
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:
250 Broadway, 29th Floor, New York, N.Y. 10007.

Volume 100, Nos. 5-6

February 4, 2015

DIRECTORY

MARGERY PERLMUTTER, *Chair*

SUSAN HINKSON, *Vice-Chair*

DARA OTTLEY-BROWN

EILEEN MONTANEZ

Commissioners

Vacant, Executive Director

John Egnatios-Beene, *Counsel*

| | |
|-----------------|---|
| OFFICE - | 250 Broadway, 29th Floor, New York, N.Y. 10007 |
| HEARINGS HELD - | 22 Reade Street, Spector Hall, New York, N.Y. 10007 |
| BSA WEBPAGE @ | http://www.nyc.gov/html/bsa/home.html |

| |
|----------------------------|
| TELEPHONE - (212) 386-0009 |
| FAX - (646) 500-6271 |

CONTENTS

| | |
|-------------------------------|----|
| DOCKET | 58 |
| CALENDAR of February 10, 2015 | |
| Morning | 60 |
| Afternoon | 60 |

CONTENTS

**MINUTES of Regular Meetings,
Friday, January 30, 2015**

Morning Calendar61

Affecting Calendar Numbers:

| | |
|--|--|
| 717-28-BZ | 152-58 East 87 th Street, Manhattan |
| 195-02-BZ | 2797 Linden Boulevard, Brooklyn |
| 76-12-BZ | 148 Norfolk Street, Brooklyn |
| 665-39-A & 107-14-A | 55-57 West 44 th Street, Manhattan |
| 110-14-A thru 112-14-A | 115, 109 105 Rosewell Avenue, Staten Island |
| 32-14-A | 2560 Forest Avenue, Staten Island |
| 95-14-A | 237 East 72 nd Street, Manhattan |
| 163-14-A thru 165-14-A | 502, 504, 506 Canal Street, Manhattan |
| 131-11-A thru 133-11-A, 159-14-A thru 161-14-A | 464, 468 Arthur Kill Road, 120 Pemberton Avenue, Staten Island |
| 186-13-BZ | 117 Gelston Avenue, Brooklyn |
| 271-13-BZ | 129 Norfolk Street, Brooklyn |
| 38-14-BZ | 116 Oxford Street, Brooklyn |
| 125-14-BZ | 11 Avenue C, Manhattan |
| 81-12-BZ | 98-01/05 Metropolitan Avenue, Queens |
| 176-13-BZ | 31 Bond Street, Manhattan |
| 188-13-BZ & 189-13-A | 20 Dea Court, Staten Island |
| 222-13-BZ | 2472 Coney Island Avenue, Brooklyn |
| 321-13-BZ | 37-19 104 th Street, Queens |
| 327-13-BZ | 1504 Coney Island Avenue, aka 1498, 1526, 1528, 1532-1538 Coney Island Avenue, Brooklyn |
| 5-14-BZ | 1807 East 22 nd Street, Brooklyn |
| 17-14-BZ | 600 McDonald Avenue, aka 14 Avenue C, aka 377 Dahill Road, Brooklyn |
| 28-14-BZ | 3540 Nostrand Avenue, Brooklyn |
| 63-14-BZ | 5500 Broadway, Bronx |
| 94-14-BZ | 1150 East 22 nd Street, Brooklyn |
| 141-14-BZ | 2465 Broadway, Manhattan |

Afternoon Calendar76

Affecting Calendar Numbers:

| | |
|-----------|---|
| 44-14-BZ | 92 Laight Street, aka 256 West Street, 416 Washington Street, Manhattan |
| 148-14-BZ | 11 Avenue A, Manhattan |
| 175-14-BZ | 1162 Broadway, Manhattan |
| 216-14-BZ | 150 Amsterdam Avenue, Manhattan |
| 217-14-BZ | 245 West 17 th Street, Manhattan |
| 222-14-BZ | 344 East 63 rd Street, Manhattan |
| 246-14-BZ | 210 Joralemon Street, aka 45/63 Court Street, Brooklyn |

DOCKETS

New Case Filed Up to January 30, 2015

7-15-BZY

180 Orchard Street, Bounded by Orchard E. Houston, Ludlow and Stanton St., through lo located approx.220 feet E. Houston, Block 412, Lot(s) 5, Borough of **Manhattan, Community Board: 3**. BZY Minor Development: (§11-332) to extend the time of construction for a minor development for a period of six months. C4-4A district.

8-15-A

180 Orchard Street, Bounded by Orchard, E. Houston, Ludlow and Stanton Streets. Property is a through lot located approx. 220 feet from E. Houston Street, Block 00412, Lot(s) 0005, Borough of **Manhattan, Community Board: 3**. Application for a determination of common law vested rights. Building permit was obtained in 2005 and development was vested at date of Lower East Side rezoning in 2008. C4-4A district.

9-15-BZ

55 Amsterdam Avenue, Southeast corner of Amsterdam Avenue and West 62nd Street, Block 1132, Lot(s) 35, Borough of **Manhattan, Community Board: 7**. Special Permit (§73-36) to allow for a physical culture establishment (PCE)BOD) at the building on a portion of the ground floor and cellar of a new 54-story mixed use residential building, located within an C4-7 Special Lincoln Square District. C4-7(SLSD) district.

10-15-BZ

148 Lafayette Street, Corner lot bounded by Howard Street to the south and Lafayette Street to the East., Block 233, Lot(s) 26, Borough of **Manhattan, Community Board: 2**. Special Permit (§73-36) to allow a physical culture establishment(pce) in the cellar and ground floor of the premises, located within an M1-5B zoning district. M1-5B district.

11-15-BZ

155 Dover, Dover Street, between Hampton Avenue and Oriental Boulevard, Block 8736, Lot(s) 44, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to permit an enlargement of one family home, seek to waive the floor area, lot coverage, rear yard and open space requirements, located within an R3-1 zoning district. R3-1 district.

12-15-A

53 Prospect Place, Northerly side of prospect Place476.88 ft. from the corner formed by the intersection of the Westerly side of Amboy Road, Block 4306, Lot(s) 27, Borough of **Staten Island, Community Board: 3**. GCL 36: to issue a permit for construction of one family detached dwelling and to get Certificate Occupancy for to complete construction, that the street giving access to not official map street, contrary to General City Law 36 Article 3 of the General City Law. R3X district.

13-15-A

57 Prospect Place, formed by the intersection of the Northerly side of Prospect and the Westerly side of Amboy Road, Block 4306, Lot(s) 28, Borough of **Staten Island, Community Board: 3**. GCL 36 Waiver : proposed construction of a one family detached single family dwelling and to get a Certificate of Occupancy upon completion of construction and the building located on an unmapped street, contrary to Article 3 of the General City Law. R3X district.

14-15-BZ

1560 Westchester Avenue, Located at the southeast corner of Ward Avenue and Westchester Avenue, Block 3742, Lot(s) 40, Borough of **Bronx, Community Board: 9**. Special Permit (§73-36) to allow the operation of a physical culture establishment (fitness center) within an existing building to be enlarged, located within an C4-2 zoning district. C4-2 district.

15-15-BZ

1160 Ward Avenue, Located at the southeast corner of Ward Avenue and Westchester Avenue, Block 3742, Lot(s) 38, Borough of **Bronx, Community Board: 9**. Special Permit (§73-36) to allow the operation of a physical culture establishment (fitness center) within the new building at the premises, located within the C4-2 zoning district. C4-2 district.

16-15-A

233-235 Water Street, Located east of the intersection of Water Street and Beekman Street, Block 97, Lot(s) 49, Borough of **Manhattan, Community Board: 1**. BCG304 to permit the redevelopment of the existing building , the Blue School, a new middle school, located within an C6-2 zoning district.at the premises within a flood hazard area contrary C6-2A district.

DOCKETS

17-15-BZ

133 Beach 5th Street, Beach 5th Street through to Beach 6th Street between Sea Girt Avenue and Rockaway Beach, Block 15609, Lot(s) Tent 40, Borough of **Queens, Community Board: 14**. Variance (72-21) to allow the construction of a four story residential building at the premises, located within an R4A zoning district. R4A district.

18-15-BZ

90 5th Avenue, Northwest corner of West 14th Street & Fifth Avenue, Block 816, Lot(s) 37, Borough of **Manhattan, Community Board: 5**. Special Permit(73-36) to allow for a PCE special permit on 10th & 11th floors of an 11- story commercial building, located within an C6-4M zoning district. C6-4M district.

19-15-BZ

92-77 Queens boulevard, Through-block site with frontage on Queens boulevard and 93 Street, between 62 Avenue and Hharding Expressway, Block 2075, Lot(s) 39, Borough of **Queens, Community Board: 6**. Special Permit (73-36) to allow for physical culture establishment to be located at second-story level (plus entrance at ground-floor level) of a new two-story building, located within an R7-1/C@-2 zoning district. R7-1C2-2 district.

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

CALENDAR

FEBRUARY 10, 2015, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, February 10, 2015, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

25-57-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 221-016 Merrick Blvd. Associates, LLC, owner.

SUBJECT – Application July 31, 2014 – Amendment (§11-413) to permit a change in use (UG 6 retail use) of an existing commercial building in conjunction with alteration of an existing commercial building, demolition of three existing commercial buildings and construction of a new commercial building located within a C2-3 and R3A zoning district.

PREMISES AFFECTED – 221-18 Merrick Blvd, southwest corner of intersection of Merrick Blvd. and 221st Street, Block 13100, Lot(s) 22 & 26, Borough of Queens.

COMMUNITY BOARD #13Q

APPEALS CALENDAR

140-14-A

APPLICANT – Eric Palatnik, P.C., for 1016 East 13th Realty, LLC, owner.

SUBJECT – Application June 16, 2014 – Appeal seeking a determination that the owner has acquires a common law vested rights to complete construction under the prior C4-3A/R6 zoning district. R5 zoning district

PREMISES AFFECTED – 1016 East 16th 13th Street, Block 6714, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #14BK

153-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Rabbi Jacob Joseph School, owner.

SUBJECT – Application July 1, 2014 – Proposed construction of a community facility building school located partially within the bed of a unbuilt mapped street pursuant to Article 3 Section 35 of the General City Law and waive of bulk regulations under ZR Section 72-01-(g). R3-2 Zoning district.

PREMISES AFFECTED – 200 Cambridge Avenue, 114.71' north of intersection on of Auburn Avenue and Cambridge Avenue, Block 1511, Lot 210, Borough of Staten Island.

COMMUNITY BOARD #

FEBRUARY 10, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, February 10, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

186-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Bond Street Owner, LLC, owners.

SUBJECT – Application August 15, 2014 – Variance (§72-21) to permit the construction of a new hotel building with ground floor retail contrary to allowable commercial floor area (ZR 33-122) located within C6-1/R6B District in the Downtown Brooklyn Special District.

PREMISES AFFECTED – 51-63 Bond Street aka 252-270 Schermerhorn Street, southeast corner of Bond Street and Schermerhorn Street, Block 172, Lot(s) 5, 7, 10, 13, 14, 15, 109, Borough of Brooklyn.

COMMUNITY BOARD #2BK

238-14-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for DDG 100 Franklin, LLC., owner.

SUBJECT – Application October 1, 2014 – Variance (§72-21) to permit the construction of two mixed residential and commercial buildings on a single zoning lot contrary to §§35-21 & 23-145 (Lot Coverage), 35-24c (Height and setback), 35-52 and 33-23 (minimum width of open area along a side lot line and permitted obstruction regulations), 35-24b (Street wall location). C6-2A Zoning District, Historic District.

PREMISES AFFECTED – 98-100 Franklin Street, Bounded by Avenue of the Americas, Franklin and White Streets, West Broadway, Block 00178, Lot 0029, Borough of Manhattan.

COMMUNITY BOARD #1M

249-14-BZ

APPLICANT – Akerman LLP, for Sam Shalem, owner; Capital fitness-"Bay Plaza LLC, lessee.

SUBJECT – Application October 15, 2014 – Special Permit (§73-36) to obtain a special permit to operate a physical culture establishment (*X Sport Fitness*) within an existing commercial building. (C4-3) zoning district.

PREMISES AFFECTED – 200 Baychester Avenue, Hutchinson River Parkway and Baychester Avenue, Block 5141, Lot 6, Borough of Bronx.

COMMUNITY BOARD #10BX

Ryan Singer, Executive Director

MINUTES

**REGULAR MEETING
FRIDAY MORNING, JANUARY 30, 2015
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

717-28-BZ

APPLICANT – Fried Frank Harris Shriver and Jacobson LLP, for Allan's Garage LLC, owner.

SUBJECT – Application August 26, 2014 – Amendment (§11-413) of a previously approved variance which permitted the operation of a public parking facility. The amendment seeks to permit a reduction in size of an existing 515 parking space facility to allowed a 143 space parking facility to be included in an as-of-right residential development. C2-8A zoning district.

PREMISES AFFECTED – 152-58 East 87th Street, south side of East 87th Street, 35.17' east of the corner formed by the intersection of East 87th Street and Lexington Avenue, Block 1515, Lot(s) 46, 45, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a variance to allow the reduction in height and commercial floor area of an existing public parking garage (Use Group 8) and an as-of-right residential enlargement atop the remaining portion of the garage; and

WHEREAS, a public hearing was held on this application on January 13, 2015, after due notice by publication in the *City Record*, and then to decision on January 30, 2015; and

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

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

WHEREAS, the subject site is located on the south side of East 87th Street, between Lexington Avenue and Third Avenue, partially within a C2-8 zoning district and partially within a C5-1A zoning district; and

WHEREAS, the site comprises Tax Lots 45 and 46; it has approximately 155 feet of frontage along East 87th Street and 15,588 sq. ft. of lot area; and

WHEREAS, Lot 46 is occupied by a six-story public parking garage (Use Group 8) with parking for 515 automobiles (the “Garage Building”), and Lot 45 is occupied

by a nine-story commercial building (the “Adjoining Building”), which is operated as a hotel (Use Group 5); the applicant states that the site has a total commercial floor area of approximately 88,162 sq. ft. (5.66 FAR); and

WHEREAS, the site has been subject to the Board’s jurisdiction since February 8, 1929, when, under the subject calendar number, the Board permitted the construction of the Garage Building (then referred to as “a garage for more than five motor vehicles”) within a business use district, contrary to the use regulations of the 1916 Zoning Resolution; and

WHEREAS, the grant has been amended at various times to permit the enlargement of the Garage Building and the construction of the Adjoining Building; and

WHEREAS, the applicant states that the site is non-complying with respect to commercial FAR and rear yard requirements and non-conforming with respect to the Use Group 8 parking use; and

WHEREAS, the applicant now proposes to reduce the parking garage in height from six stories to three stories, reduce the number of parking spaces within the garage from 515 to 150, and construct an additional 16 stories of residential (Use Group 2) atop the remaining garage in the C5-1A portion of the site and an additional 14 stories of residential (Use Group 2) atop the remaining garage in the C2-8 portion of the site; the applicant notes that approximately 62 dwelling units will be constructed under the proposal; and

WHEREAS, the applicant states that the enlargement will comply in all respects with the applicable underlying residential bulk regulations and result in a decrease in the degree of non-compliance with respect to commercial floor area; specifically, although the total floor area of the site will increase from 88,162 sq. ft. (5.66 FAR) to 155,501 sq. ft. (9.98 FAR), the commercial floor area will be reduced from 88,162 sq. ft. (5.66 FAR) to 36,147 sq. ft. (2.32 FAR) (20,236 sq. ft. of Use Group 8 and 15,911 sq. ft. of Use Group 5); and

WHEREAS, in addition, the applicant notes that the proposal reflects significant changes to the site and the existing building to better compliment the residential context that has developed since the site was developed in the 1930s, including: (1) a reduction in the number of curb cuts from five to one; (2) plantings and street trees along East 87th Street; and (3) the installation of a new façade, including additional fenestration, that both respects the historic distinctive features of the Garage Building and is compatible with surrounding buildings; and

WHEREAS, finally, the applicant states that the proposal is consistent with the use and bulk of the neighborhood, which the applicant describes as predominantly high-density residential, with commercial uses on the lower floors; the applicant also notes that there are three public parking garages within two blocks of the site; and

WHEREAS, pursuant to ZR § 11-412, the Board may permit enlargement of a building subject to a use variance issued prior to December 15, 1961, provided that such enlargement is limited to the zoning lot that was granted such variance and provided that the floor area for the use authorized under the grant is not enlarged by greater than 50

MINUTES

percent of the floor area occupied by such use as of December 15, 1961; and

WHEREAS, the applicant states, as noted above, that the proposal both reduces the amount of floor area devoted to the Use Group 8 use authorized under the grant and complies in all respects with the applicable bulk regulations; and

WHEREAS, at hearing, the Board directed the applicant to provide additional information regarding the operation of the garage; and

WHEREAS, in response, the applicant represents that the proposed garage would comply with all Department of Buildings (“DOB”) requirements for a public parking garage, including the permitted configuration and number of spaces; the applicant notes that the garage will have attendants and nine reservoir spaces and will utilize approximately 45 parking stackers, subject to the final approval of DOB; and

WHEREAS, based on the foregoing, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 11-412.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated February 8, 1929, to permit the noted reduction in height and commercial floor area and residential enlargement atop the remaining portion of the garage; *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked ‘Received December 4, 2014’ - three (3) sheets and ‘January 20, 2015’ - two (2) sheets; and *on further condition*:

THAT the commercial floor area at the site shall not exceed 36,147 sq. ft.;

THAT DOB shall review and approve the configuration of the parking, including the use of stackers;

THAT all DOB/other agency applications related to this grant shall be signed off by January 30, 2019;

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

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

THAT 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, January 30, 2015.

195-02-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for McDonald's Real Estate Company, owner; Lauren Enterprises, lessee.

SUBJECT – Application December 2, 2013 – Extension of Term of a previously approved Variance (§72-21) permitting an eating and drinking establishment with an accessory drive through facility with a legalization of a small

addition to the establishment, which expired on February 11, 2013; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 2797 Linden Boulevard, between Drew and Ruby Streets, Block 4471, Lot 21, Borough of Brooklyn.

COMMUNITY BOARD #5BK

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

76-12-BZ

APPLICANT – Sheldon Lobel, P.C., for Alexander and Inessa Ostrovsky, owners.

SUBJECT – Application April 25, 2014 – Amendment to modify the previously granted special permit (§73-622) for the enlargement of an existing single-family detached residence. R3-1 zoning district.

PREMISES AFFECTED – 148 Norfolk Street, west side of Norfolk Street between Oriental Boulevard and Shore Boulevard, Block 8756, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for continued hearing.

APPEALS CALENDAR

665-39-A & 107-14-A

APPLICANT – Jesse Masyr, Esq/Fox Rothschild, for City Club Realty, LLC., owner.

SUBJECT – Application May 22, 2014 – Amendment to a previously approved waiver of a non-complying exit stair; and an Appeal filed pursuant to MDL Section 310(2)(a) proposed an addition to the existing building which will require a waiver of MDL Section 26(7)pursuant to Section 310. C6.45 SPD zoning district.

PREMISES AFFECTED – 55-57 West 44th Street, between 5th Avenue and Avenue of the Americas, Block 1260, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 5, 2014, acting on DOB Application No. 121328198 reads, in pertinent part:

The proposed enlargement increases the degree of non-compliance of the existing inner courts, contrary to MDL Section 26(7), contrary to MDL 30; and

WHEREAS, this is an application pursuant to Multiple Dwelling Law (“MDL”) § 310, to vary court requirements to

MINUTES

permit a nine-story enlargement to an existing transient hotel (Use Group 5), contrary to the court requirements of MDL § 26(7); in addition, this application seeks a reopening and certain amendments to BSA Cal. No. 665-39-A; and

WHEREAS, a public hearing was held on this application on November 25, 2014, after due notice by publication in *The City Record*, with a continued hearing on January 6, 2015, and then to decision on January 30, 2015; and

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

WHEREAS, the subject site is located on the north side of West 44th Street, between Fifth Avenue and Avenue of the Americas, within a C6-4.5 zoning district within the Special Midtown District; and

WHEREAS, the site is an interior lot with approximately 45 feet of frontage along West 44th Street and 4,502 sq. ft. of lot area; and

WHEREAS, the site is occupied by a nine-story commercial building (the "Building"), which was constructed in 1902 as a social club with guest rooms and is currently occupied as a hotel (Use Group 5) with an eating and drinking establishment (Use Group 6) on the first story; the Building has approximately 32,092 sq. ft. of floor area (7.12 FAR) and 65 hotel rooms; and

WHEREAS, the site has been subject to the Board's jurisdiction since May 31, 1939, when under BSA Cal. No. 665-39-A, the Board waived certain Building Code provisions in connection with a conversion of the first, fourth, fifth, sixth, and seventh stories and the penthouse from guest rooms to offices; the Board included the following conditions with its grant: (1) that the Building's height would not be increased; (2) that two stairways with fireproof partitions would be provided from the roof to the street; (3) that the existing eastern rear stair would be a minimum of 2'-10" in width; and (4) that at least one fire escape had an exit in the rear yard of the adjoining property; and

WHEREAS, the Board has adopted two minor amendments to the 1939 grant; on September 26, 1939, the Board modified the grant to allow the social club use on the seventh floor; on January 30, 1940, the Board amended to grant to clarify the height of the Building; and

WHEREAS, the applicant states that, in or about 1999, the Building was converted back to predominantly hotel use; in connection with this conversion, the third story was divided into two stories, and the penthouse was enlarged and reclassified as the ninth story; and

WHEREAS, the Board notes and the applicant acknowledges that the Board's authorization for the 1999 conversion was required but never obtained; however, DOB did authorize the conversion and issued a final certificate of occupancy for the Building on September 18, 2012; and

WHEREAS, the site includes two inner courts beginning at the second story, one along the western lot line and the other along the eastern lot line (the "Courts"); the Courts each

have an area of approximately 76 sq. ft., a height of approximately 82'-0" and minimum widths that vary from 8'-0" to 10'-0"; the applicant notes that 16 existing hotel rooms rely on the Courts for light and ventilation; and

WHEREAS, the applicant proposes to enlarge the Building by nine stories, resulting in a total building height of 192'-5", an increase in floor area from 32,092 sq. ft. (7.12 FAR) to 54,024 sq. ft. (12.0 FAR), and the addition of 61 hotel rooms; and

WHEREAS, with respect to stories two through nine, the applicant proposes to maintain the Courts at their existing dimensions; with respect to stories 10 through 18, the applicant proposes to increase the size of the Courts, from approximately 76 sq. ft. to approximately 126 sq. ft. (9'-0" by 14'-0") on the east side of the Building and approximately 153 sq. ft. (9'-0" by 17'-0") on the west side; and

WHEREAS, the applicant states that the 16 existing hotel rooms that currently rely on the Courts for light and ventilation will continue to rely on the Courts for required light and ventilation after the Building is enlarged; however, none of the 61 hotel rooms in the proposed enlargement will rely on the Courts; instead, the new rooms will receive required light and ventilation from the West 44th Street side of the Building or from the required rear yard; and

WHEREAS, the Board notes that pursuant to MDL § 4(9), transient hotels are considered Class B multiple dwellings; therefore, the proposed hotel use must comply with the relevant provisions of the MDL; and

WHEREAS, pursuant to MDL § 4(32), the Courts are considered "inner courts"; and

WHEREAS, MDL § 26(7) states that, except as otherwise provided in the Zoning Resolution, (1) an inner court shall have a minimum width of four inches for each one foot of height of such court, but in no event less than 15 feet in width at any point; and (2) the area of such inner court shall be twice the square of the required width of the court and a minimum of 350 sq. ft. but need not exceed 1,200 sq. ft.; the applicant notes that the Zoning Resolution does not provide any standards for courts that serve transient hotels; and

WHEREAS, thus, based on the existing height of the Courts (82'-0"), per MDL § 26(7), the Courts are required to have minimum widths of 27'-4" and minimum areas of 1,200 sq. ft. (82'-0" x 0'-4" = 27'-4"; thus, 27'-4" x 27'-4" x 2 = 1,494 sq. ft. > 1,200 sq. ft.); as noted above, each of the Courts has an area of approximately 76 sq. ft.; and

WHEREAS, the applicant states that the Courts in the proposed enlargement will have minimum widths of 9'-0", heights of 179'-0", and an areas of 126 sq. ft. (eastern) and 153 sq. ft. (western); thus, based on the proposed height of the Courts (179'-0"), per MDL § 26(7), the enlarged Courts are required to have minimum widths of 53'-8" and, again, minimum areas of 1,200 sq. ft. (179'-0" x 0'-4" = 53'-8"; thus, 53'-8" x 53'-8" x 2 = 5,767 sq. ft. > 1,200 sq. ft.); and

WHEREAS, to summarize, the proposed portion of the Courts, though larger in area than the existing portion, increases the existing degree of non-compliance with respect to MDL § 26(7) *vis à vis* the 16 existing hotel rooms with

MINUTES

legally-required windows opening upon the Courts; however, no new non-compliance with respect to the enlarged portion of the Courts is created, because the proposed hotel rooms in the enlarged portion of the building do not rely on the Courts for required light and ventilation; and

WHEREAS, accordingly, the applicant requests that the Board invoke its authority under MDL § 310 to permit the proposed enlargement contrary to MDL § 26(7); 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 Building was constructed in 1902; 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 § 26(7) specifically relates to the minimum dimensions of courts; therefore, the Board has the power to vary or modify the subject provisions pursuant to MDL § 310(2)(a)(3); and

WHEREAS, turning to the findings under MDL § 310(2)(a), the applicant asserts that practical difficulty and unnecessary hardship would result from strict compliance with the MDL; and

WHEREAS, in support of this assertion, the applicant submitted a comparison between the proposal and the enlargement of the Building in accordance with the MDL; and

WHEREAS, the applicant asserts that owing to the narrow width of the site (approximately 45 feet), the locations and dimensions of the Courts, and the minimum dimensional requirements of MDL § 26(7) (two courts with minimum areas of 1,200 sq. ft.), an MDL-compliant enlargement would be predominantly dedicated to the inner court space and would yield narrow, inefficient floorplates that would be wholly unsuitable for hotel rooms; accordingly, the applicant's complying scenario is a nine-story enlargement that provides a rear yard above the Courts; and

WHEREAS, the applicant states that the complying enlargement would be slender, shallow, and inefficient, with nearly half of the enlargement's floorplate devoted to elevator shafts and stairwells; as such, the complying building accommodates only two or three hotel rooms per story, for a total of 26 additional hotel rooms – significantly less than the 61 additional rooms reflected in the proposal; and

WHEREAS, further, the applicant represents that the complying enlargement would cost \$471,211 per hotel room, for a total cost of \$12,251,476; in comparison, the proposal would cost \$264,909 per hotel room, for a total cost of

\$16,159,421; therefore, the complying enlargement would have 57 percent fewer hotel rooms but cost only 24 percent less to develop; and

WHEREAS, the applicant also notes that it will be more expensive to finance the complying enlargement than the proposal, which will result in a significantly diminished return on investment; likewise, absent the requested waiver, a substantial portion of the site's development rights will not be utilized; and

WHEREAS, based on the above, the Board agrees that the applicant has established a sufficient level of practical difficulty and unnecessary hardship in complying with the requirements of the MDL; and

WHEREAS, the applicant states that the requested variance of MDL § 26(7) 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 primary intent of MDL § 26(7) is to ensure that rooms within multiple dwellings have adequate light and ventilation; and

WHEREAS, the applicant notes that only 16 of the 65 existing hotel rooms have legally-required windows opening upon the Courts and that none of the 61 proposed hotel rooms will have windows opening upon the Courts; as such, the majority of hotel guests will have legally-required windows in accordance with the MDL; and

WHEREAS, the applicant states that the proposed enlargement has been specifically designed to allow for the Courts on the new stories to exceed the sizes of the existing non-complying Courts, in order to preserve the amount of light and ventilation currently provided to the 16 rooms opening upon the Courts; specifically, the western Court in the enlargement will be 100 percent larger than the existing western Court and the eastern Court will be 80 percent larger than the existing eastern Court; and

WHEREAS, the applicant also states that in order to further mitigate the effects of the deficient sizes of the Courts, it will: (1) paint the new and existing inner courts white to increase ambient light; (2) provide mechanical ventilation (HVAC units) to the rooms relying solely on the Courts for light and ventilation; and (3) install LED lighting in the existing portion of the Courts; such lighting will operate during daylight hours and provide an average of 12 foot candles of light per story, which the applicant notes is 12 times the amount of light required for a court under the building code; and

WHEREAS, the applicant notes that the Courts align with the inner courts at adjacent hotels—the Algonquin Hotel to the west and the Iroquois Hotel to the east—which further expands the perceived sizes of the Courts and their ability to admit natural light and ventilation; and

WHEREAS, finally, the applicant contends that because the Building is used as a transient hotel, it is used by visitors to New York City, who are unlikely to spend a substantial portion of daylight hours in their rooms; and

WHEREAS, at hearing, the Board directed the applicant to: (1) clarify the location and number of required ADA-

MINUTES

accessible rooms in the enlarged portion of the Building; and (2) discuss why the double-height sky lobby at the 17th story cannot be used for hotel rooms; and

WHEREAS, in response, the applicant clarified the location and required number of accessible rooms within the Building and demonstrated their effect on the sizes and configurations of the Courts; and

WHEREAS, as to the sky lobby, the applicant explained that because the first story of the Building includes an eating and drinking establishment, the lobby at the first story is minimally-sized and lacks seating and other guest amenities; thus, additional lobby space is necessary for the hotel; the applicant contends that the 17th story is ideal, because at that height, the building is comparatively shallow and unsuitable for hotel rooms but sufficiently-sized and arranged for a lobby; and

WHEREAS, based on the above, the Board finds that the proposed modifications to the court requirements of MDL § 26(7) will maintain the spirit and intent of the MDL, preserve public health, safety and welfare, and ensure that substantial justice is done; 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 modification of the court requirements of MDL § 26(7) is appropriate, with certain conditions set forth below; and

WHEREAS, turning to the Building Code variances authorized under BSA Cal. No. 665-39-A, the applicant seeks to amend the grant to: (1) reflect the 1999 conversion back to predominantly hotel use and the proposed enlargement; (2) eliminate the fire tower and fire escape requirements; (3) eliminate the condition regarding the maximum height of the Building; and (4) maintain the Building Code variance with respect to the eastern rear stair, which, as noted above is 2'-10", which is 0'-2" less than the minimum required for the proposed occupancy under 1968 Building Code § 27-375(b)(1); and

WHEREAS, the Board notes that it has authority to vary the requirements of the Building Code under Charter § 666(6) and that the Board may grant a modification of the Building Code pursuant to Charter § 666(7), if it finds that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the law and that the alternative to strict compliance is within the spirit of the law, secures public safety, and does substantial justice; and

WHEREAS, the Board also notes that it has authority to permit amendments to existing grants, provided that the original findings are either not disturbed or can be made anew; and

WHEREAS, the applicant asserts that the requested amendments are appropriate because they reflect an overall decrease in the degree of non-compliance with the applicable provisions of the 1968 Building Code, which governed the 1999 conversion and continue to apply to the proposal; and

WHEREAS, specifically, the applicant states that the 1968 Building Code requires neither a fire tower, nor a fire

escape for the Building as proposed; and

WHEREAS, in addition, the applicant contends that the sole building code variance remaining (which allows the 0'-2" deficiency in the width of the eastern rear stair) is necessary to maintain an existing condition that has existed unaltered since 1901; and

WHEREAS, the applicant asserts that the following are practical difficulties in widening the existing stair to comply with 1968 Building Code § 27-375(b)(1): (1) widening the stair would require reconfiguration of the existing hotel floorplates and would result in the loss of rooms; and (2) the existing hotel at the site would have to limit occupancy of the rooms on multiple stories during reconstruction of the deficient stair, resulting in significant lost revenue; and

WHEREAS, the Board agrees with the applicant that, as in 1939, there are practical difficulties in widening the existing stair; and

WHEREAS, the applicant contends that the proposal is within the spirit of the law; and

WHEREAS, the applicant states that minimum stair width requirements of the code exist to ensure that stairs can accommodate the anticipated occupant loads of the floors they serve; the applicant notes that the width and capacity of an exit stair is based upon the occupant load of each floor rather than the occupant load of the cumulative floors, because it is assumed that the lower floor occupants will have left the stairs when the upper floor occupants require them; and

WHEREAS, the applicant represents that the occupant loads per floor in the enlarged portion of the Building will actually be lower than those in the existing portion of the Building; thus, notwithstanding that the Building is being enlarged, there is effectively no increase in the number of persons who must use the deficient stair to exit the Building; and

WHEREAS, the applicant also notes that aside from the 0'-2" deficiency in the existing portion of the Building, the Building will fully comply with the egress requirements of the 1968 Building Code; and

WHEREAS, the Board agrees with the applicant that the proposal does not conflict with the spirit of the law; and

WHEREAS, as to public safety, the applicant states that the proposed enlargement of the Building will be accompanied by numerous fire and life safety systems upgrades, including a fire alarm system that complies with the 2014 Building Code, a new auxiliary radio communication system, and a modified and expanded smoke purge system; and

WHEREAS, the applicant adds that the mechanical, electrical, and plumbing systems in the enlargement will comply with the 2014 Building Code and that the enlargement will be non-combustible, two-hour fire-rated construction; in addition, the entire Building will be protected with sprinklers; and

WHEREAS, the Board agrees that the proposal includes sufficient improved measures and will not compromise public safety; and

WHEREAS, as to substantial justice, the applicant

MINUTES

contends and the Board agrees that allowing the continued use of a deficient stair that was previously authorized by the Board and does not impact the safety of the occupants of the Building does substantial justice; and

Therefore it is Resolved, that Board of Standards and Appeals *modifies* the decision of the Department of Buildings, dated May 5, 2014, and *grants* this application, limited to the decision noted above, and *reopens* and *amends* BSA Cal. No. 665-39-A, having been adopted on May 31, 1939, so that as amended this portion of the resolution shall read: “to permit the enlargement and conversion of the Building to hotel use, to eliminate the fire tower and fire escape requirements, as well as the condition regarding the maximum height of the Building, and to allow continued use of the eastern rear stair at a minimum width of 2’-10”, contrary to 1968 Building Code § 27-375(b)(1), *on condition* construction shall substantially conform to the plans filed with the application marked, ‘Received January 23, 2015’ – twenty-two sheets (22) 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 objections related to the MDL;

THAT the approved plans shall 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, January 30, 2015.

110-14-A thru 112-14-A

APPLICANT – Rothkrug Rothkrug & Spector LLP, for WRR Realty Corp., owner.

SUBJECT – Application May 29, 2014 – Proposed construction of buildings that does not front a legally mapped street, pursuant the Article 3, Section 36 of the General City Law. R3A zoning district.

PREMISES AFFECTED – 115, 109, 105 Roswell Avenue, north side of Roswell Avenue, 149.72 feet east of Wild Avenue, Block 2642, Lot 88, 91, 92, Borough Staten Island

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decisions of the Department of Buildings (“DOB”) dated April 28, 2014, acting on DOB Application Nos. 520192185, 520192238, 520192247, read in pertinent part:

The street giving access to the proposed building is not duly placed the official map of the City of New York, therefore,

A) No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 of the General City Law;

B) Proposed construction does not have at least 8% of the total perimeter of building fronting directly upon a legally mapped street or frontage space contrary to section 502.1 of the 2008 NYC Building Code; and

WHEREAS, this is an application to allow the construction of three two-story, single-family dwellings which do not front on a mapped street, contrary to General City Law (“GCL”) § 36; and

WHEREAS, a public hearing was held on this application on January 13, 2015, after due notice by publication in *The City Record*, and then to decision on January 30, 2015; and

WHEREAS, Commissioner Montanez performed an inspection of the site, premises, surrounding area and neighborhood; and

WHEREAS, the subject site is located north side of Roswell Avenue, within an R3A zoning district; and

WHEREAS, Roswell Avenue is an unmapped access road that is paved and improved to a width of 50 feet; Roswell Avenue provides two-way access between Wild Avenue to the west and Dean Avenue to the east; and

WHEREAS, the applicant proposes to construct on the site three two-story, single-family dwellings, each with approximately 1,423 sq. ft. (0.58 FAR); and

WHEREAS, by letter dated January 16, 2015, the Fire Department states that it has no objection to the proposal provided that the proposed buildings are sprinklered throughout in compliance with the NYC Fire Code and the NYC City Building Code; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant approval of the application, subject to certain conditions set forth herein.

Therefore it is Resolved, that the decisions of the DOB, dated April 28, 2014, are modified by the power vested in the Board by Section 36 of the General City Law, and that these appeals are granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received November 18, 2014”-(1) sheet; that the proposal will comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT this approval shall be limited to the relief granted by the Board in response to objections cited by DOB;

THAT dwellings shall be fully-sprinklered in compliance with the NYC Fire Code and the NYC City Building Code; and

THAT the approved plans shall 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

MINUTES

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

Adopted by the Board of Standards and Appeals, January 30, 2015.

32-14-A

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Little Morrow LLC, owner.

SUBJECT – Application February 13, 2014 – Proposed construction of a retail/warehouse building located partially within the bed of a mapped street contrary to Article 3, Section 35 of the General City Law and waiver of bulk non-compliances under §72-01-(g). M-2-1 Zoning District.

PREMISES AFFECTED – 2560 Forest Avenue, southwest corner of intersection of Forest Avenue and Elizabeth Grove Road, Block 1384, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for decision, hearing closed.

95-14-A

APPLICANT – Bernard Marson, for BBD & D Ink., owner.
SUBJECT – Application May 5, 2014 – MDL 171 & 4.35 to allow for a partial one-story vertical enlargement (*Penthouse*) of the existing 3 story and basement building located on the site. Pursuant to the 310 MDL. R8 zoning district.

PREMISES AFFECTED – 237 East 72nd Street, north Side of East 72nd Street 192.6' West of 2nd Avenue, Block 1427, Lot 116, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

163-14-A thru 165-14-A

APPLICANT – Ponte Equities, for Ponte Equities, Ink, owner.

SUBJECT – Application July 10, 2014 – Appeal seeking waiver of Section G304.1.2 of the NYC Building Code to permit a conversion of a historic structure from commercial to residential in a flood hazard area. C6-2A zoning district.

PREMISES AFFECTED – 502, 504, 506 Canal Street, Greenwich Street and Canal Street, Block 595, Lot 40, 39, 38, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

131-11-A thru 133-11-A

159-14-A thru 161-14-A

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Dalip Karpuzzi, Luizime Karpuzzi, owners.

SUBJECT – Application September 6, 2011 & July 7, 2014 - Proposed construction of three two story dwellings with parking garages located within the bed of a mapped street, contrary to General City Law Section 35. R3-1 zoning district.

PREMISES AFFECTED – 464, 468 Arthur Kill Road, 120 Pemberton Avenue, intersection of Arthur Kill Road and Giffords Lane, Block 5450, Lot 35, 36, 37, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

ZONING CALENDAR

186-13-BZ

APPLICANT – Harold Weinberg, P.E., for Apostollis Goutsios, owner.

SUBJECT – Application June 21, 2013 – Special Permit (§73-622) for an enlargement to an existing single family home, contrary to side yard regulations (ZR 23-461) of the zoning resolution. R5 (BR) zoning district.

PREMISES AFFECTED – 117 Gelston Avenue, east side 125'-13/8" south of 90th Street and 92nd Street, Block 6089, Lot 19, Borough of Brooklyn.

COMMUNITY BOARD #10BK

ACTION OF THE BOARD – Application granted on condition.

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated June 18, 2013, acting on DOB Application No. 320729984, reads in pertinent part:

1. Proposed north side yard in an R5B zone in the Bay Ridge Special Zoning District must be 8'-0" and is contrary to section 23-461 ZR.

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R5B zoning district, within the Bay Ridge Special Zoning District, the proposed enlargement of a single-family home which does not comply with the zoning requirements for side yards contrary to ZR §23-461; and

WHEREAS, a public hearing was held on this application on October 7, 2014, after due notice by publication in *The City Record*, with continued hearings on December 9, 2014 and January 13, 2015, and then to decision on January 30, 2015; and

MINUTES

WHEREAS, Vice Chair Hinkson and Commissioners Montanez and Ottley-Brown performed an inspection of the subject premises and site, together with its surrounding area and neighborhood; and

WHEREAS, Community Board 10, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of Gelston Avenue, between 90th Street and 92nd Street, within an R58 zoning district, within the Special Bay Ridge District; and

WHEREAS, the site has approximately 25 feet of frontage along Gelston Avenue and approximately 2,904 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-family residence with 3,443 sq. ft. of floor area (1.2 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 to enlarge the building and increase its floor area from 3,443 sq. ft. (1.2 FAR) to 3,845 sq. ft. (1.3 FAR); the maximum permitted floor area is 3,925 sq. ft. (1.35 FAR); and

WHEREAS, the applicant seeks to maintain an existing side yard of 4'- 3" at the north of the building and of 0'-3" at the south of the building, notwithstanding that there exists fewer than 8' of open space between the subject building and the residential building to its south; the requirement is a single side yard with a minimum total width of 8'-0" and a total of 8' between buildings containing residential uses; 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, 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, on a site within an R5B zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for side yards contrary to ZR § 23-461; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "January 20, 2015"- (8) sheets; and *on further condition*:

THAT the applicant will maintain a side yard with a minimum width of 4'- 3" at the north of the building and a

side yard with a minimum width of 0'- 3" at the south of the building, 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, January 30, 2015.

271-13-BZ

APPLICANT – Eric Palatnik, P.C., for Viktoriya Midyany, owner.

SUBJECT – Application September 17, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and lot coverage (§23-141); side yard (§23-461) and rear yard (§23-47) regulations. R3-1 zoning district.

PREMISES AFFECTED – 129 Norfolk Street, Norfolk Street, between Shore Boulevard and Oriental Boulevard, Block 8757, Lot 43, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings ("DOB"), dated September 16, 2013, acting on DOB Application No. 320765043, 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 and is contrary to Section 23-141(b) ZR.
2. Creates a new non-compliance with respect to Floor Area and is contrary to Section 23-141(b) ZR.
3. Creates a new non-compliance with respect to the Rear Yard and is contrary to Section 23-47 ZR.
4. Increases the degree of non-compliance with respect to the side yard(s) and is contrary to Sections 23-461(a) ZR and 54-31 ZR.

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the

MINUTES

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 July 29, 2014, after due notice by publication in *The City Record*, with continued hearings on September 9, 2014, October 7, 2014, November 18, 2014, and January 6, 2015, and then to decision on January 30, 2015; and

WHEREAS, Chair Perlmutter, Vice Chair Hinkson and Commissioners Montanez and Ottley-Brown performed inspections of the subject premises and site, together with its surrounding area and neighborhood; and

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

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

WHEREAS, the site has 25 feet of frontage along Norfolk Street and 2,500 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story, single-family home with 751 sq. ft. of floor area (0.30 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 to enlarge the single-family home by enlarging the first floor of the existing building and adding a second floor, thereby increasing the floor area of the building from 751 sq. ft. (0.30 FAR) to 2,579 sq. ft. (1.02 FAR) (the maximum permitted floor area is 1,500 sq. ft. (0.60 FAR)) and increasing the height of the building from 14'-5" to 32'-0"; and

WHEREAS, in order to comply with applicable flood regulations the applicant shall raise the building by removing the existing floor beams from the north and south walls thereof, increasing the height of the shelf upon which the existing floor currently rests using solid brick masonry and replacing the existing floor beams so that the first floor elevation will be increased from 6'-7" to 14'-10"; and

WHEREAS, upon raising the first floor of the building, the applicant will create a cellar at the subject premises, which shall stand upon a 6" concrete slab above 4" of gravel, and which shall have a height of 7'-10" and which shall be used for a single accessory parking space and for storage; and

WHEREAS, the applicant seeks to decrease the open space ratio from 70 percent to 52 percent; the minimum required open space ratio is 65 percent; and

WHEREAS, the applicant seeks to maintain an existing side yard width of 0'-11" and increase the width of a non-complying side yard from 0'-7" to 4'-3"; the general requirement is two side yards with a minimum total width of 13'-0" and a minimum width of 5'-0" each, however, as per ZR § 23-48, the minimum total width of 13'-0" is not required at the subject site; and

WHEREAS, the applicant also seeks to decrease its rear yard depth from 30'-2" 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, the applicant asserts that the proposed lot 1.02 FAR and 2,579 sq. ft. of floor area is consistent with the bulk and lot area of one and two-family homes in the surrounding area; and

WHEREAS, in support of this assertion, the applicant provided evidence of ten one or two-family homes within 400' of the subject site with an FAR in excess of 1.10 and floor area in excess of 3,000 sq. ft.; and

WHEREAS, at hearing, the Board directed the applicant to narrow its analysis of neighborhood character to focus on the block on which the site is located, as such character is, in the subject area, block specific; and

WHEREAS, in response, the applicant identified one and two-family homes on the subject block which consist of two or more stories and provided a streetscape which included the proposed building; 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, on a site within an R3-1 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 "December 23, 2014"– (14) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 2,579 sq. ft. (1.02 FAR), a minimum open space of 52 percent, side yards with minimum widths of 4'-3" and 0'-11", 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;

MINUTES

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, January 30, 2015.

38-14-BZ

APPLICANT – Eric Palatinik, P.C., for Yury Dreysler, owner.

SUBJECT – Application February 28, 2014 – Special Permit (§73-622) for the enlargement of single family home, contrary to floor area, lot coverage and open space (§23-141), side yard (§23-461) and less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 116 Oxford Street, between Shore boulevard and Oriental Boulevard, Block 8757, Lot 89, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated February 4, 2014, acting on DOB Application No. 320870063, reads in pertinent part:

1. Proposed floor area ratio is contrary to ZR 23-141(a).
2. Proposed open space contrary to ZR 23-141(a).
3. Proposed lot coverage is contrary to ZR 23-141(a).
4. Proposed side yards (exist. Non-compliance) contrary to ZR 23-461(a).
5. Proposed rear yard is contrary to ZR 23-47.
Minimum required: 30’
Proposed: 20’

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space 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 October 7, 2014, after due notice by publication in *The City Record*, with continued hearings on November 18, 2014, November 25, 2014, and January 6, 2015, and then to decision on January 30, 2015; and

WHEREAS, Chair Perlmutter, Vice Chair Hinkson and Commissioners Montanez and Ottley-Brown performed

inspections of the subject premises and site, together with its surrounding area and neighborhood; 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 25 feet of frontage along Oxford Street and approximately 2,500 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story, single-family home with 834 sq. ft. of floor area (0.33 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 to enlarge the single-family home by enlarging the first floor of the existing building and adding an additional two floors, thereby increasing the floor area of the building from 834 sq. ft. (0.33 FAR) to 2,489 sq. ft. (0.99 FAR) (the maximum permitted floor area is 1,500 sq. ft. (0.6 FAR) which includes the 300 square feet (0.1 FAR) that must be provided directly under a sloping roof) and increasing the height of the building from 16’-9” to 35’-0”;

WHEREAS, in order to comply with applicable flood regulations the applicant shall raise the building by removing the existing floor beams from the north and south walls thereof, increasing the height of the shelf upon which the existing floor currently rests using solid brick masonry and replacing the existing floor beams so that the first floor elevation will be increased from 6’-7” to 13’-00”;

WHEREAS, the applicant seeks to decrease the open space ratio from 67 percent to 60 percent; the minimum required open space ratio is 65 percent; and

WHEREAS, the applicant seeks to maintain existing side yard widths of 0’-1” and 2’-11”;

the general requirement is two side yards with a minimum total width of 13’-0” and a minimum width of 5’-0” each, however, as per ZR § 23-48, the minimum total width of 13’-0” is not required at the subject site; and

WHEREAS, the applicant also seeks to decrease its rear yard depth from 34’-2” to 20’-8”;

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, the applicant asserts that the proposed 0.99 FAR and 2,489 sq. ft. of floor area is consistent with the bulk and lot area of one and two-family homes in the surrounding area; and

WHEREAS, in support of this assertion, the applicant provided evidence of 19 one- or two-family homes within 400’ of the subject site with an FAR equal to or in excess of 0.99 and floor area equal to or in excess of 2,450 sq. ft.; and

WHEREAS, at hearing, the Board directed the applicant to narrow its analysis of neighborhood character to focus on

MINUTES

the block on which the site is located, as such character is, in the subject area, block specific; and

WHEREAS, in response, the applicant identified one and two-family homes on the subject block which consist of two or more stories and provided a streetscape which included the proposed building; 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, on a site within an R3-1 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 “December 18, 2014”– (10) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of to 2,489 sq. ft. (0.99 FAR), a minimum open space of 60 percent, side yards with minimum widths of 0’-1” and 2’-11”, and a minimum rear yard depth of 20’-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, January 30, 2015.

125-14-BZ

CEQR #14-BSA-169M

APPLICANT – Goldman Harris LLC, for 350 East Houston LLC c/o BLDG Management Inc., owner.

SUBJECT – Application June 5, 2014 – Variance (§72-21) to facilitate the construction of a ten-story mixed-use forty-six (46) residential dwelling units and retail on the ground floor and cellar. R8A zoning district.

PREMISES AFFECTED –11 Avenue C, between East 2nd Street & East Houston Street, Block 384, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #3M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 7, 2014, acting on DOB Application No. 121185092, reads in pertinent part:

1. Proposed Use Group 6 is not permitted as-of-right in an R8A district, per ZR 22-10;
2. Proposed lot coverage (corner lot and through lot portion) exceeds the maximum permitted, and is therefore contrary to ZR 23-145; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R8A zoning district, the construction of a ten-story mixed residential and commercial building that does not comply with the zoning requirements for use and lot coverage, contrary to ZR §§ 22-10 and 23-145; and

WHEREAS, a public hearing was held on this application on November 25, 2014, after due notice by publication in the *City Record*, with a continued hearing on January 6, 2015, and then to decision on January 30, 2015; and

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

WHEREAS, Community Board 3, Manhattan, and Councilmember Rosie Mendez recommend disapproval of this application and identify the following primary concerns with the proposal: (1) it lacks affordable housing units; (2) it includes a Use Group 6 use on the ground floor, which is undesirable and incompatible with the neighborhood; (3) it is not the minimum variance necessary; (4) it will result in the removal of a gasoline station, which is an important community resource; and (5) it does not include a community facility, which would be an important community resource; and

WHEREAS, certain members of the surrounding community, including the East Village Community Coalition, submitted testimony in opposition to the application (the “Opposition”), citing many of Community Board 3 and

MINUTES

Councilmember Mendez's concerns, as well as the following additional concerns: (1) the toxic condition of the site; and (2) the height of the proposed building and its incompatibility with the low-rise character of the Lower East Side and East Village; and

WHEREAS, the subject site is a trapezoidal corner lot located entirely within an R8A zoning district within an Inclusionary Housing Designated Area; its shape is formed by the intersection of East Second Street, Avenue C, and East Houston Street; and

WHEREAS, the site has 122.22 feet of frontage along East Second Street, 40.36 feet of frontage along Avenue C, 123.28 feet of frontage along East Houston Street, and 5,874.3 sq. ft. of lot area; and

WHEREAS, the applicant represents that the site has been operated as a gasoline service station (Use Group 16) since at least 1960, when, under BSA Cal. No. 381-60-BZ, the Board authorized such operation for a term of 20 years; the 1960 grant was amended and extended at various times and reinstated in 2000 under BSA Cal. No. 130-99-BZ and in 2008 under BSA Cal. No. 55-08-BZ; the 2008 grant was for a term of ten years, to expire on July 1, 2018; and

WHEREAS, the applicant proposes to construct a ten-story mixed residential (Use Group 2) and commercial (Use Group 6) building with 42,293 sq. ft. of floor area (7.20 FAR) (37,743 sq. ft. of residential floor area (6.43 FAR) and 4,550 sq. ft. of commercial floor area (0.77 FAR)), 100 percent lot coverage, 46 dwelling units, and a building height of 105 feet; the applicant notes that the proposed 7.20 FAR reflects an increase that will be achieved through the purchase of bonus development rights through a qualified generating site pursuant to the Inclusionary Housing Program set forth in ZR § 23-90; and

WHEREAS, in order to construct the building as proposed, the applicant seeks the following waivers: (1) use (commercial uses are not permitted in the subject R8A district, per ZR § 22-10); and (2) lot coverage (a maximum lot coverage of 78 percent is permitted, per ZR § 23-145); and

WHEREAS, the applicant states that, in accordance with ZR § 72-21(a), the following are unique physical conditions which create practical difficulties and unnecessary hardships in developing the site in compliance with applicable regulations: (1) the irregular shape of the site; and (2) the site's subsurface contamination; and

WHEREAS, the applicant states that the site has an irregular trapezoidal shape owing to its location at the intersection of three streets; as a result, the depth of the site (measured north to south) varies from approximately 56 feet at its western boundary to approximately 40 feet at its eastern boundary; thus, the site at all points is unusually shallow; in addition, the site is wide (measured east to west) relative to depth, with a lot width of approximately 122 feet; and

WHEREAS, the applicant contends that the site shape is unique and submitted a study of nearby sites, which supports this contention; and

WHEREAS, the applicant also asserts that the site's irregular shape creates a practical difficulty complying with

the lot coverage requirements of the subject R8A district, in that if the site is limited to 78-percent lot coverage, the building is limited to a depth of 40 to 43 feet, which results in awkward, inefficient floorplates, which, in turn, creates undersized apartments with acute angles and unusable spaces; and

WHEREAS, further, the applicant states that, above 85 feet, the required setbacks of ten feet at the East Houston Street façade and 15 feet at both the Avenue C and East Second Street façades, result in a building depth of 25 feet and apartments that are unmarketably long and narrow; and

WHEREAS, thus, the applicant asserts that a building with complying lot coverage yields apartments that are well below the market standard; and

WHEREAS, the applicant also contends that the site's irregular shape in combination with the prevailing soil conditions in the surrounding area—a tendency towards soil liquefaction up to 50 feet below the ground, which impairs the soil's bearing capacity—results in premium construction costs that are unique to the site; and

WHEREAS, in particular, the applicant's geotechnical consultant represents that due to the site's shallowness, substantial width, and substandard soil conditions, construction of a foundation will require grade and tie beams between the pile caps for structural stability; in addition, end bearing piles are required to extend through the liquefiable zone down to bedrock, which the consultant estimates to be at a depth of 90 to 100 feet; the applicant notes that such piles are more costly than typical piles; and

WHEREAS, the applicant states that in addition to its potential for liquefaction, the soil is highly-contaminated due to the site's more than 50 years of use as a gasoline service station, including a petroleum spill (New York State Department of Environmental Conservation ("DEC") Spill No. 90-01894), which is subject to a DEC Consent Order and a Remedial Action Plan; and

WHEREAS, the applicant attributes \$865,371 in premium construction costs due to the contaminated soil and estimates the total premium construction costs due to the unique characteristics of the site (irregular shape and contaminated soil) to be \$2,922,917; and

WHEREAS, the applicant asserts that there is a direct nexus between the unique shape of the site and the requested lot coverage waiver, in that allowing full lot coverage alleviates the burden inherent in the site's trapezoidal shape; likewise, the proposed commercial use at the first story (with accessory storage in the cellar) will provide a higher return on investment than would conforming uses in the same space, and as such, will help defray the premium construction costs of developing a contaminated site; and

WHEREAS, based upon the above, the Board finds that the site's irregular shape and soil contamination create unnecessary hardships and practical difficulties in developing the site in compliance and conformance with the applicable zoning regulations; and

WHEREAS, the applicant contends that, per ZR § 72-21(b), there is no reasonable possibility of development of the

MINUTES

site in compliance and conformance with the Zoning Resolution; and

WHEREAS, the applicant represents, as noted above, that the site's unique conditions create \$2,922,917 in premium construction costs; and

WHEREAS, the applicant considered the following four scenarios: (1) an as-of-right residential development with ten stories, 37,296 sq. ft. of floor area (6.35 FAR), and 53 dwelling units; (2) to further illustrate the hardships inherent in the site, an as-of-right development on a typical, rectangular site with 12 stories, 41,760 sq. ft. of floor area (7.20 FAR), and 51 dwelling units; (3) a lesser-variance scenario including only a waiver for lot coverage with ten stories, 41,826 sq. ft. of floor area (7.12 FAR), and 51 dwelling units; and (4) the proposal; and

WHEREAS, at hearing, the Board directed the applicant to: (1) align the land sales and development rights sales in time; (2) provide additional retail rent comparables; and (3) justify the capitalization rate used; and

WHEREAS, in response, the applicant provided an amended economic analysis, which supports its assertion that only the proposal would realize a reasonable rate of return on investment; 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 compliance and conformance with applicable zoning requirements would 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 surrounding neighborhood is characterized by medium- and high-density residential buildings, with active ground floor commercial uses along Avenue C, heavy automobile traffic along East Houston Street; in addition, there are nearby parks (East River Park, El Jardin Del Paraiso Park, and Hamilton Fish Park) and playgrounds (Nathan Straus Playground and Baruch Playground) within walking distance of the site; and

WHEREAS, as to adjacent uses, the applicant states, as noted above, that the site is trapezoidal and bounded on three sides by streets, and on its west side by a multiple dwelling; and

WHEREAS, turning to bulk, the applicant states that, in addition to complying with the height and setback requirements of the subject R8A district, the proposed ten-story building is contextual with the built character and profile of buildings in the immediate vicinity; in support of this statement, the applicant provided a height study, which reflects that of the 19 buildings within 1,000 feet of the site with eight or more stories, 12 buildings have ten or more stories; and

WHEREAS, further, the applicant notes that the

proposed lot coverage waiver allows the building to maintain an uninterrupted street wall, rather than the jagged setbacks that would be required for a complying building; and

WHEREAS, at hearing, the Board directed the applicant to revise its application to reflect the location of nearby parks and to indicate the effect, if any, of shadows upon such parks; and

WHEREAS, in response, the applicant provided an amended Environmental Assessment Statement ("EAS"), reflecting the requested shadow analysis; and

WHEREAS, as to the concerns articulated by Councilmember Mendez, the Opposition, and the Community Board, the Board observes that although the proposed building itself will not include affordable apartments, the building is being constructed via the purchase of bonus development rights through a qualified generating site pursuant to the Inclusionary Housing Program – as such, the site is contributing to the creation of affordable housing in New York City; and

WHEREAS, as to the proposed commercial use at the ground floor, the applicant contends and the Board agrees that commercial use is well-established at the site, in that a gasoline station (Use Group 16) has been operating on it for nearly six consecutive decades; thus, the Board finds that the proposed Use Group 6 commercial use reflects a significant reduction in the intensity of the non-residential use, particularly with respect to automobile traffic; and

WHEREAS, as to the lack of community facility use at the site, the Board observes that nothing in the Zoning Resolution mandates the inclusion of a community facility use at this site; further, the Board accepts the applicant's economic analysis, which reflects that a commercial use is necessary to achieve a reasonable return; and

WHEREAS, as to the proposed height of the building, the Board notes that it complies with the subject R8A district regulations; and

WHEREAS, the Board reviewed the remaining concerns of the Opposition and found them without merit; 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 due to the peculiarities of the site; 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, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final EAS CEQR No. 14-

MINUTES

BSA-169M, dated January 8, 2015; and

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

WHEREAS, the site is subject to "E" designations for noise (E-216) under CEQR number 07DCP078M and hazardous materials (E-359) under CEQR number 14BSA169M; and

WHEREAS, the "E" designation requires an environmental review by the New York City Office of Environmental Remediation ("OER"), which must be satisfied before DOB will issue building permits for the property; 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 to permit, on a site within an R8A zoning district, the construction of a ten-story mixed residential and commercial building that does not comply with the zoning requirements for use and lot coverage, contrary to ZR §§ 22-10 and 23-145; *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 January 30, 2015"– thirteen (13) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the proposed building: a maximum of ten stories, a maximum floor area of 42,293 sq. ft. of floor area (7.20 FAR) (37,743 sq. ft. of residential floor area (6.43 FAR) and 4,550 sq. ft. of commercial floor area (0.77 FAR)), 100 percent lot coverage, 46 dwelling units, and a maximum building height of 105 feet, as reflected on the BSA-approved plans;

THAT an E designation (E-359) is placed on the subject site to ensure proper hazardous materials remediation;

THAT prior to the issuance by DOB of permits that involve any soil disturbance, the applicant shall receive approvals from OER for the hazardous materials remediation plan and construction-related health and safety plan;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by January

30, 2019;

THAT the approved plans shall 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 the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 30, 2015.

81-12-BZ

APPLICANT – Eric Palatnik, P.C., for McDonald's Real Estate Co., owner.

SUBJECT – Application April 5, 2012 – Special Permit (§73-243) to permit the demolition and reconstruction of an eating and drinking establishment (Use Group 6) with an accessory drive-through and on-site parking. C1-3/R3-2/R3A zoning district.

PREMISES AFFECTED –98-01/05 Metropolitan Avenue, northeast corner of 69th Road, Block 3207, Lot(s) 26 & 23, Borough of Queens.

COMMUNITY BOARD #6Q

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Otley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for decision, hearing closed.

176-13-BZ

APPLICANT – Sheldon Lobel, P.C., for 31 BSP LLC, owner.

SUBJECT – Application June 17, 2013 – Variance (§72-21) to permit Use Group 2 residential in an existing 6-story building with a new penthouse addition, contrary to Section 42-10 of the zoning resolution. M1-5B zoning district.

PREMISES AFFECTED – 31 Bond Street, southern side of Bond Street approximately 1170' from Lafayette Street, Block 529, Lot 25, Borough of Manhattan.

COMMUNITY BOARD # 2M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Otley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for decision, hearing closed.

188-13-BZ & 189-13-A

APPLICANT – Rothkrug Rothkrug & Spector, for Linwood Avenue Building Corp., owner.

SUBJECT – Application June 25, 2013 – Special Permit (§73-125) to permit an ambulatory diagnostic or treatment health care facility.

MINUTES

Proposed building does not front on legally mapped street, contrary to Section 36 of the General City Law. R3-1 zoning district.

PREMISES AFFECTED – 20 Dea Court, south side of Dea Court, 101' West of intersection of Dea Court and Madison Avenue, Block 3377, Lot 100, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

222-13-BZ

APPLICANT – Eric Palatnik, P.C., for 2464 Coney Island Avenue, LLC, owner.

SUBJECT – Application July 23, 2013 – Special Permit (§73-44) to allow the reduction of required parking for the use group 4 ambulatory diagnostic treatment healthcare facility. C8-1/R5 zoning district.

PREMISES AFFECTED – 2472 Coney Island Avenue, southeast corner of Coney Island Avenue and Avenue V, Block 7136, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to March 10, 2015, at 10 A.M., for continued hearing.

321-13-BZ

APPLICANT – Eric Palatnik, P.C., for Alejandro Finardo, owner.

SUBJECT – Application December 18, 2013 – Variance (§72-21) for the construction of a three family home on a vacant lot, contrary to side yard requirements (§23-462(a)) and the parking space requirements of (§25-32). R5 zoning district.

PREMISES AFFECTED – 37-19 104th Street, between 37th Avenue and 37th Road, Block 1771, Lot 42, Borough of Queens.

COMMUNITY BOARD #3Q

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

327-13-BZ

APPLICANT – Goldman Harris LLC, for JCWH Coney Island LLC, owner.

SUBJECT – Application December 23, 2014 – Special Permit (§73-44) to reduce the required number of accessory parking spaces from 346 to 272 spaces for a mixed use building containing UG4 health care and UG 6 office uses. C8-2, C2-3/R5 zoning district.

PREMISES AFFECTED – 1504 Coney Island Avenue, aka 1498, 1526, 1528, 1532-1538 Coney Island Avenue, property occupies the northwest corner of Coney Island Avenue and Avenue L. Block 6536, Lot(s) 28, 30, 34, 40, 41, 42, 43, Borough of Brooklyn.

COMMUNITY BOARD # 12BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 24, 2015, at 10 A.M., for decision, hearing closed.

5-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Israel Ashkenazi & Racquel Ashkenazi, owner.

SUBJECT – Application January 9, 2014 – 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 rear yard (§23-47) regulations. R3-2 zoning district.

PREMISES AFFECTED – 1807 East 22nd Street, east side of East 22nd Street between Quentin Road and Avenue R, Block 6805, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for adjourned hearing.

17-14-BZ

APPLICANT – Moshe M. Friedman, PE, for Cong Chasdei Belz Beth Malka, owner.

SUBJECT – Application January 28, 2014 – Variance (§72-21) to add a third and fourth floor to an existing school building (*Congregation Chasidei Belz Beth Malka*), contrary to floor area (§24-11) lot coverage, maximum wall height (§24-521), side yard (§24-35), front yard (§24-34) and rear yard (§24-361) regulations. R5 zoning district.

PREMISES AFFECTED – 600 McDonald Avenue aka 14 Avenue C, aka 377 Dahill Road, south west corner of Avenue C and McDonald Avenue 655', 140'W, 15'N, 100'E, 586'N, 4"E, 54'N, 39.67'East, Block 5369, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #12BK

ACTION OF THE BOARD – Laid over to April 14, 2015, at 10 A.M., for continued hearing.

28-14-BZ

APPLICANT – Eric Palatnik, P.C. for McDonald Corporation, owner; Brooklyn Avenue U Enterprises Corporation, lessee.

SUBJECT – Application February 10, 2014 – Special Permit (§73-243) to permit the continued use and (Use Group 6) eating and drinking establishment with an accessory drive-through. C1-2/R4 zoning district.

PREMISES AFFECTED – 3540 Nostrand Avenue, westside of Nostrand Avenue, between Avenue V and Avenue W. Block 7386, Lot(s) 114 and 117. Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

MINUTES

63-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 188 W. 230th Street Corporation, owner; Atlas Athletics, Inc., lessee.

SUBJECT – Application April 23, 2014 – Special Permit (§73-36) to allow the legalization of an existing physical culture establishment (*Astral Fitness*). M1-1 zoning district. PREMISES AFFECTED – 5500 Broadway, southeast corner of intersection of Broadway and W 230th Street, Block 3264, Lot 109, Borough of Bronx.

COMMUNITY BOARD #8BX

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

94-14-BZ

APPLICANT – Dennis D. Dell'Angelo, for Rivka Shapiro, owner.

SUBJECT – Application May 5, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-141) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1150 East 22nd Street, west side of East 22nd Street, 140' north of Avenue "K", Block 7603, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to February 24, 2015, at 10 A.M., for adjourned hearing.

141-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP., for 24655 Broadway Associates, owner; Soul Cycle 2465 Broadway, LLC, lessee.

SUBJECT – Application June 23, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*SoulCycle*) on the first floor of an existing commercial building, contrary to (§32-31). C4-6A zoning district.

PREMISES AFFECTED – 2465 Broadway, east side of Broadway, 50ft. south of intersection of West 92nd Street, Block 1239, Lot 52, Borough of Manhattan.

COMMUNITY BOARD #7M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for decision, hearing closed.

REGULAR MEETING

FRIDAY AFTERNOON, JANUARY 30, 2015
1:00 P.M.

Present: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez

ZONING CALENDAR

44-14-BZ

APPLICANT – Sheldon Lobel, P.C., for AA Olympic LLC., owner;

The Live Well Company LLC., lessee.

SUBJECT – Application March 17, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Live Well*) on the first floor of the existing building, located within C6-3A & C6-2A zoning districts in a historic district.

PREMISES AFFECTED – 92 Laight Street aka 256 West Street, 416 Washington Street, block bounded by Washington Street, West Street, and Vestry Street, Block 218, Lot 7501, Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

148-14-BZ

APPLICANT – Sheldon Lobel, P.C., for 11 Avenue A Realty LLC, owner.

SUBJECT – Application June 24, 2014 – Variance (§72-21) to permit multi-family residential use at the premises. R8A/C2-5 zoning districts.

PREMISES AFFECTED – 11 Avenue A, west side of Avenue A between East 1st Street and East 2nd Street, Block 429, Lot 39, Borough of Manhattan.

COMMUNITY BOARD #3M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to March 24, 2015, at 10 A.M., for decision, hearing closed.

175-14-BZ

APPLICANT – Greenberg Traurig, LLP, for 1162 Broadway LLC, owner.

SUBJECT – Application July 24, 2014 – Variance (§72-21) proposed the construction a new 14-story hotel building seeking waivers for setback and side yard requirements, located within a M1-6 zoning district in a historic district.

PREMISES AFFECTED – 1162 Broadway, east side of Broadway between W 27th Street and W 28th Street, Block 829, Lot 28, Borough of Manhattan.

MINUTES

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Laid over to March 3, 2015, at 10 A.M., for continued hearing.

216-14-BZ

APPLICANT – Law Office of Stuart Klein, for 150 Amsterdam Avenue Holdings LLC, owner; Flywheel Sports Inc., lessee.

SUBJECT – Application September 4, 2014 – Special Permit (§73-36) to permit the legalization of a physical culture establishment (*Flywheel*) located on portions of the first floor and cellar of the existing building. R8 zoning district.

PREMISES AFFECTED – 150 Amsterdam Avenue, northwest corner of Amsterdam Avenue and West 66th Street, Block 1158, Lot 7507/129, Borough of Manhattan.

COMMUNITY BOARD #7M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for decision, hearing closed.

217-14-BZ

APPLICANT – Law Office of Stuart Klein, for NY REIT, Inc., owner; Flywheel Sports Inc., lessee.

SUBJECT – Application September 4, 2014 – Special Permit (§73-36) to allow for the legalization of a physical culture establishment (*Flywheel*) on a portion of the first floor of the building and a portion of the cellar. C6-2A zoning resolution.

PREMISES AFFECTED – 245 West 17th Street, north side of W. 17th Street, 325' east of 8th Avenue, between 7th and 8th Avenue, Block 767, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for decision, hearing closed.

222-14-BZ

APPLICANT – Sheldon Lobel, P.C., for GP NY Partners LLC, owners.

SUBJECT – Application September 5, 2014 – Special Permit (§73-36) to allow for physical culture establishment (*Envy Spa*) on a portion of the ground floor and cellar of the existing building. C2-8 and R8B zoning districts.

PREMISES AFFECTED – 344 East 63rd Street, bounded by East 63rd Street and 1st Avenue, Block 1437, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #8M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez ...4
Negative:.....0

ACTION OF THE BOARD – Laid over to February 3, 2015, at 10 A.M., for decision, hearing closed.

246-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for NYC DCAS, owner; SoulCycle, Joralemon Street, LLC, lessee.

SUBJECT – Application October 10, 2014 – Special Permit (§73-36) to operate a physical culture establishment (*Soul Cycle*) within an existing landmarked building. C5-2A (DB), C5- zoning districts.

PREMISES AFFECTED – 210 Joralemon Street aka 45/63 Court Street, southwest corner formed by Joralemon Street and Court Street, Block 266, Lot 7501, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Laid over to February 10, 2015, at 10 A.M., for continued hearing.

Ryan Singer, Executive Director