zoning district. PREMISES AFFECTED – 6778 Hylan Boulevard, between Page Avenue and Culotta Lane, Block 7734, Lot 13 & 20, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on

MINUTES

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 term of a variance to permit, on a site within a C1-1 (R3X) zoning district, the operation of an automotive service station (Use Group 16B) with an accessory convenience store, which expired on January 28, 2013; and

WHEREAS, a public hearing was held on this application on February 22, 2014, after due notice by publication in *The City Record*, with a continued hearing on March 4, 2014, and then to decision on March 25, 2014; and

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

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

WHEREAS, the subject site is located on the southeast corner of Hylan Boulevard and Page Avenue, within a C1-1 (R3X) zoning district; and

WHEREAS, on January 28, 2003, under the subject calendar number, the Board granted a variance to permit the construction of an automotive service station with an accessory convenience store; and

WHEREAS, on May 22, 2007, the Board granted an extension of time to complete construction and obtain a certificate of occupancy, which expired on May 22, 2011; the Board granted an additional extension of time on September 20, 2011, to expire on September 20, 2015; and

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

WHEREAS, the applicant notes that there are no proposed changes to the BSA-approved plans; however, a new application number is required at DOB due to the delay in commencing construction under the original application number; 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 January 28, 2003, so that as amended the resolution reads: “to permit an extension of the term of the variance for an additional ten years, to expire on January 28, 2023”; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked ‘Received February 26, 2014’ - Six (6) sheets; and *on further condition*:

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

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

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

(DOB Application No. 520046539)

Adopted by the Board of Standards and Appeals, March 25, 2014.

823-19-BZ

APPLICANT – Eric Palatnik, P.C., for Israel Minzer, owner.

SUBJECT – Application April 20, 2012 – Amendment (§§ 11-412 and 11-413) of a previously approved variance which permitted a one story warehouse (UG 16). The application seeks to construct an as-of-right two-story community facility (UG 4) atop the warehouse and reduce the warehouse space to accommodate 13 required accessory parking spaces for the proposed community facility use. R5 zoning district.

PREMISES AFFECTED – 1901 10th Avenue, southeast corner of East 19th Street and 10th Avenue, Block 890, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for continued hearing.

960-67-BZ & 116-68-BZ

APPLICANT – Akerman LLP By Steven Sinacori for 40 CPS Associates, LLC, owner.

SUBJECT – Application December 26, 2013 – Amendment of two previously approved variances (§72-21) to allow the merger of the zoning lots and the transfer of development rights from 36 to 40 Central Park South. R10-H zoning district.

PREMISES AFFECTED – 36 & 40 Central Park South, South side of Central Park South between 6th and 5th Avenues. Block 1274, Lot(s) 6, 11, Borough of Manhattan.

COMMUNITY BOARD #5M

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for decision, hearing closed.

MINUTES

427-70-BZ

APPLICANT – Carl A. Sulfaro, Esq. for Beach Channel, LLC, owner; Masti, Inc. lessee.

SUBJECT – Application May 21, 2012 – Amendment of a previously approved Variance (§72-21) which permitted the operation of an Automotive Service Station (UG 16B). Amendment seeks to legalize a one-story accessory convenience store. C2-2/R4 zoning district.

PREMISES AFFECTED – 38-01 Beach Channel Drive, southwest corner of Beach 38th Street and Beach Channel Drive. Block 15828, Lot 30. Borough of Queens.

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Laid over to May 20, 2014, at 10 A.M., for adjourned hearing.

546-82-BZ

APPLICANT – Akerman Senterfitt, LLP, for Pasquale Carpentire, owner; Ganesh Budhu, lessee.

SUBJECT – Application June 20, 2013 – Extension of term of previously granted variance for the continued operation of a non-conforming open public parking lot which expired on June 14, 2013. R7-A zoning district.

PREMISES AFFECTED – 148-15 89th Avenue, bounded by 88th Avenue to its north, 150th Street to its east, 148th Street to its west, 89th Avenue to its south, Block 9693, Lot 60, Borough of Queens.

COMMUNITY BOARD #12Q

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for decision, hearing closed.

178-99-BZ

APPLICANT – Eric Palatnik, P.C., for Saltru Associates Joint Venture, owner.

SUBJECT – Application November 30, 2012 – Amendment (§§72-01 & 72-22) of a previously granted variance (§72-21) which permitted an enlargement of an existing non-conforming department store (UG 10A). The amendment seeks to replace an existing 7,502 sq. ft. building on the zoning lot with a new 34,626 sq. ft. building to be occupied by a department store (UG 10A) contrary to §42-12. M3-1 zoning district.

PREMISES AFFECTED – 8973/95 Bay Parkway, 1684 Shore Parkway, south side of Shore Parkway, 47/22' west of Bay Parkway, Block 6491, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #11BK

ACTION OF THE BOARD – Laid over April 29, 2014, at 10 A.M., for continued hearing.

186-96-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Edward Ivy, owner.

SUBJECT – Application November 27, 2012 – Extension of Term of a previously granted variance (§72-21) for the continued operation of a one story warehouse and office/retail store building (UG 16 & 6), which expired on May 19, 2003; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 145-21/25 Liberty Avenue, northeast corner of Liberty Avenue and Brisbin Street, Block 10022, Lot(s) 1, 20, 24, Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Laid over April 29, 2014, at 10 A.M., for continued hearing.

246-01-BZ

APPLICANT – Eric Palatnik, P.C., for Bodhi Fitness Center Inc., owner.

SUBJECT – Application October 16, 2013 – Amendment of a previously approved Special Permit (§73-36) for a physical culture establishment (*Bodhi Fitness Center*). The amendment seeks to enlarge the PCE space by 3,999 sq. ft. M1-1, C2-2/R6 zoning district.

PREMISES AFFECTED – 35-11 Prince Street, between 35th Avenue and Northern Boulevard, Block 4958, Lot 1, Borough of Queens.

COMMUNITY BOARD #4Q

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for decision, hearing closed.

197-05-BZ

APPLICANT – Law Offices of Marvin B. Mitzner LLC, for Broadway Realty LLC, owner.

SUBJECT – Application February 11, 2014 – Extension of Time to Complete Construction of a previously approved variance (§72-21) permitting an 11-story residential building with commercial on the ground floor, contrary to bulk regulations, which expired on January 12, 2014. C6-1 district.

PREMISES AFFECTED – 813-815 Broadway, west side of Broadway, 42' south of East 12th Street, Borough of Manhattan.

COMMUNITY BOARD #2M

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to April 29, 2014, at 10 A.M., for decision, hearing closed.

MINUTES

369-05-BZ

APPLICANT – Eric Palatnik, P.C., for Flatland 3706 Real Estate, LLC, owner.

SUBJECT – Application February 7, 2014 – Extension of Time to Complete Construction of a previously approved variance (§72-21) to construct a four-story multiple dwelling, which expires on October 17, 2014. R3-2(HS) zoning district.

PREMISES AFFECTED – 908 Clove Road, between Bard and Tyler Avenues, Block 323, Lot 42, Borough of Staten Island.

COMMUNITY BOARD #1SI

THE VOTE TO CLOSE HEARING –

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

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

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 – 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 July 15, 2013, acting on Department of Buildings Application No. 520124552, reads in pertinent part:

Proposed construction on a 12-10 (a) Zoning Lot located within the bed of a mapped street is contrary to Section 35 of the General City Law; and

WHEREAS, a public hearing was held on this application on August 13, 2013, after due notice by publication in *The City Record*, with continued hearings on November 19, 2013 and March 4, 2014, and then to decision on March 25, 2014; and

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

WHEREAS, this is an application to allow the construction of a two-story, two-family home within mapped but unbuilt portions of Hull Avenue; and

WHEREAS, the subject site is a corner lot located at the southwest corner of the intersection of Haven Avenue and Hull Avenue, within an R3-1 zoning district; and

WHEREAS, Hull Avenue is mapped to terminate at Haven Avenue but currently terminates in a dead-end near the western boundary of the site; and

WHEREAS, the applicant states that the site has a lot width of approximately 45 feet, a lot depth of approximately 80 feet, and approximately 3,502 sq. ft. of lot area; and

WHEREAS, the applicant notes that the proposed building will have approximately 1,961 sq. ft. of floor area (0.56 FAR) and that the site will include three accessory off-street parking spaces; and

WHEREAS, by letter dated May 9, 2013, the Fire Department states that it has reviewed the proposal and offers no objections; and

WHEREAS, by letter dated May 13, 2013, the Department of Environmental Protection (“DEP”) states that:

(1) there is an existing eight-inch diameter city water main in the bed of Hull Avenue between Haven Avenue and Boundary Avenue; (2) there is an existing ten-inch diameter sanitary sewer and an existing eight-inch diameter city water main in the bed of Haven Avenue between Hull Avenue and Adams Avenue; (3) the preliminary proposed Drainage Plan Sheet 8 of 12, dated June 5, 2012, calls for a future ten-inch diameter sanitary sewer and a 12-inch storm sewer to be installed in hull Avenue between Haven Avenue and Boundary Avenue, and for a future 10-inch sanitary sewer and a 12-inch diameter storm sewer in Haven Avenue between Hill Avenue and Adams Avenue; and

WHEREAS, DEP further states that it requires the applicant to submit a survey/plan showing: (1) the width of mapped Hull Avenue between Haven Avenue and Boundary Avenue, the width of the widening portions of the street and available portion of the street; (2) the width of mapped Haven Avenue between Hull Avenue and Adams Avenue and the width of widening portions of the street and available portions of the street; (3) the distances between the lot line of Lot 15 and end cap of the eight-inch diameter city water main in Hill Avenue; (4) the distance from the lot line of Lot 15 to the hydrant in Hull Avenue; and (5) a 32-foot wide sewer corridor in the bed of Haven Avenue between Hull Avenue and Adams Avenue for the installation, maintenance, and/or reconstruction of the future ten-inch diameter sanitary sewer, the 12-inch diameter storm sewer, the existing ten-inch diameter sanitary sewer and the 8-inch diameter water main; and

WHEREAS, in response to DEP’s request, by letter dated July 29, 2013, the applicant submitted a revised survey; and

WHEREAS, by letter dated August 12, 2013, DEP

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states that, based on its review of the applicant's response, it has no objections to the proposal; and

WHEREAS, by email correspondence dated September 6, 2013, the Department of Transportation ("DOT") requested that the applicant perform a title search for the following streets: (1) Haven Avenue from Jefferson Avenue to Adams Avenue; and (2) Hull Avenue from Haven Avenue to Boundary Avenue ; and

WHEREAS, DOT also states that according to the Staten Island Topographical Bureau's records, the city does not have title to or a Corporation Counsel Opinion of Dedication ("CCO") for Hull Avenue at this location and that the city has a CCO for Haven Avenue at this location for 29 to 50 feet, as-in-use on April 4, 1991; and

WHEREAS, accordingly, DOT directed the applicant to perform a title search to determine the ownership of the portions of Hull Avenue and Haven Avenue in question; and

WHEREAS, following a series of correspondences between DOT and the applicant, DOT states that: (1) because the Staten Island Topographical Bureau identified Haven Avenue at this location as a CCO as-in-use, DOT cannot authorize the proposed clearing of the vegetation and the guardrail that juts into the mapped width of Haven Avenue; and (2) although the applicant has title to Haven Avenue up to the center line of Hull Avenue, the city does not own the other half and, as such, DOT cannot authorize the construction of continuous street infrastructure along Haven Avenue, which is required; and

WHEREAS, by letter dated March 18, 2014, the applicant states that based on its title company's representation, ownership of Haven Avenue to the center line of Hull Avenue remains with the city; and

WHEREAS, the Board notes that pursuant to GCL § 35, the Board may authorize construction within the bed of the mapped street subject to reasonable requirements; and

WHEREAS, the Board also notes that Haven Avenue has been a mapped street since December 5, 1929 and that DOT has not represented that construction within the unbuilt portions of Haven Avenue would either conflict or interfere with the its Capital Improvement Program; and

WHEREAS, accordingly, the Board finds that DOT's remaining concern regarding the identity of the owner of Haven Avenue beyond the guardrail is not a basis to deny the application; however, the applicant must determine the identity of the owner of that portion of Haven Avenue and obtain permission for the proposed improvements prior to the issuance of a building permit; and

WHEREAS, at hearing, the Board requested clarification regarding: (1) the proposed street setback's compliance with the Zoning Resolution; and (2) whether the proposed building could be aligned with the adjoining homes; and

WHEREAS, in response, the applicant states that setback is permitted from the record line because the site is a ZR § 12-10(a) zoning lot; as to aligning with the adjacent homes, the applicant notes that the adjacent site are larger than the subject site and, as such, can provide a setback without

losing important marketable floor area; the subject site, in contrast, would lose bedrooms if it were to be aligned with the adjacent homes; 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 Board modifies the decision of the Staten Island Borough Commissioner, dated July 15, 2013, acting on Department of Buildings Application No. 520124552, by the power vested in it by Section 35 of the General City Law, limited to the decision noted above *on condition* that construction will substantially conform to the drawing filed with the application marked "Received March 5, 2014" – one (1) sheet; and *on further condition*:

THAT DOB will review and approve plans associated with the Board's approval for compliance with the underlying zoning regulations as if the unbuilt street were not mapped;

THAT owner's authorization for the proposed improvements of Haven Avenue will be obtained prior to the issuance of the DOB permit(s);

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

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; 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)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on March 25, 2014.

266-07-A

APPLICANT – Law Office of Fredrick A. Becker, for 1610 Avenue S LLC, owner.

SUBJECT – Application January 9, 2013 – Extension of time to complete construction and obtain a certificate of occupancy of a previously granted common law vested rights application, which expired on December 9, 2012. R4-1 Zoning District.

PREMISES AFFECTED – 1602-1610 Avenue S, southeast corner of Avenue S and East 16th Street. Block 7295, Lot 3. Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to April 29, 2014, at 10 A.M., for continued hearing.

MINUTES

80-11-A, 84-11-A & 85-11-A & 103-11-A

APPLICANT – Law Office of Marvin B. Mitzner LLC, for Kushner Companies, owners.

SUBJECT – Application November 29, 2013 – An amendment to the previously approved waivers to the Multiple Dwelling Law (MDL) to address MDL objections raised by the Department of Buildings. R8B zoning district. PREMISES AFFECTED – 335, 333, 331, 329 East 9th Street, north side East 9th Street, 2nd and 1st Avenue, Block 451, Lot 47, 46, 45, 44 Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Laid over to April 29, 2014, at 10 A.M., for continued hearing.

110-13-A

APPLICANT – Abrams Fensterman, LLP, for Laurence Helmarth and Mary Ann Fazio, owners.

SUBJECT – Application April 24, 2013 – Appeal challenging Department of Buildings’ interpretation of the Building Code regarding required walkway around a below-grade pool. R6B zoning district.

PREMISES AFFECTED – 120 President Street, between Hicks Street and Columbia Street, Block 348, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Laid over to May 6, 2014, at 10 A.M., for adjourned hearing.

164-13-A

APPLICANT – Slater & Beckerman, for Grand Imperial, LLC, owner.

SUBJECT – Application May 31, 2013 – Appeal seeking to reverse Department of Buildings’ determination not to issue a Letter of No Objection that would have stated that the use of the premises as Class A single room occupancy for periods of no less than one week is permitted by the existing Certificate of Occupancy. R10A zoning district.

PREMISES AFFECTED – 307 West 79th Street, northside of West 79th Street, between West End Avenue and Riverside Drive, Block 1244, Lot 8, Borough of Manhattan.

COMMUNITY BOARD #7M

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to May 20, 2014, at 10 A.M., for decision, hearing closed.

296-13-A

APPLICANT – Jack Lester, for SRS Real Estate Holdings c/o Richard Whel, Esq., owner.

SUBJECT – Application October 24, 2013 – An appeal to Department of Buildings’ determination to permit an eating and drinking establishment. Appellant argues that the non-conforming use has been discontinued and the use is contrary to open space regulations (§52-332). R6B zoning district.

PREMISES AFFECTED – 280 Bond Street, Block 423, Lot 35, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to April 1, 2014, at 10 A.M., for adjourned hearing.

307-13-A & 308-13-A

APPLICANT – Joseph M. Morace, R.A., for Jake Rock, LLC, owner.

SUBJECT – Application November 21, 2013 – Proposed construction of two detached, two-family residences not fronting on a mapped street, contrary to Section 36 of the General City Law. R3A zoning district.

PREMISES AFFECTED – 96 & 100 Bell Street, Block 2989, Lot 24 & 26, Borough of Staten Island.

COMMUNITY BOARD #1SI

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

MINUTES

ZONING CALENDAR

64-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Norma Chakkalo and Abdo Chakkalo, owners.

SUBJECT – Application February 11, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, lot coverage and open space (§23-141), side yards (§23-461) and less than the required rear yard (§23-47). R4 (OP) zoning district.

PREMISES AFFECTED – 712 Avenue W, south side of Avenue W between East 7th Street and Coney Island Avenue, Block 7184, Lot 5, 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 of the New York City Department of Buildings (“DOB”), dated January 23, 2013, acting on DOB Application No. 320705368, reads in pertinent part:

The proposed enlargement of the existing one-family residence in an R4 (Ocean Parkway) zoning district:

1. Creates non-compliance with respect to floor area by exceeding the allowable floor area ratio, contrary to Section 23-141 of the Zoning Resolution
2. Creates non-compliance with respect to lot coverage/open space, contrary to Section 23-141 of the Zoning Resolution
3. Creates non-compliance with respect to side yard by not meeting the minimum requirements of Section 23-461 of the Zoning Resolution
4. Creates non-compliance with respect to rear yard by not meeting the minimum requirements of Section 23-47 of the Zoning Resolution; and

WHEREAS, this is an application under ZR § 73-622, to permit, within an R4 zoning district, within the Special Ocean Parkway District, the proposed enlargement of a semi-detached, single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space, lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on February 4, 2014, after due notice by publication in *The City Record*, with a continued hearing on March 4, 2014, and then to decision on March 25, 2014; and

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

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

WHEREAS, the subject site is located on the north side of Avenue W, between East 7th Street and Coney Island Avenue, within an R4 zoning district, within the Special Ocean Parkway District; and

WHEREAS, the site has a lot area of 2,675 sq. ft. and is occupied by a detached, single-family home with a floor area of 2,094 sq. ft. (0.78 FAR); and

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

WHEREAS, the applicant now seeks an increase in the floor area from of 2,094 sq. ft. (0.78 FAR) to 3,490 sq. ft. (1.3 FAR); the maximum permitted floor area is 2,006 sq. ft. (0.75 FAR); and

WHEREAS, the applicant seeks to reduce the open space from 71 percent to 42 percent; the minimum required open space is 55 percent; and

WHEREAS, the applicant seeks to increase the lot coverage from 29 percent to 58 percent; the maximum permitted lot coverage is 45 percent; and

WHEREAS, the applicant seeks to maintain and extend its existing non-complying side yard width of 3’-9”; one side yard with a minimum width of 8’-0” is required; and

WHEREAS, the applicant also seeks to decrease its rear yard depth from 41’-2¼” to 20’-0”; a minimum rear yard depth of 30’-0” is required; and

WHEREAS, the applicant represents and the Board agrees 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, at hearing, the Board directed the applicant to clarify that: (1) the proposed party wall was permitted to exceed the maximum building height and sky-exposure plane; and (2) the slope of the proposed driveway was less than 11 percent; and

WHEREAS, in response, the applicant confirmed that the proposed party wall was a permitted obstruction and that the proposed slope of the driveway was ten percent; 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, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §

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73-622, to permit, within an R4 zoning district, within the Special Ocean Parkway District, the proposed enlargement of a semi-detached, single-family home, which does not comply with the zoning requirements for FAR, open space, lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received February 11, 2013"- (2) sheets, "December 23, 2013"- (9) sheets and "March 11, 2014"- (1) sheet; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 3,490 sq. ft. (1.3 FAR), a minimum open space of 42 percent, a maximum lot coverage of 58 percent, a side yard with minimum width of 3'-9", 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);

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

Adopted by the Board of Standards and Appeals, March 25, 2014.

76-13-BZ

APPLICANT – Eric Palatnik, P.C., for Victor Pometko, owner.

SUBJECT – Application February 21, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to lot coverage and floor area (§23-141), side yards (§23-461), and less than the minimum required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 176 Oxford Street, between Oriental Boulevard and Shore Boulevard, Block 8757, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner of the New York City Department of Buildings ("DOB"), dated November 15, 2013, acting on DOB Application No. 301408046, reads in pertinent part:

The proposed horizontal and vertical enlargement of the existing one-family residence in an R3-1 zoning district:

1. Creates a new non-compliance with respect to lot coverage, contrary to Section 23-141(b) of the Zoning Resolution;
2. Creates a new non-compliance with respect to floor area ratio, contrary to Section 23-141(b) of the Zoning Resolution
3. Creates a new non-compliance with respect to rear yard, contrary to 23-47 of the Zoning Resolution
4. Increases the degree of non-compliance with respect to side yards, contrary 23-461(a); and

WHEREAS, this is an application under ZR § 73-622, 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"), lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on January 28, 2014, after due notice by publication in *The City Record*, with a continued hearing on February 25, 2014, and then to decision on March 25, 2014; 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 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the west side of Oxford Street, between Shore Boulevard and Oriental Boulevard, within an R3-1 zoning district; and

WHEREAS, the site has a total lot area of 2,500 sq. ft. and is occupied by a single-family home with a floor area of 1,267 sq. ft. (0.51 FAR); and

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

WHEREAS, the applicant now seeks an increase in the floor area from 1,267 sq. ft. (0.51 FAR) to 2,280 sq. ft. (0.91 FAR); the maximum permitted floor area is 1,500 sq. ft. (0.6 FAR); and

WHEREAS, the applicant seeks to increase the lot coverage from 41 percent to 47 percent; the maximum permitted lot coverage is 35 percent; and

WHEREAS, the applicant seeks to maintain and extend the building's existing non-complying yard widths of 2'-9" and 0'-1"; (the requirement is two side yards with a minimum total width of 13'-0" and a minimum width of 5'-0" each); and

WHEREAS, the applicant also seeks to decrease its non-complying rear yard depth from 24'-8" to 20'-0"; a rear yard with a minimum depth of 30'-0" is required; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the

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neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, the applicant represents and the Board agrees that the proposed 0.91 FAR is consistent with the bulk in the surrounding area; and

WHEREAS, further, the Board acknowledges that, in recent years, it has granted special permits authorizing enlargements resulting in similar FARs for buildings in the surrounding area; and

WHEREAS, at hearing, the Board directed the applicant to submit additional evidence regarding the legality of the north side yard; and

WHEREAS, in response, the applicant submitted: (1) the DOB-approved plans from 1974; (2) a 1974 letter from the DOB Borough Superintendent stating that the work has been completed; and (3) a letter from a professional engineer stating that the yard is legal; and

WHEREAS, the Board finds that DOB's approval of the plans and sign-off of the completed work are, when considered together, sufficient evidence of the legality of the north side yard; 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, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, 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 FAR, lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received March 11, 2014" – (11) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 2,280 sq. ft. (0.91 FAR), a maximum lot coverage of 47 percent, side yards with minimum widths of 2'-9" and 0'-1", 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);

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

Adopted by the Board of Standards and Appeals, March 25, 2014.

92-13-BZ & 93-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for FHR Development LLC, owner.

SUBJECT – Application March 21, 2013 – Variance (§72-21) to permit the construction of two semi-detached one-family dwellings, contrary to required rear yard regulation (§23-47). R3-1(LDGMA) zoning district.

PREMISES AFFECTED – 22 and 26 Lewiston Street, west side of Lewiston Street, 530.86 feet north of intersection with Travis Avenue, Block 2370, Lot 238, Borough of Staten Island.

COMMUNITY BOARD #2SI

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 RESOLUTIONS –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated February 14, 2014, and acting on Department of Buildings Application No. 520122162 reads, in pertinent part:

ZR 23-45 – Front yard is deficient (less than 15 feet); and

WHEREAS, the decision of the Staten Island Borough Commissioner, dated February 14, 2014, and acting on Department of Buildings Application No. 520122171 reads, in pertinent part:

ZR 23-45 & 23-47 – Front yard (less than 15 feet) and rear yard (less than 30 feet) are deficient; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R3-1 zoning district within a Lower Density Growth Management Area, the construction of two semi-detached, two-story, single-family homes that do not comply with the underlying zoning district regulations for front and rear yards, contrary to ZR §§ 23-45 and 23-47; and

WHEREAS, a public hearing was held on this application on November 19, 2013, after due notice by publication in *The City Record*, with continued hearings on December 17, 2013, January 28, 2014, and March 4, 2014, and then to decision on March 25, 2014; and

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

WHEREAS, Community Board 2, Staten Island, recommends disapproval of this application; and

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WHEREAS, certain members of the surrounding community submitted testimony in opposition to the application, citing concerns about the proposal's impact on neighborhood property values, natural light, and ventilation; and

WHEREAS, the subject site is located on the west side of Lewiston Street, approximately 531 feet north of Travis Avenue, in an R3-1 zoning district within a Lower Density Growth Management Area; and

WHEREAS, the site, which is vacant, has approximately 104 feet of frontage along Lewiston Street and 6,654 sq. ft. of lot area; and

WHEREAS, the applicant proposes to subdivide the site into two zoning lots (corresponding to Tentative Tax Lots 238 and 239), and on each construct a two-story, single-family semi-detached home; and

WHEREAS, Tentative Lot 238 will have approximately 66 feet of frontage along Lewiston Street and 3,086 sq. ft. of lot area; the home on Tentative Lot 238 will have 1,538 sq. ft. of floor area (0.49 FAR) (a maximum of 1,710.5 sq. ft. of floor area (0.6 FAR) is permitted); a front yard with a non-complying depth of 9'-3" (a front yard with a minimum depth of 15'-0" is required); a side yard with a minimum width of 8'-0" along the southern lot line, and no side yard along the northern lot line, where the building will attach to the new building to be constructed on Tentative Lot 239 (one side yard with a minimum width of 8'-0" is required); a rear yard with a depth of 30'-0" (a rear yard with a minimum depth of 30'-0" is required); a perimeter wall height of 21'-6" (the maximum permitted perimeter wall height is 26'-0"); and a total height of 29'-6" (the maximum permitted total height is 35'-0"); and

WHEREAS, the Board notes that, initially, the proposed home for Tentative Lot 238 provided a complying front yard, but included a rear yard depth of 26'-0" and a floor area of approximately 1,616 sq. ft. (0.47 FAR); however, through the hearing process, the lot area and floor area were reduced and the rear yard waiver was replaced with a front yard waiver request; and

WHEREAS, Tentative Lot 239 will have approximately 48 feet of frontage along Lewiston Street and 3,568 sq. ft. of lot area; the home on Tentative Lot 239 will have 1,538 sq. ft. of floor area (0.43 FAR) (a maximum of 1,617 sq. ft. of floor area (0.6 FAR) is permitted); a front yard with a non-complying depth of 9'-3" (a front yard with a minimum depth of 15'-0" is required); a side yard with a width of 23'-0" along the northern lot line, and no side yard along the southern lot line, where the building will attach to the new building to be constructed at Tentative Lot 238 (one side yard with a minimum width of 8'-0" is required); a rear yard with a non-complying depth of 20'-0" (a rear yard with a minimum depth of 30'-0" is required); a perimeter wall height of 21'-6" (the maximum permitted perimeter wall height is 26'-0"); and a total height of 29'-6" (the maximum permitted total height is 35'-0"); and

WHEREAS, the Board notes that, initially, the proposed home for Tentative Lot 239 provided a complying front yard, but included a rear yard depth of 10'-7" and a floor area of

approximately 1,616 sq. ft. (0.50 FAR); however, through the hearing process, the floor area was reduced, the proposed front yard waiver was added, and the rear yard depth was increased from 10'-7" to 20'-0"; and

WHEREAS, accordingly, in order to construct both homes at the site, the applicant seeks a variance to allow the proposed front yards, contrary to ZR § 23-45, and the proposed rear yard on Tentative Lot 239, contrary to ZR § 23-47; and

WHEREAS, the applicant states that the site's large size, shallow depth, and trapezoidal shape are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying zoning regulations, in accordance with ZR § 72-21(a); and

WHEREAS, the applicant asserts that the site's 6,654 sq. ft. of lot area makes it significantly larger than the majority of sites in the surrounding area; specifically, the applicant states that of the surrounding 160 sites, only ten sites (approximately six percent) had a lot area greater than 6,000 sq. ft. and the average lot area was 3,562 sq. ft.; and

WHEREAS, as such, the applicant asserts that the proposed subdivision of the site into two zoning lots with lot areas of 3,086 sq. ft. and 3,568 sq. ft. is consistent with the prevailing lot size within the surrounding area; and

WHEREAS, the applicant states that the site has a lot depth that varies from approximately 92 feet along the southern boundary to approximately 41 feet along the northern boundary; and

WHEREAS, the applicant states that the varying lot depth is a direct result of the angle of Lewiston Street, which cuts diagonally and renders the site trapezoidal in shape; and

WHEREAS, the applicant represents that the depth and shape of the site are unique in the surrounding area, and submitted an area study to support this representation; and

WHEREAS, the applicant states that, according to the study, there are no other sites that have similar characteristics (shallow depth and trapezoidal shape) within 400 feet of the site; and

WHEREAS, the applicant also notes that the site's size and shape are historic and not the result of a subdivision from any lots within Block 2370; rather, the applicant submitted evidence demonstrating that the site has always been owned separately from the adjacent lots on Block 2370 and was created in its current form via subdivision of Block 2371, Lot 152 (which is separated from the site and Block 2370 by Lewiston Street); and

WHEREAS, the applicant asserts that, together, the lot size, shallow and varying lot depth, and trapezoidal lot shape create a practical difficulty in constructing marketable homes that provide both front and rear yards in accordance with the Zoning Resolution; and

WHEREAS, the applicant also notes that the site is ineligible for the shallow lot rear yard adjustments set forth in ZR § 23-52, because the site is not less than 70 feet in depth at

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all points¹; as such, the applicant states that although the Zoning Resolution contemplates as-of-right relief for a shallow lot, the site is unable to take advantage of it; and

WHEREAS, the applicant examined the feasibility of the following as-of-right residential options for the site, both of which involve the development of the site without subdivision: (1) a single, detached two-family home with approximately 2,192 sq. ft. of floor area (0.33 FAR); and (2) a single, detached single-family home with approximately 1,818 sq. ft. of floor area (0.27 FAR); and

WHEREAS, the applicant asserts that both scenarios resulted in significant underutilization of the permitted FAR (0.5) for the site; the applicant also notes that, based on its area study, only ten of the surrounding 160 sites have an FAR of less than 0.5 and the average FAR is 0.63; in contrast, the proposal—which has a combined floor area of 3,076 sq. ft. (0.46 FAR)—is relatively modest; and

WHEREAS, further, the applicant notes that a detached two-family home would be out of character with the surrounding area, where 68 percent of the homes are single-family homes, and discordant with the character of Lewiston Street, where 70 percent of the homes are single-family homes; 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 applicant asserts that, per ZR § 72-21(b), there is no reasonable possibility that the development of the site in conformance with the Zoning Resolution will bring a reasonable return or a result in a habitable home; and

WHEREAS, as noted above, in addition to the proposal, the applicant explored the financial feasibility of developing the site with a single, detached two-family home and with a single, detached single-family home; and

WHEREAS, based on the analysis, the applicant represents that only the proposal will result in habitable homes that: (1) are consistent with the surrounding community; and (2) will yield a reasonable return; and

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

WHEREAS, the applicant represents that, per ZR § 72-21(c), the proposed variance will not negatively affect the character of the neighborhood, or impact adjacent uses; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by low rise detached and semi-detached one- and two-family dwellings; and

WHEREAS, the applicant notes that the use is permitted as-of-right in the subject R3-1 district; and

WHEREAS, as to bulk, the applicant states that the proposal's floor area, wall and building height, and rear and

side yards are well within the district parameters; and

WHEREAS, the applicant states that the proposal's impact on adjacent uses is minimal; and

WHEREAS, the applicant notes that north of the site is a generous side yard with a width of 23'-0" where a width of only 8'-0" is required, and beyond that, a cul-de-sac, south of the site is a complying side yard (driveway) and a series of attached dwellings, east of the site (across Lewiston Street) are a series of single-family homes, and west of the site, are a series of detached, single-family homes fronting on Beard Street; and

WHEREAS, the Board acknowledges that certain immediate neighbors expressed opposition to the proposal, citing concerns about natural light and ventilation to their home due to the reduced yards; and

WHEREAS, the Board notes, however, that these homes are located on rectangular, deep lots with complying rear yards and that the proposal was modified to eliminate the rear yard waiver for Tentative Lot 238 and increase the depth of the rear yard at Tentative Lot 239 from 10'-7" to 20'-0", resulting in a distance between the proposed homes and the neighboring homes that varies from approximately 50 feet to approximately 60 feet; and

WHEREAS, as such, the Board finds that the proposal does not negatively impact on the neighboring properties to the west; and

WHEREAS, likewise, the Board finds that the impact of the front yard waiver upon adjacent uses along Lewiston Street is minimal; and

WHEREAS, the applicant states that because Lewiston Street runs diagonally, nearly all homes along it have a varying front yard depth; the effect is that the streetscape has an irregular quality; and

WHEREAS, accordingly, the proposed front yard contributes to the diversity of the Lewiston Street streetscape; and

WHEREAS, further, the applicant states that the front yard waiver is mitigated by the amount of open space being provided on the site and the proposal's overall consistency with the neighboring use, bulk, and aesthetics; 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, per ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is a result of the site's unique physical conditions; and

WHEREAS, the Board also finds that this proposal is the minimum necessary to afford the owner relief, in accordance with ZR § 72-21(e); and

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

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions;

¹ This interpretation was affirmed by the Board in BSA Cal. No. 47-12-A (22 Lewiston Street, Staten Island).

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Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a 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, in an R3-1 zoning district within a Lower Density Growth Management Area, the construction of two semi-detached, two-story, single-family homes that do not comply with the underlying zoning district regulations for front and rear yards, contrary to ZR §§ 23-45 and 23-47; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 18, 2014"– (7) sheets; and *on further condition*:

THAT the parameters of the home on Tentative Lot 238 will be as follows: two stories, a maximum floor area of 1,537 sq. ft. (0.49 FAR); a minimum front yard depth of 9'-3"; a minimum rear yard depth of 30'-0"; one side yard with a minimum width of 8'-0" along the southern lot line; a maximum perimeter wall height of 21'-6"; and a total building height of 29'-6", as illustrated on the BSA-approved plans;

THAT the parameters of the home on Tentative Lot 239 will be as follows: two stories, a maximum floor area of 1,537 sq. ft. (0.43 FAR); a minimum front yard depth of 9'-3"; a minimum rear yard depth of 20'-0"; one side yard with a minimum width of 23'-0" along the northern lot line; a maximum perimeter wall height of 21'-6"; and a total building height of 29'-6", 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 objection(s);

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

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

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

Adopted by the Board of Standards and Appeals, March 25, 2014.

157-13-BZ

APPLICANT – Sheldon Lobel, P.C., for 1368 23rd Street, LLC, owner.

SUBJECT – Application May 17, 2013 – Special Permit (§73-622) for the enlargement of an existing single home, contrary to floor area and open space (§23-141(a)); side yard (§23-461) and less than the required rear yard (§23-47). R2 zoning district.

PREMISES AFFECTED – 1368 & 1374 East 23rd Street, west side of East 23rd Street, 180' north of Avenue N, Block 7658, Lot 78 & 80, Borough of 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 of the New York City Department of Buildings ("DOB"), dated April 18, 2013, acting on DOB Application No. 320729208, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141 in that the proposed floor area ratio exceeds the maximum permitted;
2. Proposed plans are contrary to ZR 23-141 in that the proposed open space ratio is less than the minimum required;
3. Proposed plans are contrary to ZR 23-141 in that the proposed enlargement increases the degree of non-compliance with respect to minimum required side yards;
4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than the minimum required; and

WHEREAS, this is an application under ZR § 73-622, 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 ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on January 28, 2014, after due notice by publication in *The City Record*, with a continued hearing on March 4, 2014, and then to decision on March 25, 2014; and

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

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

WHEREAS, the subject site is located on the west side of East 23rd Street, between Avenue M and Avenue N, within an R2 zoning district; and

WHEREAS, the site comprises Lots 78 and 80, which have a total lot area of 8,000 sq. ft.; Lot 78 is occupied by a

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single-family home with 2,044 sq. ft. of floor area (0.51 FAR); Lot 80 is also occupied by a single-family home; however, that home will be demolished to allow for the enlargement of the home on Lot 78; and

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

WHEREAS, the applicant now seeks an increase in the floor area from 2,044 sq. ft. (0.51 FAR, as calculated using only the lot area of Lot 78) to 8,179 sq. ft. (1.02 FAR, as calculated using the combined lot area of Lots 78 and 80); the maximum permitted floor area is 4,000 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks an open space ratio for the enlarged home of 52 percent; the minimum required open space ratio is 150 percent; and

WHEREAS, the applicant seeks to maintain and extend the building's existing non-complying side yard width of 3'-8" and reduce its complying side yard width from 13'-10" to 13'-3"; (the requirement is two side yards with a minimum total width of 13'-0" and a minimum width of 5'-0" each); and

WHEREAS, the applicant also seeks to decrease its complying rear yard depth from 30'-8½" to 20'-0"; a rear yard with a minimum depth of 30'-0" 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 FAR is consistent with the bulk in the surrounding area and states that, based on its analysis of the lots within 400 feet of the site and with a minimum lot area of 8,000 sq. ft., there are 11 homes with an FAR in excess of 1.02; and

WHEREAS, at hearing, the Board directed the applicant to: (1) provide a streetscape of the site and the nearby homes; (2) provide revised plans showing the extent of the foundation removal; and (3) reduce the proposed building height to be more consistent with the surrounding context; and

WHEREAS, in response, the applicant submitted: (1) a streetscape showing that the building is consistent with the surrounding buildings; and (2) revised plans showing the extent of the foundation removal and reflecting a reduction in building height from 41'-9" to 36'-0"; and

WHEREAS, based on its review of the streetscape and the revised drawings, the Board finds that the proposed bulk is compatible with the character of the neighborhood; and

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received February 19, 2014" – (13) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 8,179 sq. ft. (1.02 FAR), a building height of 36'-0"; a minimum open space ratio of 52 percent, side yards with minimum widths of 13'-3" and 3'-8", 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);

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

Adopted by the Board of Standards and Appeals, March 25, 2014.

282-13-BZ
CEQR #14-BSA-052K

APPLICANT – Flora Edwards, Esq., for Red Hook Property Group, LLC, owner; High Mark Independent, LLC, lessee. SUBJECT – Application October 4, 2013 – Special Permit (§73-19) to permit construction of a new 89,556 sq.ft. school (*The Basis Independent Schools*). M1-1 zoning district.

PREMISES AFFECTED – 556 Columbia Street aka 300 Bay Street, west side of Columbia Street between Bay Street and Sigourney Street, Block 601, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #6BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

5
Negative:.....0

THE RESOLUTION –

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WHEREAS, the decision of the Brooklyn Borough Commissioner, dated September 19, 2013, acting on Department of Buildings Application No. 320843110, reads in pertinent part:

This application for a proposed school (Use Group 3) will require a special permit by the BSA. It is in the M1-1 district and a school is permitted by special permit only: (42-31); and

WHEREAS, this is an application under ZR §§ 73-19 and 73-03 to permit, on a site in an M1-1 zoning district, the construction of a five-story Use Group 3 school, contrary to ZR § 42-31; and

WHEREAS, a public hearing was held on this application on February 25, 2014, after due notice by publication in the *City Record*, and then to decision on March 25, 2014; and

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

WHEREAS, Community Board 6, Brooklyn, recommends disapproval of this application, primarily based on concerns about the compatibility of the use with the surrounding area and integration into the community; and

WHEREAS, City Council Member Carlos Menchaca and State Senator Velmanette Montgomery provided testimony in opposition to the proposal, citing concerns that the school cannot co-exist with nearby industrial use, the school does not benefit the community, and it will introduce traffic conflicts; and

WHEREAS, South Red Hook Industrial Alliance for No Basis, Red Hook East Resident Association, Red Hook West Resident Association, Red Hook Rise, Southwest Brooklyn Industrial Development Corporation and several members of the community provided testimony in opposition to the proposal, citing concerns that the school would not be harmonious with the surrounding area, that its location threatens the Industrial Business Zone (“IBZ”) and job retention and would be both disruptive to existing traffic and create unsafe traffic conditions for students; and

WHEREAS, together, the Opposition raised additional concerns about: (1) whether notification had been performed as required; (2) whether there is a higher standard for review for private schools; (3) whether the School established that there is a practical possibility of obtaining a site as of right within the neighborhood to be served; (4) whether the traffic issues of the surrounding non-residential district had been addressed; (5) whether the project will have a negative impact on the IBZ; and (6) whether the school will have a negative impact on public welfare; and

WHEREAS, certain members of the surrounding community provided testimony in support of the application and submitted a petition with 200 signatures; and

WHEREAS, the application is brought on behalf of the Basis Independent Schools (the “School”); and

WHEREAS, the subject site is on the east side of the block, bounded by Bay Street, Otsego Street, Sigourney

Street, and Columbia Street; the site has 241 feet of frontage on Bay Street, 200 feet of frontage on Columbia Street, and 241 feet of frontage on Sigourney Street, with a lot area of 48,623 sq. ft.; and

WHEREAS, the site is a paved lot which is currently vacant, but was formerly used as a private lot for school buses and construction vehicles; and

WHEREAS, the School proposes to construct a Use Group 3 school with five stories, 89,556 sq. ft. of floor area (1.8 FAR) and a building height of 76’-6”;

WHEREAS, the applicant represents that the proposal meets the requirements of the special permit under ZR § 73-19 to permit a school in an M1-1 zoning district; and

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

WHEREAS, the applicant represents that the proposal will meet the School’s programmatic needs; and

WHEREAS, the applicant states that it will attract families from Brooklyn neighborhoods of Carroll Gardens, Cobble Hill, Boerum Hill, DUMBO, Brooklyn Heights, Park Slope, Vinegar Hill, and Williamsburg as well as some from downtown Manhattan, such as Battery Park City and Tribeca, which is less than a 20-minute drive via the Brooklyn-Battery Tunnel; and

WHEREAS, the School’s projected enrollment of 1,000 students and needs for specific spaces such as a 389-seat theater, full-size gymnasium, and science labs necessitate a site with (1) a minimum lot size of at least 40,000 sq. ft., preferably 200 feet by 200 feet; (2) a potential to accommodate at least 80,000 sq. ft. of floor area; (3) the ability to safely drop-off/pick-up students; and (4) a purchase process not to exceed \$10 million or a lease not to exceed \$10/square foot unimproved; and

WHEREAS, the applicant states that it conducted a search of more than 50 properties within its catchment area which yielded no feasible sites as alternatives to the project site; and

WHEREAS, the applicant states that neighborhoods where a school is permitted as of right were substantially improved with residential and commercial development, which made it not possible to locate a lot or facility large enough to accommodate the proposed school program; and

WHEREAS, the applicant asserts that the majority of potential sites were located in manufacturing zoning districts; and

WHEREAS, the applicant considered the feasibility of (1) 82 and 74 Sullivan Street, but the combined lot size of 160 feet by 100 feet was insufficient; (2) 840-850 Metropolitan Avenue, (3) 657-665A Fifth Avenue, and (4) 834 Sterling Place, which all had an insufficient size; and

WHEREAS, the applicant states that the school expanded its search into residential zoning districts beyond its catchment area, but rejected four more sites due to lot

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and building size inadequacy; those were (1) 5601 Second Avenue in Sunset Park; and (2) 203 Sutter Avenue, (3) 191 Dumont Avenue, and (4) 994 Saratoga Avenue in Brownsville; and

WHEREAS, the applicant submitted a letter from a real estate brokerage stating that it was impractical to assemble the required amount of floor area within a residential zoning district because such districts are substantially developed; and

WHEREAS, the applicant states that the building program includes: (1) 42 accessory parking spaces for teachers and staff, a lobby, a security office, and associated circulation space at the ground level; (2) a main lobby, theater, gymnasium, outdoor play areas, a cafeteria, and several classroom and administrative offices at the first school level; (3) eight classrooms and administrative space at the second school level; (4) ten classrooms, a cafeteria, and a lab at the third school level; (5) ten classrooms and an art room at the fourth school level; and (6) three physics labs, three biology labs, three chemistry labs, a reading room, and teachers' offices at the fifth school level; and

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

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

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

WHEREAS, the applicant submitted a radius diagram which reflects that the subject site is located directly across the street from an R5 zoning district, less than 100 feet to the east across Columbia Street and to the south across Sigourney Street where the proposed use would be permitted as-of-right; and

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

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

WHEREAS, the applicant submitted a land use map which reflects that the adjacent manufacturing and commercial uses include: warehousing/shipping, a landscape design and urban ecology firm, and fine art and transport company to the west; a construction company and a marine engine and equipment repair business to the north; and another construction company to the northwest; and

WHEREAS, the applicant notes that it shares a lot line with only one building to the west, which is occupied primarily by light manufacturing and commercial uses within a two- to four-story building, and the site is separated from the other uses by Bay Street to the north and Columbia Street to the east; and

WHEREAS, the applicant notes that two of its largest

neighbors are the 58.5-acre Red Hook Recreation Area directly to the east across Columbia Street and the full-block park occupied by the Red Hook Community Farm directly to the south across Sigourney Street; diagonally to the south is the Todd Memorial Square, a landscaped traffic island; and

WHEREAS, the applicant states that the block immediately north of the site includes a school bus parking lot and a construction company use; and

WHEREAS, the applicant has identified a series of building conditions that will minimize sound transmission levels from the street to the building interior; those include: reinforced exterior wall assembly well in excess of the required sound attenuation, annealed, laminated, and insulated glass for the windows which provide an Outdoor-Indoor Sound Transmission Coefficient (OITC) in excess of that required; and

WHEREAS, the applicant proposes that the separation from noise, traffic, and other adverse effects would be achieved through their proposed window and wall assemblies, which include the exterior wall design with an Sound Transmission Coefficient (STC) of 65 dB(A) and exterior glazing to perform at an OITC rating of 32 dB(A) on all east-facing windows and OITC of 28 dB(A) on all other facades; and

WHEREAS, the applicant states that on the north façade, a sound attenuation level of 25 dB(A) is required to achieve the desired community facility interior noise level of 45 dB(A) or lower; at the east façade, a sound attenuation level of 31 dB(A) is required to achieve the desired community facility interior noise level of 45dB(A); at the south façade, a sound attenuation level of 25 dB(A) is required to achieve the desired community facility noise level of 45 dB(A) or lower; and

WHEREAS, the applicant states that it will have an HVAC system to provide an alternate means of ventilation in all habitable rooms that will allow for a closed window condition and adequate window-wall attenuation to ensure acceptable interior noise levels; and

WHEREAS, the applicant concludes that it will comply with all applicable environmental regulations and that emissions from industrial uses within 400 feet of the site will not cause significant adverse impact on the school; and

WHEREAS, further, the applicant notes that the building will be set back from all street frontages by a minimum of ten feet and buffered by landscaped areas; and

WHEREAS, as far as traffic, the applicant states that based on the traffic study, none of the intersections in close proximity to the proposed site were found to be high accident points; and

WHEREAS, the applicant has identified what it predicts to be the most common routes to the school and has addressed those with the Department of Transportation ("DOT"); and

WHEREAS, the Board finds that the conditions surrounding the site and the building's construction will adequately separate the proposed school from noise, traffic and other adverse effects of any of the uses within the

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surrounding M1-1 zoning district; thus, the Board finds that the requirements of ZR § 73-19(c) are met; and

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

WHEREAS, the applicant represents that the following measures are proposed to protect children traveling to and from the School: (1) installation of seven high visibility crosswalks at key intersections; (2) installation of school zone signage at the approaches to the site to warn motorists that they are approaching a school; and (3) positioning crossing guards at local intersections where high pedestrian activity is anticipated; and

WHEREAS, the Board notes that the applicant has submitted a Proposed Pedestrian Safety Plan, which reflects all the points for crosswalks, crossing cards, and signage that will be installed and maintained in the surrounding area; and

WHEREAS, the Board referred the application to DOT's School Safety Engineering Office; and

WHEREAS, by letter dated October 21, 2013, DOT states that it has no objection to the proposal and has identified Bay Street and Columbia Street as local truck routes and recommended that this should be taken into consideration when designing the pedestrian safety plan; and

WHEREAS, upon approval of the application, DOT will prepare a safe route to school map with signs and marking; and

WHEREAS, the Board finds that the above-mentioned measures will control traffic so as to protect children going to and from the proposed school; and

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

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

WHEREAS, in response to certain concerns raised by the Opposition about the applicability of the special permit, the applicant asserts that a special permit, unlike a variance, authorizes the use of property in a manner expressly permitted by the zoning ordinance under stated conditions and that "inclusion of the permitted use in the ordinance is tantamount to a legislative finding that the permitted use is in harmony with the generalized zoning plan and will not adversely affect the neighborhood" North Shore Steak House Inc. v. Board of Appeals of Town of Thomastown, 30 N.Y.2d 238 (1972); and

WHEREAS, accordingly, the applicant states that the burden on one seeking a special use permit is lighter than one seeking variance since the issuance of a special permit is a duty enjoined upon zoning officials whenever there is compliance with the statutory conditions see Peter Pan Games of Bayside, Ltd. v. Board of Estimate of City of New York, 67 A.D.2d 925 (2d Dept 1967); and

WHEREAS, additionally, the applicant states that because of their inherently beneficial nature, educational

institutions enjoy special treatment and are allowed to expand into neighborhoods where nonconforming uses would otherwise not be allowed, citing to Albany Preparatory Charter School v. City of Albany, 31 A.D.3d 870 (3d Dept. 2006); and

WHEREAS, by supplemental submission, the applicant responded to the Opposition's following concerns: (1) whether notification had been performed as required; (2) whether there is a higher standard for review for private schools; (3) whether the School established that there is a practical possibility of obtaining a site as of right within the neighborhood to be served; (4) whether the traffic issues of the surrounding non-residential district had been addressed; (5) whether the project will have a negative impact on the IBZ; and (6) whether the school will have a negative impact on public welfare; and

WHEREAS, as to proper notice, the applicant described its compliance with the Board's Rule §§ 1-10.6 1-10.7 and Community Board 6's Responsible Development Policy; and

WHEREAS, as to the appropriate standard of review for private schools, the applicant states that there is not any statutory or regulatory basis for finding that an application for a special permit to construct an independent or private school be viewed with any more stringent scrutiny under ZR § 73-19 than an application submitted by a religious institution or charter school; and

WHEREAS, the applicant asserts that New York State courts recognize deferential treatment to educational institutions due to their inherently beneficial nature (citing Pine Knolls Alliance Church v. Zoning Bd. of Appeals of Town of Moreau, 5 N.Y.3d 407 (2005); Trustees of Union College of Town of Schenectady in State of N.Y. v. Members of Schenectady City Council, 91 N.Y.2d 161; and

WHEREAS, the applicant asserts that private institutions are entitled to deferential treatment so long as they carry out the educational mission of the State because they have the same beneficial effect upon the general welfare of the community as public schools (citing to Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986); and

WHEREAS, the applicant states that the School's mission to raise the level of American education to the highest international standards and that the curriculum meets or exceeds New York State requirements; and

WHEREAS, the applicant asserts that there is no doubt that the School carries out the educational mission of the State and is entitled to the same deferential treatment of public institutions; and

WHEREAS, as to alternate sites, the applicant asserts that it has fully satisfied the requirement to demonstrate that there is no practical possibility of obtaining a site as of right with the neighborhood to be served; and

WHEREAS, the applicant represents that it undertook a deliberate search process, during a one-year period, it visited more than 50 sites and identified Brooklyn as under capacity for private schools and thus the focus of its search; and

WHEREAS, the applicant states that there is not any

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merit to the Opposition's contentions that ZR § 73-19 requires that an applicant prove a need for expansion or establish a pre-existing presence in the catchment area; and

WHEREAS, as to the Opposition's contentions that the site is situated in a heavily-trafficked truck route and student safety cannot be assured, the applicant's studies show that there are not any high accident locations nearby and its noted safety measures will be implemented in the area to mitigate any concerns; and

WHEREAS, as to the location within the IBZ, the applicant addresses the Opposition's characterization that the site is located in an M3 zoning district in the heart of the IBZ and that permitting construction of a school would negatively impact the economic viability of the zone by depriving the area of needed industrial use space, employment opportunities, and establish a precedent for the development of alternative uses for sites in the IBZ; and

WHEREAS, the applicant notes that that the site is located within an M1 zoning district, rather than M3, and is located 200 feet from the border of the IBZ between a public park and an urban farm, rather than at its heart; and

WHEREAS, the applicant represents that the site's lot area constitutes approximately two percent of the total available area in the IBZ and that currently, there is 2,039,422 sq. ft. of available space for rent in the IBZ and that for the past ten years, the site has not generated any employment or other income except for the payment of the lease to park buses; and

WHEREAS, the applicant asserts that, on the contrary, the School will create approximately 100 new permanent jobs and contracts; and

WHEREAS, as to any impact on public welfare, the applicant asserts that the presumption is that educational uses are always in furtherance of the public health, safety, and morals (citing Cornell, 68 N.Y.2d at 589); and

WHEREAS, the applicant asserts that the burden shifts to the Opposition to rebut the presumption with evidence of a significant impact on traffic congestion, property values, and municipal services (citing Albany Preparatory Charter School v. City of Albany, 31 A.D.3d at 870; and

WHEREAS, the applicant asserts that its traffic safety measures and building construction conditions address safety and health issues and the School is prepared to adopt whatever additional measures may be deemed necessary; and

WHEREAS, the applicant states that the School is committed to being a good neighbor and will establish a working advisory committee to assist in further integrating the school with the community; and

WHEREAS, the applicant states that the school has committed to offer two scholarships to community members per year and will make School space available to the community for meetings and also for emergency relief; and

WHEREAS, the Board finds the applicant's submissions to be responsive to the Opposition's concerns and is satisfied that the proposal meets the findings of the special permit and is not subject to additional

considerations; and

WHEREAS, the Board recognizes the purpose of the IBZ but based on the site's size, location at the edge of the zone across from two large parks, and history of use, it does not find that the use of the site, as contemplated by the special permit, undermines the IBZ's goals; 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; as noted above, the School's impact on traffic will be minimal and will be mitigated by: (1) installation of high visibility crosswalks; (2) installation of school zone signage at the approaches to the site to warn motorists that they are approaching a school; and (3) positioning crossing guards at local intersections where high pedestrian activity is anticipated; and

WHEREAS, further, the Board notes that DOT has reviewed and approved of the traffic safety plan; and

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

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

WHEREAS, the project is classified as 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") CEQR No.14BSA052K, dated March 21, 2014; 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, DOT's Division of Traffic and Planning reviewed the EAS and March 2014 Traffic Study and concluded that the proposed project would not create any significant adverse traffic or pedestrian impacts; and

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

WHEREAS, DEP reviewed the consultant's December 18, 2013 air quality response submissions and determined that the proposed school would not create any significant adverse air quality impacts and that there would not be any adverse air quality impacts on the proposed school from existing industrial emission sources within 400 feet of the subject site; and

WHEREAS, based on the projected noise levels, DEP

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concluded with the consultant that their proposed design measures would provide sufficient attenuation to satisfy CEQR requirements; and

WHEREAS, OER has approved the Remedial Action Plan and the Construction Health and Safety Plan; and

WHEREAS, OER has requested that a P.E.-certified Hazardous Materials Remedial Action Report be submitted to it for review and approval at the conclusion of remedial/construction activities; and

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-19 and 73-03 and grants a special permit, to allow on a site in an M1-1 zoning district, the construction of a five-story Use Group 3 school, contrary to ZR § 42-31; *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 December 30, 2013” – Ten (10) sheets and “Received March 24, 2014” – Three (3) sheets and *on further condition*:

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

THAT the school will be limited to 89,556 sq. ft. of floor area (1.8 FAR) and a building height of 48 feet;

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

THAT interior noise levels will be maintained at 45 dBA or below within the building in accordance with the noise attenuation notes on the BSA-approved plans;

THAT bus drivers will not idle in front of the building, the School or the site;

THAT enhanced crosswalks, crossing guards, and signage will be installed and maintained as reflected on the Proposed Pedestrian Safety Plan of the BSA-approved plan sheets;

THAT any change in the use, occupancy, or operator of the school requires review and approval by the Board;

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;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant

laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 25, 2014.

293-13-BZ

CEQR #14-BSA-061Q

APPLICANT – Slater & Beckerman, P.C., for JSB Reality No 2 LLC, owner; Fitness International, LLC aka LA Fitness, lessee.

SUBJECT – Application October 23, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*LA Fitness*). C2-2/R4 zoning district.

PREMISES AFFECTED – 78-04 Conduit Avenue, west side of South Conduit Avenue between Linden Boulevard, and Sapphire Avenue, Block 11358, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #10BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated September 27, 2013, acting on Department of Buildings (“DOB”) Application No. 420516454, reads in pertinent part:

Proposed physical culture establishment in C2-2 (R4) zoning district is not permitted as-of-right and is contrary to ZR 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C2-2 (R4) zoning district, the operation of a physical culture establishment (“PCE”) on portions of the first and second floors of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 25, 2014, after due notice by publication in *The City Record*, and then to decision on March 25, 2014; and

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

WHEREAS, Community Board 10, Queens, recommends approval of this application; and

WHEREAS, the subject site is an irregularly-shaped lot located at the southwest corner of the intersection of South Conduit Avenue and Sapphire Street, within a C2-2 (R4) zoning district; and

WHEREAS, the site has approximately 192 feet of frontage along South Conduit Avenue, approximately 706 feet of frontage along Sapphire Street, and 141,783 sq. ft. of lot area; and

WHEREAS, under construction at the site is a two-

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story commercial building that is proposed to have 239,886 sq. ft. of floor area (2.0 FAR) and 375 at-grade parking spaces; and

WHEREAS, the proposed PCE will occupy 10,740 sq. ft. of floor area on the first floor and 32,610 sq. ft. of floor area on the second floor for a total PCE floor area of 43,350 sq. ft. (0.3 FAR); and

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

WHEREAS, the applicant represents that the services at the PCE include facilities for classes, instruction and programs for physical improvement, body building, weight reduction, and aerobics; and

WHEREAS, the hours of operation for the PCE are seven days per week, 24 hours per day; and

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

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

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

WHEREAS, at hearing, the Board directed the applicant to include a note on the plans indicating that no signage for the PCE would be provided on the Sapphire Street frontage; and

WHEREAS, in response, the applicant submitted amended plans including the requested signage note; 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; however, the Board has reduced the term of the grant to reflect the period of time that the PCE operated without the special permit; 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 discussed in the Environmental Assessment Statement, CEQR No. 14BSA061Q dated October 18, 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 issued 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 within a C2-2 (R4) zoning district, the operation of a physical culture establishment (“PCE”) on portions of the first and second floors of a two-story commercial building, contrary to ZR § 32-10;; *on condition* that all work shall substantially conform to drawings filed with this application marked “Received January 15, 2014 ” – Four (4) sheets and “Received March 10, 2014” – Two (2) sheets;; and *on further condition*:

THAT the term of the PCE grant will expire on March 25, 2024;

THAT all signage for the PCE will be limited to the South Conduit frontage of the site and will not be provided along Sapphire Street, as reflected on the BSA-approved plans;

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

THAT any massages will be performed only by New York State licensed massage professionals;

THAT Accessibility compliance under Chapter 9 of the New York City Building Code will be as reviewed and approved by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, March 25, 2014.

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62-12-BZ

APPLICANT – Akerman Senterfitt LLP, for VBI Land Inc., owner.

SUBJECT – Application March 19, 2012 – Variance (§72-21) to permit the construction of commercial building, contrary to use regulations (§22-00). R7-1 zoning district.

PREMISES AFFECTED – 614/618 Morris Avenue, northeastern corner of Morris Avenue and E 151th Street, Block 2411, Lot 1, Borough of Bronx.

COMMUNITY BOARD #1BX

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for decision, hearing closed.

77-12-BZ

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

SUBJECT – Application April 3, 2012 – Variance (§72-21) to permit a new residential building, contrary to use regulations (§42-00). M1-1 zoning district.

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

COMMUNITY BOARD #3BK

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for decision, hearing closed.

299-12-BZ

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

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

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

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for adjourned hearing.

347-12-BZ

APPLICANT – Law Office of Vincent L. Petraro, PLLC, Mitchell S. Ross, Esq., for X & Y Development Group, LLC., owner.

SUBJECT – Application December 26, 2012 – Variance (§72-21) to permit a transient hotel and community facility use (*North Queens Medical Center*), contrary to use regulations (§22-10), and Special Permit (§73-66) to allow projection into flight obstruction area of La Guardia airport.

R7-1 (C1-2) zoning district.

PREMISES AFFECTED – 42-31 Union Street, east side of Union Street, 213' south of Sanford Avenue, Block 5181, Lot(s) 11, 14, 15, Borough of Queens.

COMMUNITY BOARD #7Q

THE VOTE TO CLOSE HEARING –

ACTION OF THE BOARD – Laid over to April 29, 2014, at 10 A.M., for continued hearing.

160-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Yitzchok and Hindy Blumenkrantz, owners.

SUBJECT – Application May 28, 2013 – Special Permit (§73-622) for the enlargement of an existing single 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 – 1171-1175 East 28th Street, east side of East 28th Street between Avenue K and Avenue L, Block 7628, Lot 16, 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 April 8, 2014, at 10 A.M., for decision, hearing closed.

177-13-BZ

APPLICANT – Eric Palatnik, P.C., for Dmitriy Ratsenberg, owner.

SUBJECT – Application June 18, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, to be converted to a two-family home, contrary to floor area, lot coverage and open space (§ZR 23-141) and less than the required rear yard (§ZR 23-47). R3-1 zoning district.

PREMISES AFFECTED – 134 Langham Street, west side of Langham Street between Shore Boulevard and Oriental Boulevard, Block 8754, Lot 38, 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

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Negative:.....0
ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for decision, hearing closed.

207-13-BZ

APPLICANT – Harold Weinberg, P.E., for Harold Shamah, owner.

SUBJECT – Application July 3, 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 less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 177 Hastings Street, east side of Hastings Street, between Oriental Boulevard and Hampton Avenue, Block 8751, Lot 456, 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 April 8, 2014, at 10 A.M., for decision, hearing closed.

213-13-BZ

APPLICANT – Rothrug Rothkrug & Spector LLP, for Ridgeway Abstracts LLC, owner.

SUBJECT – Application July 12, 2013 – Special Permit (§73-126) to allow a medical office, contrary to bulk regulations (§22-14). R3A zoning district.

PREMISES AFFECTED – 3858-60 Victory Boulevard, east corner of intersection of Victory Boulevard and Ridgeway Avenue, Block 2610, Lot 22 & 24, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to April 29, 2014, at 10 A.M., for continued hearing.

253-13-BZ

APPLICANT – Eric Palatnik, P.C., for Miyer Yusupov, owner.

SUBJECT – Application August 30, 2013 – Special Permit (§73-621) for the enlargement of an existing two-story, two-family home, contrary to floor area (§23-141B) regulations. R4B zoning district.

PREMISES AFFECTED – 66-31 Booth Street, north side of Booth Street between 66th and 67th Avenue, Block 3158, Lot 96, Borough of Queens.

COMMUNITY BOARD #6Q

ACTION OF THE BOARD – Laid over to April 29, 2014, at 10 A.M., for continued hearing.

254-13-BZ

APPLICANT – Law Office of Marvin B. Mitzner, for Moshe Packman, owner.

SUBJECT – Application August 30, 2013 – Variance (§72-21) to permit a residential development, contrary to floor area (§23-141(a)), dwelling units (§23-22), lot coverage (§23-141(a)), front yard (§23-45(a)), side yard (§23-462(a)), and building height (§23-631(b)) regulations. R3-2 zoning district.

PREMISES AFFECTED – 2881 Nostrand Avenue, east side of Nostrand Avenue between Avenue P and Marine Parkway, Block 7691, Lot 91, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Laid over to May 6, 2014, at 10 A.M., for continued hearing.

268-13-BZ

APPLICANT – Belkin Burden Wenig & Goldman, LLP, for Rachel H.Opland, Adrienne & Maurice Hayon, owner.

SUBJECT – Application September 13, 2013 – Special Permit (§73-621) to permit legalize an enlargement to a three-story mixed use building, contrary to lot coverage regulations (§23-141). R5 zoning district.

PREMISES AFFECTED – 2849 Cropsey Avenue, north east side of Cropsey Avenue, approximately 25.9 feet northwest from the corner formed by the intersection of Bay 50th St. and Cropsey Avenue, Block 6917, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #13BK

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for continued hearing.

318-13-BZ

APPLICANT – Bryan Cave LLP, for TJD 21 LLC, owners.

SUBJECT – Application December 13, 2013 – Variance (§72-21) to permit a five-story building containing retail and residential use, contrary to use regulations (§44-00). M1-5B zoning district.

PREMISES AFFECTED – 74 Grand Street, North side of Grand Street, 25 feet east of Wooster Street. Block 425, Lot 60, Borough of Manhattan.

COMMUNITY BOARD # 2M

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for continued hearing.

34-14-BZ & 498-83-BZ

APPLICANT – Rampulla Associates Architects, for Anthony Vasaturo, owner; MS Fitness, LLC, lessee.

SUBJECT – Application February 19, 2014 – Special Permit (§73-36) to allow the operation of a physical culture establishment (*Club Metro USA*) within an existing building.

Amendment of a previously approved variance (§72-21) to permit the change of use from a banquet hall (UG9 & 12),

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reduce building size and retain accessory parking in residential district. C8-1/R3X zoning district.

PREMISES AFFECTED – 2131 Hylan Boulevard, north side of Hylan Boulevard, corner formed by the intersection of Hylan Boulevard and Bedford Avenue, Block 3589, Lot 63, Borough of Staten Island.

COMMUNITY BOARD #2SI

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to April 8, 2014, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

***CORRECTION**

The resolution adopted on March 11, 2014, under Calendar No. 331-04-BZ and printed in Volume 99, Bulletin No. 11, is hereby corrected to read as follows:

331-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Blue Millennium Realty LLC, owner; Century 21 Department Stores LLC, lessee.

SUBJECT – Application October 24, 2013 – Amendment of a previously approved Variance (§72-21) which permitted the expansion of floor area in an existing commercial structure (*Century 21*). The amendment seeks to permit a rooftop addition above the existing building which exceeds the maximum permitted floor area. C5-5 (LM) zoning district.

PREMISES AFFECTED – 26 Cortlandt Street, located on Cortlandt Street between Church Street and Broadway. Block 63, Lots 6 & 3. Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously-granted variance, which, pursuant to ZR § 72-21, authorized in a C5-5 zoning district within the Special Lower Manhattan District the enlargement of an existing commercial building contrary to floor area regulations and waived the requirement to relocate two adjacent subway entrances in connection with the enlargement; and

WHEREAS, a public hearing was held on this application on January 28, 2014, after due notice by publication in *The City Record*, with a continued hearing on February 25, 2014, and then to decision on March 11, 2014; 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, Manhattan, recommends approval of this application; and

WHEREAS, the subject site spans the full length of the east side of Church Street, between Cortlandt Street and Dey Street, within a C5-5 zoning district, within the Special Lower Manhattan District; and

WHEREAS, the site comprises Lots 3 and 6, has approximately 170 feet of frontage along Cortlandt Street, approximately 215 feet of frontage along Church Street, approximately 188 feet of frontage along Dey Street, 38,178

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sq. ft. of lot area, and is located across the street from the World Trade Center site; and

WHEREAS, Lot 3 is occupied by a 34-story commercial building (the “Tower Building”) and Lot 6 is occupied by a five-story commercial building (the “Bank Building”); together, the buildings have 595,882 sq. ft. of floor area (15.6 FAR); and

WHEREAS, the applicant represents that Century 21 Department Store (“Century 21”) occupies the entirety of the Bank Building and floors one through six of the Tower Building, as well as the two buildings adjacent to the Tower Building on Block 63, Lot 1 (“10-12 Cortlandt Street”); and

WHEREAS, on February 15, 2005, under the subject calendar number, the Board granted a variance to permit: (1) a 4,583 sq.-ft. enlargement of the existing second-floor mezzanine of the Century 21 store in the Bank Building, while an equal amount of floor area was simultaneously retired via deed restriction from 10-12 Cortlandt Street; and (2) a waiver of the requirement to relocate two adjacent subway entrances in connection with the enlargement, contrary to ZR §§ 31-122 and 91-43; and

WHEREAS, the applicant now requests an amendment to permit the construction of a partial sixth floor atop the Bank Building, which will increase the floor area on the site by 4,622 sq. ft. from 595,882 sq. ft. (15.6 FAR) to 600,504 sq. ft. (15.73 FAR), and increase the height of the Bank Building from 71'-0" to 83'-0"; as in the previous grant, this enlargement will: (1) be offset by a deed restriction retiring 4,622 sq. ft. of floor area recorded against 10-12 Cortlandt Street; and (2) require a waiver of the requirement (ZR § 91-43) to relocate the two subway entrances adjacent to the site; and

WHEREAS, the applicant states that Century 21 will use the new sixth floor as an event space, which will allow for: (1) private exhibitions of new vendor merchandise or Century 21-curated merchandise; (2) presentations and functions hosted by Century 21 for their buyers and vendors, including catered dinners or luncheons; and (3) a designated area for executive meetings and sales force conferences; and

WHEREAS, the applicant asserts that the event space is critical to Century 21's remaining competitive in the shrinking department store market, and in support of this statement, the applicant provided an analysis that reflects that all other large New York City department stores have private event space; and

WHEREAS, the applicant notes that the neighborhood is characterized by high-density mixed commercial and residential uses and that a department store is entirely consistent with such uses; and

WHEREAS, as for the enlargement's impact upon adjacent properties, the applicant states that it is minimal; specifically, the applicant notes that the only adjacent building on the block—the 34-story Tower Building—is partially occupied by Century 21 and otherwise occupied by commercial uses; as such, the modest increase in height will have no impact; and

WHEREAS, as to the required waiver for the relocation

of two subway entrances, the applicant states that, as in the original grant, the costs of such relocation far exceed the benefits derived from the enlargement that triggers the relocation requirement; indeed, Century 21's most valuable selling space—at the cellar and first floor—would be reduced in order to accommodate the subway work; and

WHEREAS, in addition, the applicant asserts that the subway relocation requirement set forth in ZR § 91-43 was intended for major renovations of Lower Manhattan buildings and that minor increases in floor area to accommodate existing uses—the proposed enlargement increases the FAR by 0.13—were not contemplated despite the use of the defined term “enlargement”; and

WHEREAS, at hearing, the Board noted that the deed restriction retiring the floor area at 10-12 Cortlandt Street required under the prior grant had not yet been recorded; accordingly, the Board directed the applicant to record the deed restriction retiring 9,205 sq. ft. of floor area (which represents 4,583 sq. ft. of floor area from the original grant and 4,622 sq. ft. requested under this application); additionally, the Board directed the applicant to clarify the amount of available floor area at 10-12 Cortlandt Street and to clarify the impact of the proposed sixth floor on the Tower Building's windows; and

WHEREAS, in response, the applicant represented that the deed restriction would be recorded upon approval of this application; and

WHEREAS, as to the amount of available floor area at 10-12 Cortlandt Street, the applicant states that 10-12 Cortlandt Street has a maximum permitted floor area of 92,955 sq. ft., 20,412 sq. ft. of which are built and 9,205 sq. ft. of which are to be retired by the deed restriction discussed above, leaving 63,338 sq. ft. available for development; and

WHEREAS, as to whether the proposed sixth floor would obstruct any windows at the Tower Building, the applicant submitted a letter from the project architect stating that it would not; and

WHEREAS, based upon the above, the Board has determined that the evidence in the record supports a grant of the requested amendment with the conditions listed below.

Therefore it is Resolved, that the Board of Standards and Appeals reopens and amends the resolution, dated February 15, 2005, to grant the noted modifications to the previous approval; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked ‘Received March 4, 2014’ - Five (5) sheets; and *on further condition*:

THAT the Tower Building and the Bank Building will have a maximum of 600,504 sq. ft. of floor area (15.73 FAR);

THAT the Bank Building will have a maximum height of 83'-0";

THAT prior to DOB's issuance of a permit, a deed restriction providing for the permanent and irrevocable retirement of 9,205 sq. ft. of floor area as to 10-12 Cortlandt Street will be executed and recorded, and then submitted to DOB, with a copy of same to the Board's Executive Director for placement in the case file;

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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 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.”

Adopted by the Board of Standards and Appeals, March 11, 2014.

The resolution has been amended. Corrected in Bulletin Nos. 12-13, Vo. 99, dated April 3, 2014.

*CORRECTION

This resolution adopted on March 4, 2014, under Calendar No. 78-13-BZ and printed in Volume 99, Bulletin No. 10, is hereby corrected to read as follows:

78-13-BZ

CEQR #13-BSA-103K

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

SUBJECT – Application February 22, 2013 – Variance (§72-21) to permit a new four-story, four-unit residential building (UG 2), contrary to use regulations, ZR §42-00. M1-1& R7A/C2-4 zoning districts.

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

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 24, 2013, acting on Department of Buildings Application No. 310072818, reads, in pertinent part:

ZR 42-00 – Residential use is not permitted in manufacturing district; and

WHEREAS, this is an application under ZR § 72-21, to permit, partially within an M1-1 zoning district and partially within an R7A (C2-4) zoning district, the construction of a four-story residential building (Use Group 2), contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on August 20, 2013, after due notice by publication in the *City Record*, with a continued hearing on September 24, 2013, and then to decision on March 4, 2014; 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, Brooklyn, recommends disapproval of this application; and

WHEREAS, Councilperson Letitia James submitted a letter in support of this application; and

WHEREAS, the subject site is a rectangular lot located on the west side of Kent Avenue between Myrtle Avenue and Park Avenue, partially within an M1-1 zoning district and partially within an R7A (C2-4) zoning district; and

WHEREAS, the site has 25 feet of frontage along Kent Avenue, a lot depth of 90 feet, and a lot area of 2,250 sq. ft.; and

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WHEREAS, the applicant states that the site is now vacant, but was previously occupied by a three-story mixed residential and commercial building that was built in or around 1905 and demolished in 2003; and

WHEREAS, the applicant notes that a variance application was filed for the site in 2008, under BSA Cal. No. 238-08-BZ; such application was dismissed for lack of prosecution on February 23, 2010; however, on July 24, 2012, the Board granted a rehearing of the application based on the applicant's revision of the proposal to comply with the R6 regulations with regard to floor area ratio, rear setback, and street wall location; and

WHEREAS, the applicant represents that the proposed residential building (Use Group 2), will have a floor area of 4,930.2 sq. ft. (2.2 FAR), a building height of 48'-11", a rear yard depth of 38'-0", and four dwelling units; and

WHEREAS, initially, the applicant proposed a building with a floor area of 5,680 sq. ft. (2.52 FAR) and a height of 53'-11"; and

WHEREAS, the applicant notes that Use Group 2 is not permitted in an M1-1 zoning district and that 65 percent of the site is within the M1-1 district and 35 percent of the site is within the R7A (C2-4) district; as such, ZR § 77-11, cannot be employed to extend the R7A (C2-4) use regulations to the M1-1 portion of the site; and

WHEREAS, accordingly, the applicant seeks a use variance; and

WHEREAS, the applicant states that, per ZR § 72-21(a), the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the lot's small size, shallow depth, and narrow width; (2) the adjacency of residential uses; (3) the district boundary, which divides the lot; and (4) the inability to merge the site with adjacent lots; and

WHEREAS, the applicant asserts that the site is small (2,250 sq. ft. of lot area), shallow (90 feet), and narrow (25 feet); and

WHEREAS, as such, the applicant asserts that it would be impractical to develop the site with a modern manufacturing use, which requires significantly larger floorplates than the site would yield; and

WHEREAS, the applicant notes that the site is the smallest and shallowest lot within a 400-foot radius in the subject M1-1 zoning district with frontage along Kent Avenue; and

WHEREAS, the applicant states that the infeasibility of establishing a manufacturing use on an undersized lot is compounded by the difficulties in locating such use on a site surrounded by residential neighbors; and

WHEREAS, in particular, the applicant states that the four adjacent buildings to the site and the building directly across the street contain residences; and

WHEREAS, the applicant states that the site is also uniquely burdened by being divided by the district boundary between an M1-1 zoning district (where the proposed use is not permitted as-of-right) and an R7A (C2-4) zoning district (where the proposed use is permitted as-of-right); and

WHEREAS, the applicant notes that while ZR § 77-11 typically affords relief for a split lot by allowing the use regulations of one district to extend to the other, such section would not allow for the proposed residential use, because less than 50 percent of the lot is within the R7A (C2-4) zoning district; and

WHEREAS, finally, the applicant asserts that the site is burdened by its inability to merge with another lot, which, when combined with its narrowness, shallowness, absence of an existing building, and split-lot condition, is unique in the subject M1-1 zoning district; and

WHEREAS, specifically, the applicant states that, of the 244 lots within the subject M1-1 zoning district, there are only 43 lots (including the site) that contain vacant or open parking uses; of these 43 lots, there are only 35 lots (including the site) with a lot width of 25 feet or less, 22 lots (including the site) with a lot depth of 90 feet or less, 19 lots (including the site) that have no potential to merge with the adjacent lots, and only two lots (including the site) that are split lots; and

WHEREAS, consequently, the applicant states that the site's unique physical conditions—its small lot size and shallow lot depth, the adjacency of residential uses, the split-lot condition, and the inability to merge—create an unnecessary hardship in developing the site in conformance with applicable regulations; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that, per ZR § 72-21(b), there is no reasonable possibility that the development of the site in conformance with the Zoning Resolution will bring a reasonable return; and

WHEREAS, in particular, in addition to the proposed residential building with 2.2 FAR and the original proposal with 2.52 FAR, the applicant examined the economic feasibility of a two-story as-of-right manufacturing building with 2,250 sq. ft. of floor area; and

WHEREAS, the applicant concluded that the as-of-right scenario does not result in an acceptable rate of return; and

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

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that the immediate area is characterized by a mix of medium density residential, commercial, and community facility uses, including a six-story mixed residential and commercial building and three-

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story mixed residential and commercial building to the south, a four-story residential building to the west, a three-story mixed residential and commercial building to the north, and a three-story residential building directly across the street; in addition, the applicant notes that there is a five-story school (PS 157) on the block, and a large park (Taaffe Playground) that occupies the majority of the block immediately to the west of the site; and

WHEREAS, the applicant states, as noted above, that the site has historically been occupied by residential uses and that, as such, the proposal would restore a viable use; and

WHEREAS, likewise, the applicant asserts that the area within a 400-foot radius of the site has limited industrial uses, and, therefore, a conforming use would be less appropriate than the proposal; and

WHEREAS, the Board agrees that the character of the area is predominantly residential, and it finds that the introduction of four dwelling units does not impact nearby conforming uses; and

WHEREAS, as to bulk, at hearing, the Board expressed concerns about the compatibility of the originally proposed building height, street wall location, and attic with the surrounding area; and

WHEREAS, in response, the applicant amended its proposal, lowering the building height from 53'-11" to 48'-11", moving the street wall forward 5'-0" to align with the adjacent building's street wall, and removing the attic entirely, thereby reducing the proposed floor area from 5,680 sq. ft. (2.52 FAR) to 4,930 sq. ft. (2.2 FAR); and

WHEREAS, the applicant notes that the proposed building, as modified, complies with the floor area, height and setback regulations for an R6 zoning district; as such, it provides an appropriate transition from the higher bulk of the R7A (C2-4) zoning district along Myrtle Avenue to the three-story building to the north of the site, which has a height of approximately 30'-0"; and

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

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the site's small lot size, shallow lot depth, adjacency of residential uses, split-lot condition, and inability to merge; and

WHEREAS, finally, the Board finds that, as amended, the proposal is the minimum variance necessary to afford relief, as set forth in ZR § 72-21(e); and

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617 and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant

information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 13BSA103K, dated February 28, 2014; and

WHEREAS, the EAS documents show 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 impacts; and

WHEREAS, DEP reviewed and accepted the December 2013 Remedial Action Plan and the October 2012 site-specific Construction Health and Safety Plan; and

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

WHEREAS, DEP reviewed the applicant's air quality assessment and determined that no significant stationary, mobile, and industrial source air quality impacts to the proposed project are anticipated; 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; and

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, partially within an M1-1 zoning district and partially within an R7A (C2-4) zoning district, the construction of four-story residential building (Use Group 2), 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 "October 16, 2013"- Twelve (12) sheets; and *on further condition*:

THAT the following are the bulk parameters of the proposed building: a floor area of 4,930.2 sq. ft. (2.2 FAR), a building height of 48'-11", a rear yard depth of 38 feet, and four dwelling units, as illustrated on the BSA-approved plans;

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);

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

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

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

Adopted by the Board of Standards and Appeals, March 4, 2014.

The resolution has been amended. Corrected in Bulletin Nos. 12-13, Vo. 99, dated April 3, 2014.

*CORRECTION

The resolution adopted on February 25, 2014, under Calendar No. 127-13-A and printed in Volume 99, Bulletin Nos. 8-9, is hereby corrected to read as follows:

127-13-A

APPLICANT – Law Offices of Marvin B. Mitzner, LLC, for Brusco Group, Inc., owner.

SUBJECT – Application May 1, 2013 – Appeal under Section 310 of the Multiple Dwelling Law to vary MDL Sections 171-2(a) and 2(f) to allow for a vertical enlargement of a residential building. R8 zoning district.

PREMISES AFFECTED – 332 West 87th Street, south side of West 87th Street between West end Avenue and Riverside Drive, Block 1247, Lot 48 Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated April 3, 2013, acting on Department of Buildings (“DOB”) Application No. 110361554 reads, in pertinent part:

1. Proposed heretofore converted dwelling cannot be increased in height or stories as per MDL 171-2(a);
2. Proposed enlargement of the existing heretofore converted dwelling exceeds 25% of the area of the 3rd floor (fourth story) which is contrary to MDL 171-2(f); and

WHEREAS, this is an application pursuant to Multiple Dwelling Law (“MDL”) § 310, to vary height and bulk requirements in order to allow for the proposed partial one-story vertical enlargement of the subject three-story and basement residential building, contrary to MDL §§ 171(2)(a) and 171(2)(f); and

WHEREAS, a public hearing was held on this application on July 23, 2013, after due notice by publication in *The City Record*, and then to decision on February 25, 2014; and

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

WHEREAS, the subject site is located on the south side of West 87th Street, between West End Avenue and Riverside Drive, within an R8 zoning district within the Riverside Drive-West End Historic District; and

WHEREAS, the site has 20 feet of frontage along West 87th Street, a depth of approximately 100.6 feet, and a lot area

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of 2,013 sq. ft.; and

WHEREAS, the site is occupied by a three-story and basement non-fireproof residential building; and

WHEREAS, the applicant states that the existing building was constructed in approximately 1900 and is currently occupied by eight residential units, with two units per floor; and

WHEREAS, the subject building has a floor area of approximately 5,177.85 sq. ft. (2.57 FAR) and a height of approximately 47'-0"; and

WHEREAS, the applicant proposes to enlarge the building by constructing a partial fourth floor containing an additional 743.3 sq. ft. of floor area; and

WHEREAS, the applicant states that the front of the proposed fourth floor will include a new, additional unit and the rear will be part of a duplex unit with the third floor; therefore, the proposal will increase the total number of dwelling units in the building from eight to nine; and

WHEREAS, the applicant further states that the proposed enlargement will increase the floor area of the subject building from 5,177.85 sq. ft. (2.57 FAR) to 5,921.15 sq. ft. (2.94 FAR) and increase the height of the building from 47'-0" to 56'-3"; and

WHEREAS, the applicant notes that the proposed fourth-floor enlargement will be set back 13'-5" from the building's front façade and slanted, so as not to be visible from the street; and

WHEREAS, the applicant also notes that it initially proposed a height of 57'-0", which was reduced at the request of the Landmarks Preservation Commission ("LPC"); and

WHEREAS, MDL § 171(2)(a) states that it is unlawful to "increase the height or number of stories of any converted dwelling or to increase the height or number of stories of any building in converting it to a multiple dwelling"; and

WHEREAS, because any increase in height or number stories of a converted multiple dwelling is prohibited, and the proposed increase of the existing building is from three stories to four stories and from 47'-0" to 56'-3", the Department of Buildings ("DOB") determined that the proposal does not comply with the requirements of MDL § 171(2)(a); and

WHEREAS, MDL § 171(2)(f) states that it is unlawful to "enlarge or extend any converted dwelling so as to exceed by more than twenty-five per centum the area which such dwelling had on any floor at the time of its conversion . . ."; and

WHEREAS, because the proposed 743.3 sq. ft. enlargement on the fourth floor exceeds 25 percent of the area on the third floor, DOB determined that the proposal does not comply with the requirements of MDL § 171(2)(f); and

WHEREAS, pursuant to MDL § 310(2)(a), the Board has the authority to vary or modify certain provisions of the MDL for multiple dwellings that existed on July 1, 1948, provided that the Board determines that strict compliance with such provisions would cause practical difficulties or unnecessary hardships, and that the spirit and intent of the MDL are maintained, public health, safety and welfare are preserved, and substantial justice is done; and

WHEREAS, as noted above, the subject building was constructed in approximately 1900; therefore, the building is subject to MDL § 310(2)(a); and

WHEREAS, specifically, MDL § 310(2)(a) empowers the Board to vary or modify provisions or requirements related to: (1) height and bulk; (2) required open spaces; (3) minimum dimensions of yards or courts; (4) means of egress; and (5) basements and cellars in tenements converted to dwellings; and

WHEREAS, the Board notes that MDL §§ 171(2)(a) and 171(2)(f) relate to height and bulk; therefore the Board has the power to vary or modify the subject provisions pursuant to MDL § 310(2)(a)(1); and

WHEREAS, the applicant represents that practical difficulty and unnecessary hardship would result from strict compliance with the MDL; and

WHEREAS, the applicant states that MDL §§ 171(2)(a) and 171(2)(f) prohibit a vertical enlargement of the subject building and that the third floor cannot practicably be enlarged horizontally to make up for this deficit because the existing building is located within an historic district and the LPC will not approve a third floor horizontal expansion; and

WHEREAS, the applicant represents that because a vertical enlargement is not permitted and a horizontal enlargement is impracticable, the MDL restrictions create a practical difficulty and an unnecessary hardship in that they prevent the site from utilizing the development potential afforded by the subject zoning district; and

WHEREAS, in particular, the applicant notes that the subject district permits an FAR of 6.02, and the proposed enlargement would increase the FAR of the building from 2.57 to 2.94; and

WHEREAS, based on the above, the Board agrees that there is a practical difficulty and an unnecessary hardship in complying with the requirements of the MDL; and

WHEREAS, the applicant states that the requested variance of MDL §§ 171(2)(a) and 171(2)(f) is consistent with the spirit and intent of the MDL, and will preserve public health, safety and welfare, and substantial justice; and

WHEREAS, specifically, the applicant states that the proposal includes numerous fire safety improvements to mitigate the existing fire infirmities inherent in the pre-1929 building; and

WHEREAS, the applicant notes that MDL § 2 ("Legislative Finding") provides that the intent of the law is to protect against dangers such as "overcrowding of multiple dwelling rooms, inadequate provision for light and air, and insufficient protection against the defective provision for escape from fire . . ."; and

WHEREAS, accordingly, the applicant represents that the proposed construction promotes the intent of the law because: (1) the new unit will cause minimal impact, as it will increase the unit count to nine, which is well below the 16 total permitted units in a building in an R8 zone; (2) it will be modest in size and set back from the front and rear facades, thereby providing sufficient light and air to the proposed fourth floor without diminishing access to light and air for

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other units in the building; and (3) it will provide a number of significant fire safety improvements; and

WHEREAS, specifically, the applicant proposes to provide the following fire safety improvements: (1) sprinklers will be added to all common areas of the building; (2) new, steel stair ways will be installed; (3) all existing wood stair rails will be replaced with metal; (4) all doors leading to the apartments and cellar will have one-and-one-half-hour fireproof self-closing doors; (5) all public halls will have a new two-hour rated enclosure by an additional new layer of fire resistant gypsum board; (6) two layers of fire resistant gypsum board will be installed in the cellar ceiling; (7) a new layer of fire resistant gypsum board will be installed to the underside of the existing staircases and landings; and (8) all bedrooms will have ceiling mounted hard-wired smoke detectors and carbon-monoxide detectors; and

WHEREAS, the applicant represents that the proposed fire safety measures will result in a substantial increase to the public health, safety, and welfare, which far outweighs any impact from the proposed enlargement; and

WHEREAS, based on the above, the Board finds that the proposed variance to the height and bulk requirements of MDL §§ 171(2)(a) and 171(2)(f) will maintain the spirit and intent of the MDL, preserve public health, safety and welfare, and ensure that substantial justice is done; and

WHEREAS, the applicant represents that the proposal will not affect the historical character of the site; and

WHEREAS, the applicant submitted a Certificate of Appropriateness from the LPC approving work associated with the proposed enlargement, dated February 5, 2014; and

WHEREAS, at hearing, the Board expressed concerns regarding the dimensions of the proposed dwelling units; and

WHEREAS, in response, the applicant submitted an amended statement clarifying the dimensions of the proposed units and confirming that such units meet the minimum requirements set forth in the Zoning Resolution; and

WHEREAS, accordingly, the Board finds that the applicant has submitted adequate evidence in support of the findings required to be made under MDL § 310(2)(a) and that the requested variance of the height and bulk requirements of MDL §§ 171(2)(a) and 171(2)(f) is appropriate, with certain conditions set forth below.

Therefore it is Resolved, that the decision of the Manhattan Borough Commissioner, dated April 3, 2013, is modified and that the requested waivers are granted, limited to the decision noted above; *on condition* that construction will substantially conform to the plans filed with the application marked, "Received February 21, 2014" eight (8) sheets; and *on further condition*:

THAT the bulk parameters of the building will be as follows: 5,921.15 sq. ft. (2.94 FAR); nine dwelling units; and a maximum building height of 56'-3", as reflected in the BSA-approved plans;

THAT the dimensions of the proposed dwelling units will be subject to DOB review;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB objections related to the MDL;

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

THAT the 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.

Adopted by the Board of Standards and Appeals, February 25, 2014.

The resolution has been amended. Corrected in Bulletin Nos. 12-13, Vo. 99, dated April 3, 2014.

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*CORRECTION

The resolution adopted on March 4, 2014, under Calendar No. 128-13-BZ and printed in Volume 99, Bulletin No. 10, is hereby corrected to read as follows:

128-13-BZ

APPLICANT – Sheldon Lobel, PC, for Zev and Renee Marmustein, owner.

SUBJECT – Application May 3, 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(b)); side yards (§23-461(a)); less than the required rear yard (§23-47) and perimeter wall height (§23-631(b)) regulations. R3-2 zoning district.

PREMISES AFFECTED – 1668 East 28th Street, west side of East 28th Street 200' north of the intersection formed by East 28th Street and Quentin Road, Block 6790, Lot 23, 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 of the New York City Department of Buildings (“DOB”), dated April 16, 2013, acting on DOB Application No. 301408046, reads in pertinent part:

5. Proposed plans are contrary to ZR § 23-141(b), in that the proposed floor area ratio exceeds the maximum permitted;
6. Proposed plans are contrary to ZR § 23-141(b), in that the open space provided is less than the minimum required;
7. Proposed plans are contrary to ZR § 23-141(b), in that the lot coverage proposed exceeds the maximum permitted;
8. Proposed plans are contrary to ZR § 23-461(a) in that the proposed enlargement increases the degree of non-compliance with respect to the minimum required side yards;
9. Proposed plans are contrary to ZR § 23-47, in that the proposed enlargement increases the degree of non-compliance with respect to the minimum required rear yard;
10. Proposed plans are contrary to ZR § 23-631(b), in that the proposed enlargement increases the degree of non-compliance with respect to the maximum permitted wall height; and

WHEREAS, this is an application under ZR § 73-622, to permit, within an R3-2 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, side yards, rear yard, and perimeter wall height, contrary to ZR §§ 23-141, 23-461, 23-47 and 23-631; and

WHEREAS, a public hearing was held on this application on December 17, 2013, after due notice by publication in *The City Record*, with a continued hearing on January 28, 2014, and then to decision on March 4, 2014; 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 15, Brooklyn, recommends disapproval of the original the application; and

WHEREAS, certain members of the surrounding community testified in opposition to this application (the “Opposition”), alleging that the proposed floor area (5,009.21 sq. ft. (1.0 FAR)) and absence of a side yard along the north side of the site (which was an extension of an existing zero lot line condition) were inconsistent with the character of the neighborhood; and

WHEREAS, in response, the applicant reduced the floor area from 5,009.21 sq. ft. (1.0 FAR) to 4,885 sq. ft. (0.98 FAR), eliminated the zero lot line condition, and provided a side yard with a minimum width of 3’-8¾”, which the Opposition found acceptable; as a result, the Opposition withdrew its objection to the application; and

WHEREAS, the subject site is located on the west side of East 28th Street, between Avenue P and Quentin Road, within an R3-2 zoning district; and

WHEREAS, the site has a total lot area of 5,000 sq. ft. and is occupied by a single-family home with a floor area of 2,795 sq. ft. (0.56 FAR); and

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

WHEREAS, the applicant now seeks an increase in the floor area from 2,795 sq. ft. (0.56 FAR) to 4,885 sq. ft. (0.98 FAR); the maximum permitted floor area is 2,500 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to reduce the open space from 72 percent to 62 percent; the minimum required open space is 65 percent; and

WHEREAS, the applicant seeks to increase the lot coverage from 28 percent to 38 percent; the maximum permitted lot coverage is 35 percent; and

WHEREAS, the applicant seeks to maintain one existing, complying side yard with a width of 8’-3” and increase the width of the existing non-complying side yard from 0’-0” (at its narrowest point) to 3’-8¾” (the requirement is two side yards with a minimum total width of 13’-0” and a minimum width of 5’-0” each); and

WHEREAS, the applicant also seeks to decrease its non-complying rear yard depth from 28’-5¼” to 20’-0”; a rear yard with a minimum depth of 30’-0” is required; and

WHEREAS, finally, the applicant seeks to maintain and extend its existing, non-complying perimeter wall height

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of 22'-6 $\frac{1}{8}$ "; the maximum permitted perimeter wall height is 21'-0"; and

WHEREAS, the Board notes that ZR § 73-622(3) allows the Board to waive the perimeter wall height only in instances where the proposed perimeter wall height is equal to or less than the height of the adjacent building's non-complying perimeter wall facing the street; and

WHEREAS, the applicant represents that the proposed perimeter wall height (22'-6 $\frac{1}{8}$ "') is less than the height of the adjacent building's non-complying perimeter walls facing the street (22'-8 $\frac{1}{4}$ "'), and the applicant submitted a survey in support of this representation; 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 0.98 FAR is consistent with the bulk in the surrounding area and notes that, in recent years, the Board has granted special permits for home enlargements on nearby streets (East 21st, East 22nd, and Avenue S) with FARs in excess of 1.0; and

WHEREAS, additionally, the applicant notes that a portion of the existing home is built to the north side lot line and the proposal includes the removal of that portion and the inclusion of a side yard with a width of 3'-8 $\frac{3}{4}$ "; and

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

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

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

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, within an R3-2 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 ratio, lot coverage, side yards, rear yard, and perimeter wall height, contrary to ZR §§ 23-141, 23-461, 23-47 and 23-631; *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 February 18, 2014" – Twelve (12) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 4,885 sq. ft. (0.98 FAR), a minimum open space of 62 percent, a maximum lot coverage of 38 percent, a minimum rear yard depth of 20'-0", side yards with minimum widths of 8'-3" and 3'-8 $\frac{3}{4}$ "

and a maximum perimeter wall height of 22'-6 $\frac{1}{8}$ "', 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);

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

Adopted by the Board of Standards and Appeals, March 4, 2014.

***The resolution has been amended. Corrected in Bulletin Nos. 12-13, Vo. 99, dated April 3, 2014.**

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*CORRECTION

The resolution adopted on March 4, 2014, under Calendar No. 234-13-BZ and printed in Volume 99, Bulletin No. 10, is hereby corrected to read as follows:

234-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Dov Lipschutz, owner.

SUBJECT – Application August 16, 2013 – Variance (§72-21) for the enlargement of an existing two-family detached residence to be converted to a single-family home, contrary to minimum front yard (§23-45(a)); and less than the required rear yard (ZR §23-47). Special Permit (§73-621) for an enlargement which is contrary to floor area (ZR 23-141). R3-2 zoning district.

PREMISES AFFECTED – 1653 Ryder Street, aka 1651 Ryder Street, Located on the northeast side of Ryder Street between Quentin road and Avenue P, Block 7863, lot 18, Borough of Brooklyn.

COMMUNITY BOARD #18BK

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 Specialist of the Department of Buildings (“DOB”), dated August 9, 2013, acting on DOB Application No. 320516811, reads in pertinent part:

1. FAR exceeds maximum permitted, contrary to ZR 23-141(b);
2. Proposed conditions increase the degree of non-compliance with respect to the required minimum front yard, contrary to ZR 23-45(a);
3. Proposed conditions violate required rear yard, contrary to ZR 23-47; and

WHEREAS, this is an application under ZR §§ 72-21 and 73-621, to permit, within an R3-2 zoning district, the conversion (from a two-family residence to a single-family residence) and enlargement of an existing residential building, which does not comply with the zoning requirements for floor area ratio (“FAR”), front yard, and rear yard, contrary to ZR §§ 23-141, 23-45, and 23-47; and

WHEREAS, a public hearing was held on this application February 4, 2014, after due notice by publication in *The City Record*, and then to decision on March 4, 2014; and

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

WHEREAS, Community Board 18, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is an irregularly-shaped

interior lot located on the east side of Ryder Street, between Avenue P and Quentin Road, within an R3-2 zoning district; and

WHEREAS, the site has 40 feet of frontage along Ryder Street and 3,855 sq. ft. of lot area; and

WHEREAS, the site is currently occupied by a two-story, two-family home with 1,985.41 sq. ft. of floor area (0.52 FAR), and an attic; and

WHEREAS, the applicant notes that the building has existing complying side yard widths of 5'-0" and 10'-10½", a complying rear yard with a depth of 36'-7", and a non-complying front yard ranging in depth from 9'-11" to 14'-1" (a minimum front yard depth of 15'-0" is required); and

WHEREAS, the applicant proposes to enlarge the existing cellar, first and second stories, and the attic of the building contrary to the FAR, front yard, and rear yard requirements, and increase the floor area from 1,985.41 sq. ft. (0.52 FAR) to 2,544.02 sq. ft. (0.66 FAR); the maximum permitted floor area is 1,927 sq. ft. (0.5 FAR), however, a 20 percent increase in FAR pursuant to ZR § 23-141(b)(1) is available, resulting in a maximum permitted floor area of 2,313 sq. ft. (0.6 FAR); and

WHEREAS, the applicant also proposes to maintain a portion of its existing, non-complying front yard depth at 9'-11" and reduce a portion of its existing, non-complying front yard depth from 14'-1" to 12'-1" (a minimum depth of 15'-0" is required), and reduce its complying rear yard depth from 36'-7" to 24'-11" (a minimum depth of 30'-0" is required); and

WHEREAS, the special permit authorized by ZR § 73-621 is available to enlarge buildings containing residential uses that existed on December 15, 1961, or, in certain districts, on June 20, 1989; therefore, as a threshold matter, the applicant must establish that the subject building existed as of that date; and

WHEREAS, the applicant submitted the building's 1954 Certificate of Occupancy authorizing a two-family residence to demonstrate that the building existed as a residence well before June 20, 1989, which is the operative date within the subject R3-2 district; and

WHEREAS, accordingly, the Board acknowledges that the special permit under ZR § 73-621 is available to enlarge the building; and

WHEREAS, ZR § 73-621 permits the enlargement of a residential building, provided that the proposed floor area ratio does not exceed 110 percent of the maximum permitted (0.66 FAR);

WHEREAS, the applicant represents that the proposed floor area ratio is 110 percent of the maximum permitted (0.6 FAR); and

WHEREAS, therefore, the Board finds that the proposed increase in floor area is permitted under ZR § 73-621; however, ZR § 73-621 is not available to enlarge the building contrary to the front and rear yard requirements; and

WHEREAS, accordingly, the applicant seeks a variance pursuant to ZR § 72-21 for those portions of the proposal; and

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WHEREAS, the applicant states that the irregular lot shape is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the site in compliance with underlying zoning regulations; and

WHEREAS, the applicant states that the lot's shape is irregular, in that its rear lot line is diagonal, which creates a lot depth that varies from approximately 91 feet on the southeastern lot line to approximately 101 feet on the northwestern lot line; and

WHEREAS, the applicant asserts that such shape decreases the lot area available in the rear of the building, which contributed to the existing building being constructed closer to the front lot line and further into the required front yard, which, in turn, creates a practical difficulty enlarging the building in accordance with the front and rear yard requirements; and

WHEREAS, the applicant states that the lot shape is unique, and in support of this statement, submitted a study of the surrounding 24 blocks (approximately 900 sites); and

WHEREAS, the applicant represents that, according to the study, only two blocks out of 24 contain lots that share the site's diagonal rear lot line condition, and only 29 lots within those blocks have, as a result of their diagonal rear lot line, lot depths of 100 feet or less; and

WHEREAS, the applicant further distinguishes 23 of the 29 seemingly similar lots as follows: (1) 15 lots are overbuilt and cannot seek the same relief (a 10 percent FAR waiver under ZR § 73-621); (2) four lots are within .03 of the maximum permitted FAR and therefore cannot feasibly be enlarged; (3) two lots are corner lots without required rear yards; and (4) two have particularly wide frontages (61 feet and 80 feet), which mitigates the loss of space owing to their diagonal rear lot line; and

WHEREAS, consequently, the applicant states that only six lots out of 900 (less than one percent) nearby can be considered similar to the subject site; as such, the applicant asserts that the site's shape creates a unique practical difficulty in complying with the zoning regulations; and

WHEREAS, the applicant explored the feasibility of an as-of-right enlargement of the home; however, as noted above, such an enlargement would have to be accomplished entirely at the rear of the building and would result in a modest increase in floor area from 1,985.41 sq. ft. (0.52 FAR) to 2,313 sq. ft. (0.6 FAR); in contrast, the proposal allows for modest enlargements at the front and rear of the building; and

WHEREAS, accordingly, the applicant asserts that the lot shape creates practical difficulties in developing the site as-of-right; and

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

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

WHEREAS, the applicant represents that neither the

proposed variance, nor the special permit will negatively affect the character of the neighborhood or impact adjacent uses; and

WHEREAS, the applicant states that the surrounding area is characterized by low-density, detached or semi-detached, two- or three-story homes, with varying rear and side yard depths, and, typically, shallower front yard depths and setbacks; as such, the proposal is consistent with the use, bulk, and appearance of the neighborhood; and

WHEREAS, the applicant states that the proposal will maintain the existing minimum front yard depth of 9'-11" (albeit with a slight decrease in the non-complying front yard depth at the northern side of the lot from 14'-1" to 12'-1"), decrease its complying rear yard by approximately 5'-0", exceed the permitted FAR by less than ten percent and comply in all other respects (side yards, height, and lot coverage) with the R3-2 bulk regulations; and

WHEREAS, as to adjacent uses, the applicant states that the proposal maintains the existing complying side yards, and therefore has no impact on the parcels directly north and south of the site; and while the majority of the enlargement is proposed at the rear of the building (its east side), the applicant notes that the nearest structures to the east are a swimming pool (on Lot 68) and a garage (on Lot 66); thus, the overall impact of the proposal on adjacent uses is minimal; and

WHEREAS, as to the proposed 0.66 FAR, the applicant notes that directly across the street, the homes on Lots 63 and 64 have 0.66 FAR and 0.75 FAR, respectively; and

WHEREAS, additionally, the applicant represents that there are 18 homes on an adjacent block along Ryder Street (Block 7862) with an FAR of 0.66 or greater, with 12 homes ranging from 0.72 FAR to 1.12 FAR; and

WHEREAS, at hearing, the Board directed the applicant to clarify the amount of floor area proposed in the attic; and

WHEREAS, in response, the applicant submitted a revised statement, which confirmed the location and amount of floor area proposed in the attic; 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 conditions at the site; and

WHEREAS, the applicant asserts 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 73-621; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination 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 ZR §§ 72-21 and 73-621, to

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permit, within an R3-2 zoning district, the conversion (from a two-family residence to a single-family residence) and enlargement of an existing residential building, which does not comply with the zoning requirements for FAR, front yard, and rear yard, contrary to ZR §§ 23-141, 23-45, and 23-47; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 19, 2014"-Twelve (12) sheets; and *on further condition*:

THAT the parameters of the proposed building will be limited to: two stories and an attic, a maximum floor area of 2,544.02 sq. ft. (0.66 FAR), a front yard with a minimum depth of 9'-11", a rear yard with a minimum depth of 24'-11", and side yards with minimum widths of 5'-0" and 10'-10½", 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);

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

THAT significant construction will proceed in accordance with ZR §§ 72-23 and 73-70; 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)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 4, 2014.

***The resolution has been amended. Corrected in Bulletin Nos. 12-13, Vo. 99, dated April 3, 2014.**

*CORRECTION

This resolution adopted on March 11, 2014, under Calendar No. 274-13-BZ and printed in Volume 99, Bulletin No. 11, is hereby corrected to read as follows:

274-13-BZ

CEQR #14-BSA-045M

APPLICANT – Sheldon Lobel, P.C., for SKP Realty, owner; H.I.T. Factory Approved Inc., operator.

SUBJECT – Application September 26, 2013 – Variance (§72-21) to permit the operation of a physical culture establishment (*H.I.T. Factory Improved*) on the second floor of the existing building. C1-3/R6B zoning district.

PREMISES AFFECTED – 7914 Third Avenue, west Side of Third Avenue between 79th and 80th Street, Block 5978, Lot 46, Borough of Brooklyn.

COMMUNITY BOARD #10BK

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 of the Department of Buildings ("DOB"), dated September 9, 2013, acting on DOB Application No. 320782630, reads, in pertinent part:

Proposed physical culture establishment use is not permitted in a C1-3 zoning district, per ZR 32-10; and

WHEREAS, this is an application under ZR § 72-21, to permit, within a C1-3 (R6B) zoning district within the Special Bay Ridge District, the operation of a physical culture establishment ("PCE") within the second story of a two-story residential building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 28, 2014, after due notice by publication in the *City Record*, with a continued hearing on February 25, 2014, and then to decision on March 11, 2014; 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 10, Brooklyn, recommends approval of the application, provided that the hours of operation are limited to daily, from 7:00 a.m. to 10:00 p.m.; and

WHEREAS, the subject site is located on the west side of Third Avenue, between 79th Street and 80th Street, within a C1-3 (R6B) zoning district within the Special Bay Ridge District; and

WHEREAS, the site has approximately 60 feet of frontage along Third Avenue and 6,000 sq. ft. of lot area; and

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WHEREAS, the site is occupied by a two-story commercial building with approximately 11,400 sq. ft. of floor area (1.9 FAR); and

WHEREAS, the applicant notes that the first floor of the building is occupied by a grocery store and the second floor is vacant; and

WHEREAS, the applicant notes that the building was constructed in or around 1931 and that the site has been subject to the Board's jurisdiction since July 24, 1959, when, under BSA Cal. No. 398-58-BZ, it granted a variance permitting a factory contrary to use regulations; in addition, later that year, on September 29, 1959, under BSA Cal. No. 399-58-A, the Board granted an appeal waiving the live load requirements for the second story; and

WHEREAS, the applicant states that the manufacturing use remained on the second story until around 1972, when the manufacturer vacated the space, and remained vacant until around 2000, when a martial arts studio leased the space and occupied it until March 2012; and

WHEREAS, the applicant acknowledges that a martial arts studio is a PCE and concedes that a variance was not obtained for the operation of the studio; however, the applicant represents that both the building owner and the martial arts studio were unaware that a martial arts studio is considered a PCE and that PCEs are not permitted within a C1-3 (R6B) district; and

WHEREAS, the applicant now seeks a variance to operate the subject PCE, which will be known as H.I.T. Factory, occupy 5,400 sq. ft. of floor area on the second story, and operate daily, from 7:00 a.m. to 10:00 p.m.; and

WHEREAS, the applicant states that, per ZR § 72-21(a), the following are unique physical conditions which create an unnecessary hardship in developing the second floor in conformance with applicable regulations: (1) the second floor's configuration, depth, and size; and (2) its absence of street-level exposure; and

WHEREAS, the applicant states that the historic configuration, depth, and size of the second floor—the characteristics that made it suitable for historic manufacturing use—render it unsuitable for modern conforming uses; and

WHEREAS, specifically, the applicant states that the second floor has a large open floorplate, which would require utilities upgrades and partition construction in order to accommodate a modern business or professional office, at significant cost; and

WHEREAS, the applicant also asserts that the large size (approximately 6,000 sq. ft.) and depth (approximately 90 feet) of the second floor make residential use infeasible; and

WHEREAS, in particular, the applicant states that the second floor would be able to provide a rear yard depth of only ten feet, which is 20 feet less than the minimum required for habitable rooms; accordingly, all dwelling units must use the Third Avenue frontage of the building for required light and ventilation, which effectively prohibits the rear of the building from being converted to residences; and

WHEREAS, the applicant also states that the lack of light and ventilation owing to the building's depth would

further decrease its attractiveness to modern business or professional offices, which prefer natural light; and

WHEREAS, similarly, the second floor's absence of street-level exposure makes it undesirable for local retail and service establishment uses, which rely primarily on pedestrian visibility and convenience of access in order to attract customers; as such, the rent for the second floor must be heavily discounted in order to offset the limitations of the space; and

WHEREAS, the applicant notes that the second floor's unattractiveness to tenants is evidenced by its 28-year vacancy, which, as noted above, began in 1972 and ended when a martial arts studio (a PCE) began occupying the space in 2000; and

WHEREAS, to support its claim of unique hardship, the applicant provided an area study of the 92 buildings within 600 feet of the site; and

WHEREAS, based on the study, only one other building has a second floor non-residential (community facility) use: 7817 Third Avenue, which has a Rite-Aid store on the first floor and "Tutor Time," an infant child care and preschool, on the second floor; and

WHEREAS, however, the applicant asserts that the Tutor Time building is distinguishable from the site, in that it has significantly more lot area (approximately 9,600 sq. ft.) and is located on a corner, where light and ventilation are available for residential or modern office uses; and

WHEREAS, the Board agrees with the applicant that the aforementioned unique physical conditions, when considered together, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that, per ZR § 72-21(b), there is no reasonable possibility that the development of the site in conformance with the Zoning Resolution will bring a reasonable return; and

WHEREAS, in addition to the proposal, the applicant examined the economic feasibility of constructing a conforming office for a single user on the second floor; and

WHEREAS, the applicant concluded that the offices resulted in a negative rate of return after capitalization; in contrast, the applicant represents that the proposal results in a positive rate of return; and

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

WHEREAS, the applicant represents that the proposed PCE 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, in accordance with ZR § 72-21(c); and

WHEREAS, the applicant states that a PCE occupied the building (albeit without the required variance, as noted above) from approximately 2000 until 2012, and that this

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application has received letters of support from various community organizations as well as the community board; and

WHEREAS, the applicant represents that the surrounding community is characterized by low- to medium-density mixed residential and commercial uses, with many small business that are geared to local residents, and that the proposed PCE is consistent with such uses and will provide a valuable service; and

WHEREAS, as to the PCE's impact, the applicant represents that although light music may be played during workouts, the building's double concrete walls and extra padding will provide ample sound attenuation for both the neighboring buildings, and the grocery store use at the first floor; and

WHEREAS, in addition, consistent with the community board's request, as noted above, the hours of operation for the PCE will be limited to daily, from 7:00 a.m. to 10:00 p.m.; and

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

WHEREAS, the Board finds that, consistent with ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the history of manufacturing use on the second floor and the building's depth; and

WHEREAS, finally, the Board finds that the proposal is the minimum variance necessary to afford relief, as set forth in ZR § 72-21(e); and

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

WHEREAS, the Board notes that because the use authorized herein is classified as a PCE, the variance will be granted for a term of ten years, to expire on March 11, 2024; and

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 14BSA045M, dated September 23, 2013; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials;

Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

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

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

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, within a C1-3 (R6B) zoning district within the Special Bay Ridge District, the operation of a physical culture establishment ("PCE") within the second story of a two-story residential building, contrary to ZR § 32-10, *on condition* that any and all work will substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 23, 2013" – Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on March 11, 2024;

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

THAT all signage at the site will be limited to C1 zoning district regulations;

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

THAT the hours of operation for the PCE will be limited to seven days per week, from 7:00 a.m. to 10:00 p.m.;

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

THAT a new certificate of occupancy will be obtained within two years of the date of this grant, on March 11, 2016;

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

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

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; 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)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 11, 2014.

The resolution has been amended. Corrected in Bulletin Nos. 12-13, Vo. 99, dated April 3, 2014.