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AND APPEALS

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112-15-BZ

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113-15-A

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114-15-A

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115-15-A

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116-15-A

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117-15-A

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118-15-A

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119-15-A

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120-15-A

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121-15-A

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122-15-A

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123-15-A

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124-15-A

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125-15-A

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126-15-BZ

1782 East 27th Street, western side of East 27th Street between Quentin Road and Avenue R, Block 06809, Lot(s) 0044, Borough of **Brooklyn, Community Board: 15**. Special Permit (§73-622) to permit the enlargement of a single family home. R3-2 zoning district. R3-2 district.

127-15-BZ

135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard., Block 04958, Lot(s) 48,38, Borough of **Queens, Community Board: 7**. Special Permit (§73-66) to permit the construction of building in excess of the height limits established pursuant Z.R. 61-211 & 61-22. The proposed building was approved by the Board pursuant to BSA Calendar Number 156-03-BZ. C2-2/R6 zoning district R6/C2-2 district.

128-15-BZ

680 Van Duzer Street, Corner of Van duzer Street and Broad Street., Block 0615, Lot(s) 095, Borough of **Staten Island, Community Board: 1**. Variance (72-21) to allow for the construction on a three family attached residential building, Use Group 2, located in an R2/SHPD zoning district. R2/SHPD district.

129-15-BZ

682 Van Duzer Street, Coroner of Van Duzer Street and Broad Street, Block 0615, Lot(s) 096, Borough of **Staten Island, Community Board: 1**. Variance (72-21) to allow the construction of a three family attached residential building, Use Group 2, located within an R2/SHPD district. R2/R2/SHPD district.

130-15-BZ

684 Van Duzer Street, Corner of Van Duzer Street and Broad Street, Block 0615, Lot(s) 97, Borough of **Staten Island, Community Board: 1**. Variance (72-21) to allow the construction of a three family attached residential building, Use Group 2, located within an R2/SHPD zoning district. R2/SHPD district.

131-15-BZ

650 Broadway, Broadway between Bleecker Street and Bond Street, Block 0529, Lot(s) 04, Borough of **Manhattan, Community Board: 2**. Special Permit (73-36) to allow the legalization of Physical Culture Establishment(PCE) Clockwork Jiu Jitsu, on the second floor of a five-story plus cellar building within M1-5B zoning district. M1-5B 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

JUNE 23, 2015, 1:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, June 23, 2015, 1:00 P.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

ZONING CALENDAR

101-14-BZ

APPLICANT – Moshe M. Friedman PE, for Bais Yaakov D. Chassidei Gur, owner.

SUBJECT – Application May 8, 2015 – Variance (§72-21) to permit the vertical extension of an existing not for profit religious school. R5 zoning district.

PREMISES AFFECTED – 1975 51st Street, northwest corner of 20th Avenue and 51st Street, Block 05462, Lot 45, Borough of Brooklyn.

COMMUNITY BOARD #12BK

316-14-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for United Talmudical Academy, owner.

SUBJECT – Application November 25, 2014 – Variance (§72-21) to permit the enlargement of an existing Yeshiva building (*Talmudical Academy*) for lot coverage (§24-11) and rear yard (§24-36. R6 zoning district.

PREMISES AFFECTED – 115 Heyward Street, northern side of Heyward Street between Lee Avenue and Bedford Avenue, Block 02225, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #1BK

9-15-BZ

APPLICANT – Francis R. Angelino, Esq., for West 62nd Street LLC, owner; Bod Fitness NYC LLC, lessee.

SUBJECT – Application January 15, 2015 – Special Permit (§73-36) to allow for a physical culture establishment (*Bod Fitness*) at the building on a portion of the ground floor and cellar of a new 54-story mixed use residential building. C4-7 Special Lincoln Square District.

PREMISES AFFECTED – 55 Amsterdam Avenue, southeast corner of Amsterdam Avenue and West 62nd Street, Block 1132, Lot 35, Borough of Manhattan.

COMMUNITY BOARD #7M

Ryan Singer, Executive Director

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REGULAR MEETING TUESDAY MORNING, JUNE 2, 2015 10:00 A.M.

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

SPECIAL ORDER CALENDAR

619-73-BZ

APPLICANT – Sheldon Lobel, P.C., for CI Gateway LL,
owner.

SUBJECT – Application October 23, 2014 – Re-instatement
of a variance (§72-21) which permitted the operation of an
eating and drinking establishment (UG 6) with an accessory
drive thru which expired on February 26, 2004; Amendment
to permit the redevelopment of the site; Waiver of the Rules.
R4 zoning district.

PREMISES AFFECTED – 2940 Cropsey Avenue, front of
Bay 52nd Street, Cropsey Avenue and 53rd Street, Block
6949, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #13BK

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 June 16,
2015, at 10 A.M., for decision, hearing closed.

173-92-BZ

APPLICANT – Simons & Wright LLC, for Bremen House,
Inc., owner.

SUBJECT – Application January 17, 2014 – Extension of
Term of a previously approved Special Permit (§73-36)
permitting the operation of martial arts studio which expires
on January 24, 2014; Amendment to permit the relocation of
the facility from the 2nd floor to the cellar. C2-8A zoning
district.

PREMISES AFFECTED – 220 East 86th Street, 86th Street
between 2nd and 3rd Avenues, Block 01531, Lot 38, Borough
of Manhattan

COMMUNITY BOARD #8M

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

268-03-BZ

APPLICANT – Eric Palatnik, P.C., for Park Circle Realty
Associates, owner.

SUBJECT – Application October 9, 2014 – Extension of
Term (§11-411) for the continued operation of an
automotive service station which expired on January 27,
2014; Waiver of the Rules. C1-3/R3-2 zoning district.

PREMISES AFFECTED –145-55 Guy Brewer Boulevard,
south corner of Farmers Boulevard and Guy Brewer
Boulevard, Block 13313, Lot 40 Borough of Queens.

COMMUNITY BOARD #13Q

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 July 14,
2015, at 10 A.M., for decision, hearing closed.

51-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Rivoli Realty
Corp., owner; American Dance & Drama, lessee.

SUBJECT – Application July 10, 2014 – Amendment of a
variance (§72-21) which permitted a Physical Culture
Establishment and a dance studio (Use Group 9), contrary to
use regulations. The amendment seeks to enlarge the floor
area utilized by the dance studio on the first floor of the
existing one-story and cellar building. C1-2/R2A zoning
district.

PREMISES AFFECTED – 188-02 Union Turnpike aka 22
Union Turnpike, south side of Union Turnpike between
188th Street and 189th Street, Block 7266, Lot 1, Borough
of Queens.

COMMUNITY BOARD #8Q

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 June 23,
2015, at 10 A.M., for decision, hearing closed.

35-10-BZ

APPLICANT –Sheldon Lobel, P.C., for Torath Haim Ohel
Sara, owner.

SUBJECT – Application September 24, 2014 – Extension of
Time to Obtain a Certificate of Occupancy of a previously
approved Variance (§72-21) which permitted the
legalization of an existing synagogue (Congregation Torath
Haim Ohel Sara), contrary to front yard (§24-34), side yard
(\$24-35) and rear yard (§24-36), which expired on March 8,
2012; Amendment to permit minor changes to the
construction; Waiver of the rules. R4 zoning district.

PREMISES AFFECTED – 144-11 77th Avenue, between
Main Street and 147th Street, Block 6667, Lot 45, Borough
of Queens.

COMMUNITY BOARD #8Q

ACTION OF THE BOARD – Laid over to July 28,
2015, at 10 A.M., for continued hearing.

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APPEALS CALENDAR

167-14-A

APPLICANT – Eric Palatnik, P.C., for 250 Manhattan LLC, owner.

SUBJECT – Application July 11, 2014 – Appeal seeking a determination that the owner has obtained a vested right to complete construction commenced under the prior C4-3(R6) zoning district. R6B zoning district.

PREMISES AFFECTED – 250 Manhattan Avenue, between Powers Avenue and Grand Street, Block 2782, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #1M

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 application seeks a determination from the Board that the owner of the subject site has obtained the right to complete construction of a six-story, mixed residential and commercial building under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on March 24, 2015, after due notice by publication in *The City Record*, with a continued hearing May 12, 2015, and then to decision on June 2, 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, the subject site is located on the east side of Manhattan Avenue, between Powers Street and Grand Street, within an R6B zoning district; and

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

WHEREAS, under construction at the site is a six-story, mixed residential and commercial building with 7,613sq. ft. of floor area (3.05 FAR) (5,483 sq. ft. of residential floor area (2.2 FAR) and 2,130 sq. ft. of commercial floor area (0.85 FAR)) and eight dwelling units and no accessory parking spaces (the “Building”); and

WHEREAS, the applicant represents that the Building complies with the parameters of the former C4-3 zoning district, which is an R6 equivalent, per ZR § 35-23(a); and

WHEREAS, on April 18, 2008, the Department of Buildings (“DOB”) issued New Building Permit No. 310058950-01-NB (hereinafter, the “New Building Permit”) authorizing construction of the Building; and

WHEREAS, on July 29, 2009, (hereinafter, the “Enactment Date”), the City Council voted to adopt the Greenpoint – Williamsburg Contextual zoning text amendment (the “Rezoning”), which rezoned the site from C4-3 (R6 Equivalent) to R6B; and

WHEREAS, as a result of the Rezoning, the Building no longer complies with the following zoning regulations: (1)

residential floor area (a maximum residential floor area of 5,000 sq. ft. (2.0 FAR) is permitted, a residential floor area of 5,483 sq. ft. (2.2 FAR) is proposed); (2) commercial floor area (commercial floor area, including Use Group 6, is not permitted under the current R6B zoning regulations, but Use Group 6 commercial floor area of 2,130 sq. ft. (.85 FAR) is proposed); (3) maximum building height (a maximum building height of 50’-0” is permitted, but a building height of 55’-0” is proposed); (4) maximum wall height (a maximum wall height of 40’-0” is permitted, but a wall height of 45’-0” is proposed); and (5) maximum number of dwelling units (seven dwelling units are permitted, but eight dwelling units are proposed); and

WHEREAS, the applicant represents that, as of the Enactment Date, the applicant had obtained permits and completed, among other things, 94 percent of the building foundation; 15 percent of the masonry work; 10 percent of the metal decking; 25 percent of the concrete slab; trenching at the basement level of the building for plumbing work to be performed; construction of the interior walls at the sides of the building through the first floor; and partial construction of the steel frames for the second floor of the building; and

WHEREAS, as set forth below, to establish the owner’s entitlement to a vested right, the applicant relies on the work performed and the expenditures made prior to the Enactment Date, as well as the serious loss that would result from having to comply with the R6B zoning regulations; and

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

WHEREAS, by letter dated November 8, 2014, DOB confirmed that the New Building Permit was lawfully issued, authorizing construction of the Building prior to the Enactment Date; and

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

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

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

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WHEREAS, as noted above, the applicant obtained a permit to construct the Building and performed certain work prior to the Enactment Date; and

WHEREAS, specifically, the applicant states that the work it performed constitutes substantial construction, in that, prior to the Enactment Date, it constructed 96 percent of the foundation and substructure, including all footings and foundation walls to the cellar, and constructed the elevator pit in the proposed cellar; and

WHEREAS, in support of this statement, the applicant has submitted the following: a breakdown of the construction costs by line item; copies of cancelled checks; construction permits; and photographs of the site; and

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

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

WHEREAS, the applicant represents that the total expenditure paid toward the construction of the Building prior to the Enactment Date is \$587,677 (\$121,186 in hard costs, \$138,277 in soft costs, and \$328,214 in irrevocable financial commitments entered into prior to the Enactment Date), representing approximately 27 percent of the \$2,167,500 estimated cost to complete the project; and

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

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

WHEREAS, the applicant states that in order to comply with applicable zoning it will have to demolish the rear portion of the first floor perimeter walls of the building to a distance of approximately 39'-5" from the rear lot line, incurring an additional estimated cost of \$25,000; and

WHEREAS, the applicant states that in order to comply with the current building code it would have to demolish the shaft foundation structure and rebuild it to accommodate a larger shaft and elevator core, incurring an addition estimated cost of \$75,000; and

WHEREAS, the applicant states that under the current zoning, it will have lost the right to develop 2,130 sq. ft. of commercial space as well as 483 sq. ft. of residential space, thereby eliminating from the project all of the commercial space and one of eight (8) planned dwelling units, significantly reducing the profit that will result from the planned development; and

WHEREAS, the applicant states that, in addition to the costs of removing work already performed, were it required to comply with the current zoning it would incur substantial architectural and filing fees associated with a redesign of the

building; and

WHEREAS, the applicant further states that the value of the building constructed under the current zoning would be \$2,560,000 and the value of the building constructed under the zoning applicable before the Enactment Date would be \$3,611,000, thus, were the applicant required to building under the zoning applicable before the Enactment Date it would suffer a loss in value of approximately 30 percent; and

WHEREAS, thus, the applicant states that it would suffer a serious loss if the site were required to comply with the R6B district regulations; and

WHEREAS, the Board agrees that complying with the R6B district regulations would result in a serious economic loss for the applicant; and

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

Therefore it is Resolved, that this application made pursuant to the common law doctrine of vested rights requesting a reinstatement of Permit No 310058950, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for four years from the date of this grant.

Adopted by the Board of Standards and Appeals, June 2, 2015.

250-14-A thru 257-14-A

APPLICANT – Sheldon Lobel, P.C., for Villanova Heights, Inc., owner.

SUBJECT – Application October 15, 2014 – Extension of time to complete construction of eight (8) homes and obtain a Certificate of Occupancy under the common law and Vested Rights. (R1-2) zoning district.

PREMISES AFFECTED – 5401, 5031, 5021, 5310, 5300, 5041, 5030, 5040 Grosvenor Avenue, Goodridge Avenue to the East of Iselin Avenue and West 250th Street, Borough of Bronx.

250-14-A thru 252-14-A, Block 05831, Lot(s) 50, 60, 70

253-14-A and 254-14-A, Block 05839, Lot, 4025, 4018

255-14-A, Block 05830, Lot 3940

256-14-A and 257-14-A, Block 05829, Lot 3630, 3635

COMMUNITY BOARD #8BX

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 requesting a

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determination that the owner of 5041 Grosvenor Avenue (Block 5831, Lot 50); 5031 Grosvenor Avenue (Block 5831, Lot 60); 5021 Grosvenor Avenue (Block 5831, Lot 70); 5310 Grosvenor Avenue (Block 5839, Lot 4018); 5300 Grosvenor Avenue (Block 5839, Lot 4025); 5041 Goodridge Avenue (Block 5830, Lot 3940); 5030 Goodridge Avenue (Block 5829, Lot 3630); 5040 Goodridge Avenue (Block 5829, Lot 3635), Bronx, New York (collectively, the "Site") has obtained the right to complete construction of the Premises under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on May 12, 2015, after due notice by publication in *The City Record*, and then to decision on June 2, 2015; and

WHEREAS, the Site and its surrounding neighborhood were examined by Vice-Chair Hinkson and Commissioner Ottley-Brown; and

WHEREAS, the Site is known as Villanova Heights and is formerly known as the Chapel Farm Estate; it is located in the Riverdale section of the Bronx and is comprised of an eight lot portion of a 15-acre site which contains a total of 15 lots, 12 of which, including the Site, comprise a Major Development (the "Major Development") which vested pursuant to statute (of the 12 lots which comprise the Major Development, four are complete and eight, the Site, are not complete); and

WHEREAS, thus, this determination sought herein relates only to whether the applicant's rights to complete construction of the Site have vested; and

WHEREAS, the Site is located south of West 253rd Street, west of Fieldston Road, north of West 250th Street, and east of Iselin Avenue, in the Bronx, within an R1-2 zoning district and also within a Special Natural Area District (the "SNAD"); and

WHEREAS, the lots which comprise the Site are located on the arcing portion of Grosvenor Avenue that begins at West 250th Street and terminates at Iselin Avenue as well as on that portion of Goodridge Avenue which extends east from Grosvenor Avenue between West 250th Street and West 252nd Street; and

WHEREAS, the Site is proposed to be developed with eight single-family homes at a rate of approximately two per year (the homes are referred to collectively herein as the "Buildings"); and

WHEREAS, the applicant represents that each of the Buildings comply with a prior version of the SNAD requirements set forth in Zoning Resolution Article X, Chapter 5; and

WHEREAS, however, on February 2, 2005 (hereinafter, the "Enactment Date"), the City Council voted to adopt a text amendment, which affected the SNAD regulations and resulted in non-compliances; and

WHEREAS, as of the Enactment Date permits for all eight of the Buildings were issued by the Department of Buildings ("DOB") under New Building Permit Nos. 200922528, 200922537, 200922546, 200922555, 200922564, 200922608, 200922617, and 200922626 ("the New Building Permits"); and

WHEREAS, upon the expiration of the two-year period in which the applicant was permitted to complete the Buildings

under the New Building Permits, the applicant sought, and the Board granted, under BSA Cal. Nos. 20-07-BZY through 31-07-BZY, the applicant sought, relief pursuant to ZR § 11-30 *et seq.*, renewing the New Building Permits for one term of two years; and

WHEREAS, consistent with BSA Cal. Nos. 20-07-BZY through 31-07-BZY, the Board renewed the New Building Permits for two additional two-year terms by letters dated June 15, 2009 and June 22, 2011; as a consequence, on June 22, 2013, the New Building Permits lapsed; and

WHEREAS, upon the June 22, 2013 lapse of the New Building Permits, the applicant sought an additional extension of time to complete construction and obtain certificates of occupancy pursuant to ZR § 11-332(b) under BSA Cal. Nos. 111-13-BZY through 119-13-BZY; and

WHEREAS, the Board granted the aforesaid applications under BSA Cal. Nos. 111-13-BZY through 119-13-BZY on July 9, 2013, for a term to expire on July 9, 2014; and

WHEREAS, as a consequence, on July 9, 2014, the New Building Permits lapsed; and

WHEREAS, the applicant now seeks a four-year extension to complete construction pursuant to the common law doctrine of vested rights; and

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

WHEREAS, the Board notes its previous determination under BSA Cal Nos. 20-07-BZY through 31-07-BZY that the New Building Permits were lawfully issued prior to the Enactment Date; and

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

WHEREAS, specifically, as held in *Putnam Armonk, Inc. v. Town of Southeast*, 52 AD2d 10 (2d Dept 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner's rights under the prior ordinance are deemed vested "and will not be disturbed where enforcement [of new zoning requirements] would cause 'serious loss' to the owner," and "where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance"; and

WHEREAS, however, notwithstanding this general framework, as discussed by the court in *Kadin v. Bennett*, 163 AD2d 308 (2d Dept 1990) "there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess 'a vested right'. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action"; and

WHEREAS, the Board notes that work completed prior to the Enactment Date constituted substantial construction and/or substantial expenditures as stated or implied in 20-08-

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BZY through 31-07-BZY and the statutory renewals thereof; and

WHEREAS, the applicant submits, and the Board finds, that the work performed prior and subsequent to the previous approvals constitutes substantial construction and, similarly, that expenditures related thereto were similarly substantial, however, the Board notes that there has been more work performed at the Site, and additional expenditures made, since the most recent lapse on July 9, 2014, further-supporting the applicant's claim for a common law vested right to continue construction of the Site; and

WHEREAS, specifically, the applicant claims that, since the July 9, 2013 grant, and prior to its expiration, it has continued construction of the Buildings and related infrastructure at the Site in that it (1) performed Site-wide installation of infrastructure, including electrical, fencing of common areas, irrigation and partial landscaping and (2) performed infrastructure work including grading/site preparation for 5310 and 5300 Grosvenor Avenue, as well as the installation of gas line connections for 5030 and 5040 Goodridge Avenue; and

WHEREAS, the applicant notes that the Board's grant under BSA Cal. Nos. Cal. Nos. 20-07-BZY through 31-07-BZY included a finding that substantial expenditures were incurred at the Site; and

WHEREAS, in its July 9, 2013 grant the Board noted that after June, 2011, the applicant expended "approximately \$8,921,405, including soft costs"; and

WHEREAS, the applicant states that, since the July 9, 2013 grant, it has expended an additional \$876,222 in additional infrastructure and soft costs; and

WHEREAS, the Board notes that in the applicant has also expended \$2,455,678 in constructing the house located at 5030 Grosvenor, which was part of the Major Development but is not part of the Site; and

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

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

WHEREAS, the applicant represents that the total expenditure paid for the development is \$39,000,000, approximately \$25,000,000 is attributed to infrastructure and approximately \$14,000,000 of which is attributed to the completion of the four homes that are not a part of the Site but were a part of the previously vested Major Development; and

WHEREAS, as noted, the applicant has submitted invoices and copies of cancelled checks; and

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

WHEREAS, again, the Board's consideration is guided

by the percentages of expenditure cited by New York courts considering how much expenditure is needed to vest rights under a prior zoning regime; and

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

WHEREAS, with respect to serious loss, the applicant notes the Board's July 9, 2013 reasoning that the applicant "would not be able to recover all or substantially all of its financial expenditures through development that complies with the SNAD requirements"; and

WHEREAS, the applicant notes that it cannot recover its financial expenditures without constructing the Site as originally designed and that currently only four of the 12 homes that were part of the previously vested Major Development have been completed; and

WHEREAS, the applicant states that any future development of the Site, if subject to a City Planning Commission ("CPC") under current SNAD regulations, would result in a serious loss because, under the current zoning, the applicant would be required to apply for and obtain CPC approval by certification, authorization, or special permit in order to procure any building permits to continue construction of the Buildings, and the parameters and likelihood of obtaining such approvals are difficult to predict due to the discretionary nature of such actions; and

WHEREAS, the applicant states that the cost per Building as planned is approximately \$4,550,000 but that if the applicant is required to comply with the current SNAD requirements the cost per building will increase to approximately \$6,100,000, a cost that assumes SNAD approval; and

WHEREAS, the Board agrees that complying with the current SNAD regulations would result in a substantial reduction of the market value of the Site and cause the applicant a serious economic loss; and

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

Therefore it is Resolved, that this application made pursuant to the common law doctrine of vested rights requesting a reinstatement of Permit Nos. 200922528-01-NB, 200922537-01-NB, 200922546-01-NB, 200922555-01-NB, 200922564-01-NB, 200922608-01-NB, 200922617-01-NB, and 200922626-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for four years from the date of this grant.

Adopted by the Board of Standards and Appeals, June

MINUTES

2, 2015.

26-15-A & 27-15-A

APPLICANT – Law Office of Steven Simicich, for PeteRock, Inc., owner.

SUBJECT – Application February 17, 2015 – Proposed construction of buildings that do not front on a legally mapped street pursuant to Section 36 Article 3 of the General City Law. R3A zoning district.

PREMISES AFFECTED – 57 & 61 Alberta Avenue, north side of Alberta Avenue between Victory Boulevard and Wild Avenue, Block 02637, Lot(s) 0019, 0020, Borough of Staten Island.

COMMUNITY BOARD #2SI

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 January 26, 2015, acting on DOB Application Nos. 520217211 and 520217202, reads, in pertinent part:

The street giving access to the proposed building is not duly placed on 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 sec 502.1 of the 2008 NYC Building Code; and

WHEREAS, this is an application, filed pursuant to General City Law §36, to allow the proposed construction not fronting on a mapped street; and

WHEREAS, a public hearing was held on this application on June 2, 2015, after due notice by publication in *The City Record*, and then to decision on the same date; and

WHEREAS, Commissioners Montanez and Ottley-Brown performed inspections of the site, premises, and surrounding area and neighborhood; and

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

WHEREAS, the site, which does not front on a mapped street, is located on the north side of Alberta Avenue (which is not a final mapped street on the official City Map), between Victory Boulevard and Wild Avenue, in Staten Island; the site consists of two proposed zoning lots which will be created upon the subdivision of the existing Block 2637, Lot 19; each of the proposed lots will have 25 feet of frontage along Alberta Avenue and each will contain 2,500 square feet of lot area; and

WHEREAS, the existing Block 2637, Lot 19 contains a single family homes that will be demolished for the proposed development; and

WHEREAS, the applicant seeks to construct two single family dwellings, each of which will contain approximately 1,492 square feet of lot area and both of which comply with all applicable zoning regulations; and

WHEREAS, the applicant notes that Alberta Avenue is a one-way street which can be accessed by FDNY via Wild Avenue, approximately 275 feet from the site; and

WHEREAS, the applicant also states that working fire hydrants are located within 133 and 158 feet of the entrances to the proposed buildings and that the proposed buildings will be fully sprinklered, thus, the proposed development complies with sections 503.3.2 and 508.5.1 of the New York City Fire Code; and

WHEREAS, by letter dated April 15, 2015, the FDNY stated that it has no comments, objections or recommendations related to the proposed development or the instant application; and

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

Therefore it is Resolved, that the decision of the Department of Buildings (“DOB”), dated January 26, 2015, acting on DOB Application No. 520217211, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction will substantially conform to the drawings filed with the application marked “May 14, 2015”-(1) sheet; and *on further condition*

THAT the proposal will comply with all applicable zoning district requirements and all other applicable laws, rules, and regulations;

THAT the proposed buildings shall be fully sprinklered in accordance with BSA-approved plans;

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

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

Adopted by the Board of Standards and Appeals on June 2, 2015.

3-15-A

APPLICANT – Edward Lauria, for Jeff Schaffer, owner.

SUBJECT – Application January 7, 2015 – Proposed construction does not front on a legally mapped street contrary Section 36, of the General City Law, and 502.1 2008, building Code. M1-1SRD zoning district.

PREMISES AFFECTED – 47 Trioka Way, west side of Trioka Way, 124.11’ north of Winant Avenue, Block 7400, Lot 85, Borough of Staten Island.

COMMUNITY BOARD #3SI

THE VOTE TO CLOSE HEARING –

MINUTES

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

ACTION OF THE BOARD – Laid over to July 14,
2015, at 10 A.M., for decision, hearing closed.

7-15-BZY & 8-15-A

APPLICANT – Duval & Stackenfeld, for 180 Orchard LLC
c/o Brack Capital Real Estate, owner.

SUBJECT – Application January 14, 2015 – BZY Minor
Development (§11-332) to extend the time of construction
for a minor development for a period of six months;
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 zoning
district.

PREMISES AFFECTED – 180 Orchard Street, bounded by
Orchard, East Houston, Ludlow and Stanton Streets, approx.
220’ of East Houston, Block 00412, Lot 5, 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 June 16,
2015, at 10 A.M., for decision, hearing closed.

ZONING CALENDAR

37-14-BZ

CEQR #14-BSA-128Q

APPLICANT – Eric Palatnik, P.C., for FHM Roosevelt
FLP, owner; Executive Fitness Gym Inc., lessee.

SUBJECT – Application February 28, 2014 – Special
Permit (§73-36) to allow a physical culture establishment
(*Enterprise Fitness Gym*), which will occupy a portion of
the second floor of a two story building. C2-3/R6 zoning
district.

PREMISES AFFECTED – 86-10 Roosevelt Avenue, west
corner of Elbertson Street and Roosevelt Avenue, Block
1502, Lot 6, Borough of Queens.

COMMUNITY BOARD #4Q

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 February 21, 2014, acting on DOB
Application No. 402021049, reads, in pertinent part:

Propose[d] Physical Culture Establishment (UG 9,
not used for basketball, handball, paddleball,
racquetball, squash or tennis) ... shall be granted by
BSA as per ZR 12-10, ZR 73-36; and

WHEREAS, this is an application under ZR §§ 73-36
and 73-03, to legalize, on a site which the applicant represents
is partially within an R6 (C2-3) zoning district, and also
partially within an R4 zoning district and also partially within
an R7B zoning district, a physical culture establishment (the
"PCE") which currently operates on the second floor of a two-
story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this
application on March 3, 2015 after due notice by publication in
the *City Record*, and then to decision on June 2, 2015; and

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

WHEREAS, Community Board 4, Queens, recommends
approval of this application; and

WHEREAS, the applicant represents that the subject site
is a corner lot with approximately 157 ft. of frontage on
Roosevelt Avenue and approximately 118 ft. of frontage on
Elbertson Street, partially within an R6 (C2-3) zoning district,
partially within an R4 zoning district and also partially within
an R7B zoning district, in Queens; and

WHEREAS, the site contains approximately 17,538 sq.
ft. of lot area and is occupied by a two-story commercial
building containing approximately 32,173 sq. ft. of floor area,
with the PCE occupying 6,394 sq. ft. of floor area on the
second story of the building; and

WHEREAS, the PCE will operate as Executive Fitness
Gym; and

WHEREAS, the hours of operation for the PCE will be

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Monday through Thursday, from 5:00 a.m. to 1:00 a.m., Friday, from 5:00 a.m. to 12:00 a.m., and on Saturday and Sunday from 8:00 a.m. to 8:00 p.m.; and

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

WHEREAS, the Fire Department states that it has no objection to the proposal; and

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

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

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

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the period of time that the PCE operated without the special permit; and

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

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

WHEREAS, the Board has conducted a review of the proposed Checklist action discussed in the CEQR Checklist No. 14-BSA-128Q, dated February 28, 2014; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site partially within an R6 (C2-3) zoning district, partially within an R4 zoning district and also partially within an R7B zoning district, the operation of a PCE on the second story of a two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received May 14, 2015," Four (4) sheets; and *on further condition:*

THAT the term of the PCE grant shall expire on June 26, 2024;

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

THAT the PCE shall operate only within that portion of the subject building which is located in the R6 (C2-3) zoning district and that the PCE shall not operate within that portion of the building which is located in the R4 zoning district or R7B zoning district;

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

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk shall be signed off by DOB and all other relevant agencies by June 2, 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 of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 2, 2015.

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 July 14, 2015, at 10 A.M., for adjourned hearing.

303-13-BZ

APPLICANT – Jeffrey A. Chester, Esq./GSHLLP, for SoBro Development Corporation, owner.

SUBJECT – Application November 15, 2013 – Variance (§72-21) to allow a new mixed use building with 36 residential units and community facility space. R6 & C1-4 zoning districts.

PREMISES AFFECTED – 506-510 Brook Avenue, east side of Brook Avenue between 147th and 148th Street, Block 2274, Lot(s) 6, 7 and 8, Borough of Bronx.

COMMUNITY BOARD #1BX

ACTION OF THE BOARD – Laid over to July 21, 2015, at 10 A.M., for adjourned hearing.

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29-14-BZ

APPLICANT – Lewis Garfinkel for Leon Goldenberg, owner.

SUBJECT – Application February 11, 2014 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (ZR 23-14a); side yards (ZR 23-461) and less than the required rear yard (ZR 23-47). R2 zoning district.

PREMISES AFFECTED – 1255 East 27th Street, East side of East 27th Street, 325 feet from the North corner of Avenue M. Block 7645, Lot 25. Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to July 28, 2015, at 10 A.M., for adjourned 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 July 21, 2015, at 10 A.M., for adjourned hearing.

98-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 404-414 Richmond Terrace Inc., owner.

SUBJECT – Application May 8, 2014 – Variance (§72-21) to permit the reestablishment of a banquet facility (catering hall -UG 9) with accessory parking. Located in an R5 and R3A zoning districts within the St. George Historic District. PREMISES AFFECTED – 404 Richmond Terrace, southeast corner of Richmond Terrace and Westervelt Avenue, Block 3, Lot(s) 40, 31, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to July 21, 2015, at 10 A.M., for continued hearing.

127-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Sean Banayan, owner.

SUBJECT – Application June 5, 2014 – Variance (§72-21) to permit construction of a cellar and two-story, two-family dwelling on a vacant lot that does not provide two required side yards, and does not provide two off street parking spaces. R4 zoning district.

PREMISES AFFECTED – 32-41 101st Street, east side of 101st, 180' north of intersection with Northern Boulevard, Block 1696, Lot 48, Borough of Queens.

COMMUNITY BOARD #3Q

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 June 23, 2015, at 10 A.M., for decision, hearing closed.

169-14-BZ

APPLICANT – Jay Goldstein, Esq., for Midyan Gate Reality No. 3 LLC., owner.

SUBJECT – Application July 21, 2014 – Special Permit (§73-19) to allow a pre-school and child care services (Use Group 3) (*Inner Force Y*) within the existing building. M1-1 Ocean Parkway Special Zoning District.

PREMISES AFFECTED – 325 Avenue Y, southwest corner of Avenue Y between Shell Road and West 3rd Street, Block 7192, Lot 46, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Off-Calendar.

171-14-A & 172-14-BZ

APPLICANT – Law Office of Steven Simicich, for Dxngrnt2, LLC, owner.

SUBJECT – Application July 22, 2014 – Proposed construction of a single family detached home on the site which a portion is located within the bed of a mapped street, pursuant to the General City Law 35 and requires a waiver under ZR Section 72-01(g). Variance (§72-21) to allow for the reduction in the required front yard fronting from 10' to 4'. R3A zoning district.

PREMISES AFFECTED – 235 Dixon Avenue, corner of Dixon and Granite Avenue, Block 1172, Lot 244, 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 July 14, 2015, at 10 A.M., for decision, hearing closed.

1-15-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Manhattan Country School (contract vendee).

SUBJECT – Application January 2, 2015 – Variance (§72-21) proposed enlargement of an existing school structure to be used by the Manhattan Country School which will exceed permitted floor area and exceeds the maximum height. R8B zoning district.

PREMISES AFFECTED – 150 West 85th Street, southerly side of West 85th Street between Columbus Avenue and Amsterdam Avenue, Block 1215, Lot 53, Borough of Manhattan.

COMMUNITY BOARD #7M

MINUTES

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 July 14,
2015, at 10 A.M., for decision, hearing closed.

REGULAR MEETING

TUESDAY AFTERNOON, JUNE 2, 2015

1:00 P.M.

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

ZONING CALENDAR

264-14-BZ

APPLICANT – Eric Palatnik, P.C., for GS 149 LLC, owner;
Crunch LLC, lessee.

SUBJECT – Application October 24, 2014 – Special Permit
(\$73-36) to permit a physical culture establishment (*Crunch
Fitness*) within portions of the existing commercial building.
C4-4 zoning district.

PREMISES AFFECTED – 436 East 149th Street, south side
of East 149th Street, approximately 215’ west of intersection
with Brook Avenue, Block 02293, Lot 46, Borough of
Bronx.

COMMUNITY BOARD #1BX

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 June 23,
2015, at 10 A.M., for decision, hearing closed.

319-14-BZ

APPLICANT – Eric Palatnik, P.C., for Shore Plaza LLC,
owner; Staten Island MMA1, Inc., lessee.

SUBJECT – Application December 5, 2014 – Special
Permit (\$73-36) to permit the legalization of a physical
culture establishment (*UFC Gym*). C43 zoning district.

PREMISES AFFECTED – 1781 South Avenue, within West
Shore Plaza 1745-1801 South Avenue, Block 02800, Lot 37,
Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to July 21,
2015, at 10 A.M., for continued hearing.

335-14-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for
Trize Hahn, owner; Soul Cycle Bryant Park LLC, lessee.

SUBJECT – Application December 31, 2014 – Special
Permit (\$73-36) to allow for a physical culture establishment
(*Soulcycle*) within portions of an existing commercial
building. C5-3(MID)(T) zoning district.

PREMISES AFFECTED – 1065 Avenue of the Americas
aka 5 Bryant Park, 101 West 40th Street, northwest corner
of Avenue of the Americas and West 40th Street, Block
00993, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #5M

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 June 23,
2015, at 10 A.M., for decision, hearing closed.

Ryan Singer, Executive Director

MINUTES

CORRECTION

This resolution adopted on April 28, 2015, under Calendar No. 147-14-BZ and printed in Volume 100, Bulletin No. 19, is hereby corrected to read as follows:

147-14-BZ

APPLICANT – Law Office of Lyra J. Altman, for Iris E. Shalam, owner.

SUBJECT – Application June 24, 2014 – Special Permit (§73-622) for the enlargement of an existing single family residence contrary to floor area ZR 23-141; and less than the required rear yard ZR 23-47. R3-1 zoning district.

PREMISES AFFECTED – 4167 Ocean Avenue, east side of Ocean Avenue between Hampton Avenue and Oriental Boulevard, Block 8748, Lot 227, Borough of Brooklyn.

COMMUNITY BOARD #15BK

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 New York City Department of Buildings (“DOB”), dated May 28, 2014, acting on DOB Application No. 320960359, reads in pertinent part:

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

WHEREAS, this is an application under ZR § 73-622, to permit, 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”) and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on March 31, 2015, after due notice by publication in *The City Record*, and then to decision on April 28, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Ottley-Brown performed inspections of the site and premises, as well as the surrounding neighborhood; and

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

WHEREAS, the subject site is located on the east side of Ocean Avenue, between Hampton Avenue and Oriental Boulevard, within an R3-1 zoning district; and

WHEREAS, the site has 60 feet of frontage along Ocean Avenue and 6,240 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story with attic, single-family home with 3,608 sq. ft. of floor area (0.58 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, resulting in an increase in the floor area from 3,608 sq. ft. (0.58 FAR) to 4,128 sq. ft. (0.66 FAR); the maximum permitted floor area is 3,120 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to decrease its rear yard from 39’- 3 ½” to 22’-3 ¾”; the requirement is a minimum depth of 30’-0”; 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, at hearing, the Board expressed concern about the impact of the proposed FAR and 22’-3 ¾” rear yard; and

WHEREAS, the applicant asserts that the subject block contains 24 sites which are occupied by a residence and have a rear yard, eight of which have a smaller rear than that which is proposed by the applicant, and that such rear yards range in depth from 11’-0” to 20’-0”; and

WHEREAS, the applicant further asserts that 15 of the 24 sites have garages located in their rear yards; and

WHEREAS, the above-noted assertions are supported in a rear yard study submitted by the applicant; 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 floor area ratio (“FAR”) and rear yards, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received April 16, 2015” – (12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 4,128 sq. ft. (0.66 FAR) and a rear yard with a minimum depth of 22’-3 ¾”, as illustrated on the BSA-approved plans;

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

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

MINUTES

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 April 28, 2019; 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, April 28, 2015.

***The resolution has been amended. Corrected in Bulletin Nos. 23-24, Vol. 100, dated June 10, 2015.**