
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:
40 Rector Street, 9th Floor, New York, N.Y. 10006.

Volume 91, No. 41

November 3, 2006

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

SATISH BABBAR, *Vice-Chair*

CHRISTOPHER COLLINS

DARA OTTLEY-BROWN

Commissioners

Jeffrey Mulligan, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

OFFICE -	40 Rector Street, 9th Floor, New York, N.Y. 10006
HEARINGS HELD -	40 Rector Street, 6th Floor, New York, N.Y. 10006
BSA WEBPAGE @	http://www.nyc.gov/html/bsa/home.html

TELEPHONE - (212) 788-8500
FAX - (212) 788-8769

CONTENTS

DOCKET	849
CALENDAR of November 21, 2006	
Morning	850
Afternoon	851

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, October 24, 2006**

Morning Calendar852

Affecting Calendar Numbers:

933-28-BZ	125-24 Metropolitan Avenue, Queens
1888-61-BZ	93-10 23 rd Avenue, Queens
558-71-BZ	1949 Richmond Avenue, Staten Island
1289-80-BZ	298 West 231 st Street, Bronx
331-98-BZ	1426-1428 Fulton Street, Brooklyn
181-38-BZ	410-412 City Island Avenue, Bronx
60-82-BZ	60-11 Queens Boulevard, Queens
131-93-BZ	3743-3761 Nostrand Avenue, Brooklyn
31-06-BZ	102-10 159 th Road, Queens
102-06-A	1 Arcadia Walk, Queens
125-06-A	43 Kildare Walk, Queens
230-06-A	107 Beach 220 th Street, Queens
286-05-A	5260 Sycamore Avenue, Bronx
337-05-A	1717 Hering Avenue, Bronx
85-06-BZY	1623 Avenue "P", Brooklyn
164-06-A	148 East 63 rd Street, Manhattan
270-06-A	148 East 63 rd Street, Manhattan

Afternoon Calendar862

Affecting Calendar Numbers:

199-05-BZ	99 Seventh Avenue, Manhattan
58-06-BZ	499 Broadway, Manhattan
176-06-BZ	1253 East 28 th Street, Brooklyn
165-05-BZ	799-805 Bergen Street, Brooklyn
288-05-BZ	1060 82 nd Street, Brooklyn
290-05-BZ	1824 53 rd Street, Brooklyn
60-06-A	1824 53 rd Street, Brooklyn
29-06-BZ	1803 Voorhies Avenue, Brooklyn
36-06-BZ	2125 Utica Avenue, Brooklyn
41-06-BZ & 42-06-BZ	139-24 Booth Memorial Avenue, Queens
64-06-BZ	363-371 Lafayette Street, Manhattan
106-06-BZ	1436 East 28 th Street, Brooklyn
121-06-BZ	495 East 180 th Street, Bronx
158-06-BZ	1410 East 22 nd Street, Brooklyn

DOCKETS

New Case Filed Up to October 24, 2006

280-06-BZ

181-08 Horace Harding Expressway, Southeast corner of Utopia Parkway and Horace Harding Expressway., Block 7070, Lot 2, Borough of **Queens, Community Board: 8.** (SPECIAL PERMIT) - 73-211 - The reconstruction and maintenance of an automotive service station with an accessory convenience store.

281-06-BZ

232 Beaumont Street, West side of Beaumont Street south of Oriental Boulevard, Block 8739, Lot 50, Borough of **Brooklyn, Community Board: 15.** (SPECIAL PERMIT) 73-622 - To allow for the legalization of the existing floor area as well as to allow for the reduction in overall height of the home.

282-06-A

232 Beaumont Street, West side of Beaumont Street south of Oriental Boulevard., Block 8739, Lot 50, Borough of **Brooklyn, Community Board: 15.** Appeal - To seek approval of the above-referenced Department of Buildings Objection Number and to appeal the 9-27-06 denial of the application on the basis that same contrary to law, was arbitrary and capricious and was erroneously based upon DOB's opinion

283-06-BZ

1372 East 29th Street, 190' North of intersection formed by East 29th Street and Avenue N., Block 7664, Lot 76, Borough of **Brooklyn, Community Board: 14.** (SPECIAL PERMIT) - 73-622 - Proposed extension of existing one family dwelling.

284-06-A

1045 Beach 9th Street, Southwest corner of the intersection of Beach 9th Street and Dinsmore Avenue., Block 15554, Lot 49, 51, Borough of **Queens, Community Board: 14.** General City Law Section 35 - To permit the proposed construction.

285-06-BZ

23 West 45th Street, 3rd Floor, the premises is located on the north side of West 45th Street between Sixth Avenue., Block 1261, Lot 25, Borough of **Manhattan, Community Board: C6.** (SPECIAL PERMIT) 73-36 - To permit the operation of a Physical Culture Establishment on the third floor of an existing building.

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

NOVEMBER 21, 2006, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, November 21, 2006, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

757-89-BZ

APPLICANT – Cozen O’Connor, Barbara Hair, Esq., for 401 Commercial, L.P., owner; Bally Sports Club, Inc., lessee.

SUBJECT – Application October 5, 2006 – Extension of Term and waiver of the rules for a Special Permit (§73-36) to allow a Physical Cultural Establishment in a C6-4.5 zoning district within the Midtown Special District.

PREMISES AFFECTED – 401 Seventh Avenue, aka 139 West 32nd Street, Block 808, Lots 7501, 40, Borough of Manhattan.

COMMUNITY BOARD #5M

17-93-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Lincoln Square Commercial Holding, owner; MP Sports Club Upper Westside LLC on behalf of Reebok-Sports Club/NY, Ltd., lessee.

SUBJECT – Application October 13, 2006 - Extension of term of a previously granted special permit (73-36) for a physical culture establishment (Reebok Sports Club/NY Ltd.) which expired on June 7, 2004; a waiver to file more than a year after the expiration of the term; extension of time to obtain a permanent certificate of occupancy and an amendment for the change in management/ownership and the hours of operation located in a C4-7(L) zoning district.

PREMISES AFFECTED – 160 Columbus Avenue (a/k/a 1992 Broadway), Block 1139, Lots 24, 30, Borough of Manhattan.

COMMUNITY BOARD #7M

139-05-BZ

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for The Mondrian Condominium, owner; Equinox 54th Street, Inc., lessee.

SUBJECT – Application June 30, 2006 - Extension of Term for a Special Permit (§73-36) to allow a Physical Cultural Establishment in a C1-9(TA) zoning district.

PREMISES AFFECTED – 250 East 54th Street, southwest corner of East 54th Street and 2nd Avenue, Block 1327, Lot 7502, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEALS CALENDAR

117-06-A

APPLICANT – Eric Palatnik, P.C., for Esther C. Wallerstein, owner.

SUBJECT – Application June 8, 2006 - An appeal seeking a determination that the owner of said premises has acquired a common law vested right to continue development commenced under the prior R6 Zoning District. R4-1 zoning district.

PREMISES AFFECTED – 1373 East 13th Street, between Avenue N and Elm Avenue, Block 6742, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #14BK

166-06-BZY

APPLICANT – Eric Palatnik, P.C., for Mujahid Mian, owner.

SUBJECT – Application July 28, 2006 – Proposed extension of time (§11-331) to complete construction of a minor development for a multi -family building. Prior zoning was R4 zoning district and new zoning is R4-A as of June 29, 2006.

PREMISES AFFECTED – 84-59 162nd Street, south of the corner formed by the intersection of 84th Drive and 162nd Street, Block 9786, Lot 7, Borough of Queens

COMMUNITY BOARD #8Q

231-06-BZY

APPLICANT – Rothkrug Rothkrug and Spector, for Medhat M. Hanna, owner.

SUBJECT – Application September 11, 2006 –Extension of time to complete construction and obtain a Certificate of Occupancy for a minor development under (11-332) for a single family home. R3-1 zoning district.

PREMISES AFFECTED – 102 Greaves Avenue, intersection of Greaves and Dewey Avenue, Block 4568, lot 40, Borough of Staten Island.

COMMUNITY BOARD #3SI

CALENDAR

NOVEMBER 21, 2006, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, November 21, 2006, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

75-06-BZ

APPLICANT– Joseph P. Morsellino, Esq., for Cord Meyer Development, owner.

SUBJECT – Application April 25, 2006 – Zoning variance pursuant to § 72-21 to allow a proposed twenty-one (21) story residential building with ground floor retail and community facility uses to violate applicable FAR (§ 23-142 and § 35-22), open space ratio (§ 23-142, § 35-22, and § 35-33) and sky exposure plane (§ 23-632) regulations. The proposed building would include 136 dwelling units and 146 parking spaces. The project site is located within an R7-1/C1-2 zoning district.

PREMISES AFFECTED – 108-20 71st Avenue, northeast corner of Queens Boulevard and 71st Avenue, Block 2224, Lot 1, Borough of Queens.

COMMUNITY BOARD #6Q

83-06-BZ

APPLICANT– Eric Palatnik, P.C., for Simon Blitz, owner.

SUBJECT – Application May 2, 2006 - Variance (§72-21) to allow the conversion and two (2) story enlargement of an existing four story industrial building. The proposed multi-family building will contain six (6) floors, ground floor retail use, and fourteen (14) dwelling units. No parking spaces are proposed. The proposal would exceed the maximum floor area ratio (123-64 (a)) and applicable height and setback requirements (123-662). The project site is located within the Hunters Point Subdistrict of the Special Long Island City Mixed Use District and is zoned M1-4/R6A (LIC).

PREMISES AFFECTED – 47-33 Fifth Street, north side of 5th Street, between 48th Avenue and 47th Road, Block 30, Lo 26, Borough of Queens.

COMMUNITY BOARD #2Q

140-06-BZ

APPLICANT – Sheldon Lobel, P.C., for 21-29 Belvidere Realty, LLC, owner.

SUBJECT –Application July 6, 2006 - Special Permit pursuant to Z.R. §73-53 to allow the proposed four-story enlargement of a legal and existing, conforming four-story manufacturing building. The premise is located in an M1-1 zoning district. The proposal is seeking waivers of Z. R. Sections 43-12 (FAR); 43-43 (Wall height, total height, number of stories, setbacks, and sky exposure plane); and

43-26 (Rear yard).

PREMISES AFFECTED – 25-29 Belvidere Street, located on the east side of Belvidere Street between Broadway and Beaver Street, Block 3135, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #4BK

141-06-BZ

APPLICANT– Eric Palatnik, P.C., for Congregation Tehilo Ledovid, owner.

SUBJECT – Application July 6, 2006 - Variance pursuant to Section 72-21 to permit the proposed three-story synagogue. The Premise is located in an R5 zoning district. The proposal includes waivers relating to floor area and lot coverage (24-11); front yards (Z.R. 24-34); side yard (24-35); wall height and sky exposure plane (24-521); and parking (25-31).

PREMISES AFFECTED – 2084 60th Street, southwest corner of 21st Avenue and 60th Street, Block 5521, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #12BK

181-06-BZ

APPLICANT – Greenberg Trarurig, LLP, by Jay Segal/Deirdre Carson, for 471 Washington Street Partners, owners.

SUBJECT – Application August 21, 2006 - Zoning variance pursuant to (§72-21) to allow a nine (9) story residential building containing seven (7) dwelling units and ground floor retail use in an M1-5 district (Area B-2 of the Special Tribeca Mixed Use District). The proposal is contrary to use regulations (§ 42-10 and § 111-104(d)).

PREMISES AFFECTED – 471 Washington Street (aka 510-520 Canal Street), Block 595, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #1M

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, OCTOBER 24, 2006
10:00 A.M.**

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

The motion is to approve the minutes of regular meetings of the Board held on Tuesday morning and afternoon, August 8, 2006 as printed in the bulletin of August 17, 2006, Vol. 91, No. 31 & 32. If there be no objection, it is so ordered.

SPECIAL ORDER CALENDAR

933-28-BZ, Vol. II

APPLICANT – Michael M. Robbins, R.A., A.I.A., P.C., for Roger Budhu, owner.

SUBJECT – Application September 12, 2005 – Pursuant to ZR 11-411 for the extension of term/waiver of an automotive service station with auto repairs which expired on October 29, 2004, and an amendment to legalize a portion of the building to an accessory convenience store. The premise is located in an R-5 zoning district.

PREMISES AFFECTED – 125-24 Metropolitan Avenue, southwest corner of 126th Street, Metropolitan Avenue. Block 9271, Lot 4, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES –

For Applicant: Michael M. Robbins.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown....4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an amendment to the approved plans, and an extension of term for a previously granted variance for a gasoline service station, which expired on October 29, 2004 ; and

WHEREAS, a public hearing was held on this application on September 26, 2006 after due notice by publication in *The City Record*, and then to decision on October 24, 2006; and

WHEREAS, Community Board, 9, Queens, recommends approval of this application on the condition that two street trees be planted at the property at the 126th Street frontage by May 31, 2007; and

WHEREAS, the site is located on the southwest corner of 126th Street and Metropolitan Avenue; and

WHEREAS, the site is located within an R5 zoning district and is improved upon with a gasoline service station with automotive repairs and an accessory convenience store; and

WHEREAS, the Board has exercised jurisdiction over the

subject site since approximately 1949 when, under the subject calendar number, the Board granted a variance for the maintenance and construction of the gasoline service station; and

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

WHEREAS, most recently, on April 28, 1998, the grant was extended for a term of ten years from the expiration of the prior grant, to expire on October 29, 2004; and

WHEREAS, the applicant now requests an additional ten-year term; and

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

WHEREAS, additionally, the applicant proposes to legalize the conversion of a portion of the building from office to an accessory convenience store; the remaining portion of the building, occupied by the lubritorium, automotive repair, restrooms, and storage, remains unchanged; and

WHEREAS, pursuant to ZR § 11-412, the Board may permit an alteration to a site subject to a previously granted variance; and

WHEREAS, the Board notes that the approved plans indicate two street trees along 126th Street; and

WHEREAS, the applicant has submitted plans indicating that one tree will be planted along 126th Street and the existing tree there will remain; and

WHEREAS, the Board notes that the applicant is required to ensure the two street trees along 126th Street are maintained; and

WHEREAS, based upon the above, the Board finds that the requested extension of term and amendment to the approved plans are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted on October 25, 1949, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: “to extend the term for ten years from October 29, 2004 to expire on October 29, 2014, and to legalize the conversion of a portion of the building to an accessory convenience store *on condition* that the use shall substantially conform to drawings as filed with this application, marked ‘Received August 10, 2006’ –(2) sheets and ‘October 10, 2006’ – (1) sheet; and *on further condition*:

THAT the term of this grant shall expire on October 29, 2014;

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

THAT a certificate of occupancy shall be obtained within one year of this grant;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect, including the provision of two street trees;

THAT an additional street tree shall be planted on 126th Street within six months of the date of this grant;

THAT this approval is limited to the relief granted by the

MINUTES

Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only; and

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

(NB 6886/47)

Adopted by the Board of Standards and Appeals, October 24, 2006.

1888-61-BZ

APPLICANT – Alfonso Duarte, for Ali Amanolahi, owner.
SUBJECT – Application June 21, 2005 – Pursuant to Z.R. §11-412 for an Amendment to an eating and drinking establishment and catering hall for the further increase in floor area and the to legalize the existing increase in floor area, the separate entrance to the catering hall and the drive thru at the front entrance. The premise is located in an R3-2 zoning district.

PREMISES AFFECTED – 93-10 23rd Avenue, southwest corner of 94th Street, Block 1087, Lot 1, Elmhurst, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Alfonso Duarte, P.E.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4
Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a re-opening and an amendment to permit approval of plans reflecting certain existing site modifications and additional proposed modifications (with full legalization of some modifications deferred to DOB) to an eating and drinking establishment and catering hall; and

WHEREAS, a public hearing was held on this application on March 14, 2006, after due notice by publication in *The City Record*, to continued hearings on April 25, 2006, June 13, 2006, August 15, 2006, and October 17, 2006, and then to decision on October 24, 2006; and

WHEREAS, a committee of the Board conducted a site visit of the subject premises, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins; and

WHEREAS, Community Board 3, Queens, recommends disapproval of this application, citing concerns about noise, altercations among patrons at closing time, patrons’ cars blocking neighbors’ driveways, the suspected unlawful use of the cellar as a cabaret, the fire safety and structural soundness of the building, and the number of outstanding DOB/ECB violations; and

WHEREAS, the site is a 25,172 sq. ft. lot located on the south side of 23rd Avenue between 93rd Street to 94th Street; and

WHEREAS, the site is located within an R3-2 zoning district and is improved upon with a 7,332 sq. ft. one-story with cellar building occupied as an eating and drinking establishment doing business as Gran Rancho Jubilee (the “Restaurant”); and

WHEREAS, the Restaurant’s cellar level is used for catered events (Use Group 9) and the first floor is occupied by restaurant use without entertainment (Use Group 6); and

WHEREAS, there is also a 17,000 sq. ft. parking lot for 38 cars; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 16, 1963, when, under the subject calendar number, the Board made a grant under Section 7a of the Old Zoning Resolution to permit the redevelopment of a site with a one-story and cellar building for use as a restaurant, bar, and cocktail lounge, with accessory parking; and

WHEREAS, on November 29, 1966, the application was amended to include a catering use in the cellar; and

WHEREAS, the subsequently issued certificate of occupancy permits an occupancy of 240 persons in the cellar, 280 on the first floor, and accessory parking for more than five cars; and

WHEREAS, since the last approval, the owner of the premises made a number of illegal modifications to the site; and

WHEREAS, specifically, the owner made the following modifications: an enlargement of the first floor, which now includes enclosed decks located on the north and east sides of the building; the attachment of storage containers/trailers to the first floor; the placement of additional storage containers/trailers in the parking lot; a new entry to the cellar on 23rd Avenue; a roofed drive-through on 94th Street; and interior modifications in the cellar and on the first floor; and

WHEREAS, in addition to seeking the legalization of these changes, the applicant also initially proposed to increase the occupancy of the first floor from 280 to 371; and

WHEREAS, additionally, the applicant initially proposed to cure Building Code violations related to the illegal construction and Fire Code violations related to public assembly requirements; and

WHEREAS, the applicant concedes that no public assembly permit has been obtained; and

WHEREAS, as discussed below, the Board found many of the proposed legalizations and modifications objectionable, and required the applicant to amend the application accordingly, or to seek legalization directly through DOB; and

WHEREAS, generally, because of these modifications, the Board expressed concern about the safe and legal operation of the Restaurant and the number of outstanding violations; and

WHEREAS, more specifically, the Board expressed concerned about: (1) the proposed increased capacity of the Restaurant in light of its current uses; (2) the adequacy of the amount of parking, the parking lot layout, and the reduction in on-site parking due to the illegal trailers; (3) illegal construction and the ability to meet Building Code and Fire Code requirements; and (4) the mitigation of the Restaurant’s impact

MINUTES

on neighbors; and

WHEREAS, as to capacity, the Board asked the applicant why it was necessary to legalize the decks and therefore increase the floor area available for additional occupancy; and

WHEREAS, the applicant responded that the decks were for aesthetic purposes to promote the Restaurant's Caribbean theme, and were not required for additional occupancy; and

WHEREAS, additionally, the applicant represents that the use of the decks is limited primarily to the spring and summer; and

WHEREAS, the applicant stated that based on the actual floor area, with the decks, a capacity of 371 could be accommodated; and

WHEREAS, however, at the Board's direction, the applicant agreed to limit the occupancy to 305 patrons (320 with employees) on the first floor, and 240 in the cellar; and

WHEREAS, at hearing, the Board also questioned the applicant about the uses at the site and asked if it was operating an unlicensed cabaret in the cellar; and

WHEREAS, specifically, the Board asked if there was a coverage charge for admittance to the cellar; and

WHEREAS, the applicant explained that the cellar is used for UG 9 catering use, and that the only entertainment is that associated with the catered events and that attendees are invited guests who do not pay a cover charge; and

WHEREAS, the applicant also responded that the first floor is solely occupied by UG 6 restaurant use without entertainment; and

WHEREAS, the Board accepts this clarification, and concludes that the Restaurant can safely accommodate these uses so long as the occupancy of each level in the Restaurant is limited as indicated above; and

WHEREAS, as to parking, the Board shared the Community Board's concern, and questioned whether the parking lot was able to accommodate the parking demands generated by the Restaurant's two uses; and

WHEREAS, the Board asked the applicant to explore various means of accommodating any excess parking demand, especially since any overflow from the lot might extend into the neighboring residential streets; and

WHEREAS, specifically, the Board suggested that the applicant investigate the removal of the storage containers situated in the parking lot (which would allow for more parking) and the requirement of valet parking during peak hours; and

WHEREAS, at the Board's request, the applicant performed an analysis of the parking need and represents that in a typical year there are only three high-volume days (certain holidays) when the parking lot cannot accommodate the parking demand; and

WHEREAS, additionally, the applicant indicated that two of the three storage containers currently located in the parking lot would be relocated offsite; and

WHEREAS, the applicant also agreed to provide valet parking during peak hours, from 3:00 p.m. until closing daily, and to provide valet parking at all times for any area of the parking lot that does not provide a 24 ft. aisle width; and

WHEREAS, additionally, the applicant provided documentation from a business across 23rd Avenue, Dollar Rental, stating that it would allow the Restaurant to use parking spaces at its business; the applicant agrees to post a sign in the Restaurant parking lot indicating the availability of this parking; and

WHEREAS, the applicant also represents that there are 30 on-street parking spaces in the vicinity that are not on residential streets, and that there is public parking available at the Clarion Hotel, adjacent to Dollar Rental; and

WHEREAS, the Board has reviewed these representations about parking, and agrees that any parking demand generated by the Restaurant can be accommodated without impacting residential streets, so long as the Restaurant complies with the conditions set forth below; and

WHEREAS, as to building safety, the Board expressed concerns about: (a) proper egress from the cellar, and (b) the fire safety of the thatched roofing materials, the wood decks, and the remaining exterior wood storage area; and

WHEREAS, in response to the Board's concerns about egress, the applicant consulted with DOB, and reported to the Board that DOB was awaiting Board approval on the requested legalizations and proposed modifications before evaluating the means of egress; and

WHEREAS, as indicated below, the Board defers review and approval of egress from both the first floor and cellar to DOB; and

WHEREAS, as to the roofing materials, the Board asked the applicant to have the materials appropriately evaluated and to submit proof that they were approved; and

WHEREAS, upon its own review of the materials, the Fire Department stated that although the chemical used to treat the thatched material was approved through 2009, it needed to be re-applied annually and the applicant was unable to provide proof that this had occurred; and

WHEREAS, further, the Fire Department stated that the chemical compound was not approved for exterior surfaces and that it would prefer to see a flame proof material used, rather a fire retardant material; and

WHEREAS, the Board directed the applicant to have DOB review the proposed roofing materials; and

WHEREAS, in response, the applicant revised the proposal to include a corrugated metal roof, with the straw material as an interior, fire-treated finish only; and

WHEREAS, the Fire Department also recommends that the entire building be sprinklered; and

WHEREAS, the applicant represents that the entire building is sprinklered; and

WHEREAS, in addition to the roofing materials, the Board also expressed concern about the illegally constructed wood decks; and

WHEREAS, after consulting with DOB, the applicant obtained a reconsideration stating that DOB would approve the legalization of the wood decks; and

WHEREAS, accordingly, the Board defers to DOB as to review and approval of the decks; and

MINUTES

WHEREAS, the Board also expressed concern about the exterior storage areas and the lack of a place of assembly permit; and

WHEREAS, in response, the applicant agreed to remove all but one exterior storage area, and to reconstruct this single area out of masonry; and

WHEREAS, further, the applicant represents that a place of assembly application has been submitted to DOB; and

WHEREAS, the Board notes that during the course of the hearing process, the applicant also resolved several minor violations not addressed above; and

WHEREAS, further, the applicant submitted revised plans reflecting the agreed upon site conditions; and

WHEREAS, given the applicant's representations and commitment to adhere to the noted conditions and all other all Building and Fire Code requirements, the Board agrees that any negative effect on the surrounding neighborhood that the Restaurant might generate is appropriately mitigated; and

WHEREAS, accordingly, based upon the submitted evidence, the Board finds the requested legalizations and proposed modifications appropriate, with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on July 16, 1963 and as subsequently amended, so that as amended this portion of the resolution shall read: "to legalize the following existing site modifications to an eating and drinking establishment and catering hall: the enclosed decks located on the north and east sides of the building, the entry to the cellar on 23rd Avenue, the roofed drive-through on 94th Street, the attached storage area closest to 93rd Street, and interior modifications in the cellar and on the first floor, *on condition* that the use shall substantially conform to drawings as filed with this application, marked 'Received October 3, 2006'-(6) sheets and 'October 23, 2006'-(1) sheet; and *on further condition*:

THAT the occupancy in the cellar level shall not exceed 240 persons and the occupancy on the first floor (including the enclosed decks) shall not exceed 320 persons (including employees);

THAT the hours of operation shall be limited to 11:00 a.m. to 2:00 a.m. daily;

THAT the accessory parking area shall be attended from 3:00 p.m. to closing daily, and any parking area without a 24 ft. aisle width shall be attended at all times;

THAT there shall be a minimum of 40 parking spaces provided onsite;

THAT there shall be no cabaret use at the Restaurant or cover charge for admittance to the first floor or cellar level;

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

THAT a new certificate of occupancy shall be obtained within six months of this grant (April 24, 2007);

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

THAT a new certificate of occupancy and public assembly

permit shall be obtained within six months of this grant;

THAT DOB shall review and approve all roofing materials and decorative elements at the interior and exterior of the building;

THAT DOB shall review and approve the parking lot layout;

THAT DOB shall review and approve compliance with all egress requirements;

THAT DOB shall review and approve the roofed drive-through;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (NB 5362/1961)

Adopted by the Board of Standards and Appeals, October 24, 2006.

1289-80-BZ

APPLICANT – Cozen O'Connor by Barbara Hair, Esq., for Fred Straus, owner; Bally Total Fitness, lessee.

SUBJECT – Application August 18, 2006 – Extension of Term of a variance allowing the operation of a Physical Culture establishment in a C1-3/R6 zoning district.

PREMISES AFFECTED – 298 West 231st Street, southwest corner of Tibbett Avenue, Block 5711, Lot 29, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: Peter Geis.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for an extension of the term for a previously granted variance for a Physical Culture Establishment (PCE), which expired on July 21, 2006; and

WHEREAS, a public hearing was held on this application on October 17, 2006 after due notice by publication in *The City Record*, and then to decision on October 24, 2006; and

WHEREAS, the subject premises is located on the southwest corner of West 231st Street and Tibbett Avenue; and

WHEREAS, the site is occupied by a one-story with cellar commercial building with approximately 23, 394 sq. ft. of floor area, located within a C1-3 (R6) zoning district; and

MINUTES

WHEREAS, the PCE is operated as a Bally's Total Fitness, which occupies all the floor area of the subject building; and

WHEREAS, on July 21, 1981, the Board granted a variance pursuant to ZR § 72-21, to permit the operation of a PCE in the subject building; and

WHEREAS, the term was most recently on June 23, 1998, and expired on July 21, 2006; and

WHEREAS, the instant application seeks to extend the term of the variance for an additional ten years; and

WHEREAS, the applicant represents that several minor site modifications changes have been made since the most recent Board approval; these modifications include a change to the signage and the elimination of secondary access to the parking lot; and

WHEREAS, additionally, the applicant proposes several interior layout changes; and

WHEREAS, the Board finds that the proposed modifications and a ten-year extension are appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated July 21, 1981, so that as amended this portion of the resolution shall read: "to grant an extension of the special permit for a term of ten years from the expiration of the last grant; *on condition* that the use and operation of the PCE shall substantially conform to BSA-approved plans, and that all work and site conditions shall comply with drawings marked 'Received September 19, 2006' – (4) sheets; and *on condition*:

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

THAT this grant shall be limited to a term of ten years from July 21, 2006, expiring July 21, 2016;

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

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

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

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

(Alt. No. 301/1980)

Adopted by the Board of Standards and Appeals, October 24, 2006.

331-98-BZ

APPLICANT – Sheldon Lobel, P.C., for Sean Porter, owner.
SUBJECT – Application April 20, 2006 – Application seeks an extension of term for a special permit under § 73-244 of

the zoning resolution which permitted the operation of an eating and drinking establishment with entertainment and dancing with a capacity of more than 200 persons at the premises. In addition the application seeks a waiver of the Board's Rules and Procedure due the expiration of the term on April 20, 2005. The site is located in a C2-3/R6 zoning district.

PREMISES AFFECTED – 1426-1428 Fulton Street, Southern side of Fulton Street between Brooklyn and Kingston Avenues, Block 1863, Lot 9, 10, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown....4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening and an extension of term of a previously granted special permit for an eating and drinking establishment with entertainment and dancing, which expired on April 20, 2005; and

WHEREAS, a public hearing was held on this application on August 22, 2006, after due notice by publication in *The City Record*, to continued hearing on October 17, 2006, and then to decision on October 24, 2006; and

WHEREAS, the site is comprised of two tax lots (Lots 9 and 10), has a lot area of approximately 7,000 sq. ft., and is located on the south side of Fulton Street, between Brooklyn and Kingston Avenues; and

WHEREAS, the site is located within a C2-3 (R6) zoning district and is improved upon with two buildings occupied by an eating and drinking establishment with entertainment and dancing with a capacity of more than 200 persons, doing business as The Lab Banquet Hall and Entertainment Facility; and

WHEREAS, the building on lot 9 is occupied by the main waiting area/lobby and accessory offices and the building on lot 10 is occupied by the entertainment facility; and

WHEREAS, the Board has exercised jurisdiction over the subject site since April 20, 1999, when, under the subject calendar number, the Board granted a special permit under ZR § 73-244 to permit the legalization of an existing eating and drinking establishment with entertainment and dancing with a capacity of more than 200 persons for a term of three years; and

WHEREAS, on April 8, 2002, the Board granted an additional three-year term and permitted the legalization of an addition to the rear of the premises; and

WHEREAS, the applicant now requests an extension of term; and

WHEREAS, the applicant represents that two interior layout modifications have been made since the last Board

MINUTES

approval; these include the removal of two stationary bars and the enlargement of the DJ booth; and

WHEREAS, the applicant also states that a new certificate of occupancy (CO) has not been obtained; and

WHEREAS, the applicant represents that the project architect is in the process of filing the application for the new CO and that it will be finalized upon the Board's grant of the requested extension; and

WHEREAS, additionally, the applicant represents that the required public assembly permits will be obtained after the new CO has been secured; and

WHEREAS, at hearing, the Board asked the applicant if there had been any complaints about the operation of the facility, particularly about noise; and

WHEREAS, the applicant responded that the facility had installed sound attenuation measures in accordance with the condition of the original grant and that it had not received any noise complaints; and

WHEREAS, the Board notes that the applicant notified neighbors within a 200 ft. radius of the site and that no complaints were received; and

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

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, as adopted on April 20, 1999, and as subsequently extended and amended, so that as amended this portion of the resolution shall read: "to extend the term of the special permit for an eating and drinking establishment with entertainment and dancing for five years from April 20, 2005, *on condition* that the use shall substantially conform to drawings as filed with this application, marked 'Received October 4, 2006' – (8) sheets; and *on further condition*:

THAT the term of this grant shall be for five years from the last expiration date, to expire on April 20, 2010;

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

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

THAT a new certificate of occupancy and public assembly permit shall be obtained within six months of this grant;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted." (DOB Application No. 300782160)

Adopted by the Board of Standards and Appeals, October 24, 2006.

558-71-BZ

APPLICANT – NYC Board of Standards and Appeals.

OWNER OF PREMISES: Dr. Anthony C. Banas

SUBJECT – Application January 27, 2006 – to consider dismissal for lack of prosecution.

PREMISES AFFECTED – 1949 Richmond Avenue, north of Rockland Avenue, Block 2030, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Application dismissed for lack of prosecution.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an amendment to legalize a change in use from a greenhouse with an accessory retail store (Use Group 6) to an eating and drinking establishment (Use Group 6); and

WHEREAS, the prior variance was granted on November 16, 1971, and permitted, within an R3-2 zoning district, the construction and maintenance of an existing nursery and greenhouse, pursuant to ZR § 72-21; and

WHEREAS, on March 25, 2005, the grant was amended by letter to permit interior renovations; and

WHEREAS, the application was filed on January 27, 2006 by Eric Palatnik, as the applicant on behalf of the fee owner; and

WHEREAS, on March 31, 2006, the Board's examination staff provided the applicant with a notice of objections; and

WHEREAS, the applicant did not provide a written response to the notice of objections or to the examiner's several phone inquiries; and

WHEREAS, accordingly, the Board placed the matter on the calendar for a dismissal hearing; and

WHEREAS, a notice of this hearing was then sent to the applicant on September 26, 2006; the applicant did not respond to this notice; and

WHEREAS, because of the applicant's lack of prosecution of this application, it must be dismissed in its entirety.

Therefore it is Resolved that the application filed under BSA Cal. No. 558-71-BZ is hereby dismissed for lack of prosecution.

Adopted by the Board of Standards and Appeals, October 24 2006.

181-38-BZ

APPLICANT – Michael Cosentino, for Michael Innella, owner.

SUBJECT – Application June 28, 2006 – Pursuant to ZR §11-411 for an extension of term to a gasoline service station (Sunoco) for a ten year term which expired on June 3, 2005, and Amendment to covert the existing service repair bays to a

MINUTES

convenience store and a waiver to file the application more than 30 days after the expiration of term. The premise is located in an R-3A(CD) zoning district.

PREMISES AFFECTED – 410-412 City Island Avenue, corner of Ditmars Street, Block 5645, Lot 6, Borough of The Bronx.

COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Fitzroy Thomas.

ACTION OF THE BOARD – Laid over to November 14, 2006, at 10 A.M. for continued hearing.

60-82-BZ

APPLICANT – Eric Palatnik, P.C., for BP Products North America, owner.

SUBJECT – Application August 1, 2006 – Extension of Term Filed pursuant to §11-411 of the zoning resolution for an automotive service station (Use Group 16) with accessory uses located within a C2-3/R7X zoning district. The term expired on July 7, 2006.

PREMISES AFFECTED – 60-11 Queens Boulevard, between 60th Street and 61st Street, Block 1338, Lot 1, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to January 9, 2007, at 10 A.M., for continued hearing.

131-93-BZ

APPLICANT – Eric Palatnik, P.C., for Al & Selwyn, Inc., owner.

SUBJECT – Application April 10, 2006 – Extension of Term/Amendment - pursuant to Z.R. §§11-411 and 11-412 to extend the term of an automotive service station which expired on November 22, 2004. The application seeks an amendment of the previous BSA resolution so as to authorize the enlargement of the existing one story masonry building to include two additional service bays and to expand the auto sales use to accommodate the display of twenty motor vehicles an increase from the previously approved five motor vehicles. The subject premises is located in a C2-2/R5 zoning district.

PREMISES AFFECTED – 3743-3761 Nostrand Avenue, north of the intersection of Avenue “Y”, Block 7422, Lot 53, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Adam Rothkrug.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4
Negative:.....0

ACTION OF THE BOARD – Laid over to November 14, 2006, at 10 A.M., for decision, hearing closed.

31-06-BZ

APPLICANT – NYC Board of Standards and Appeals.

OWNER OF PREMISES: Frank Falanga.

SUBJECT – Application February 24, 2006 – To consider dismissal for lack of prosecution.

PREMISES AFFECTED – 102-10 159th Road, Block 14182, Lot 88, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Laid over to December 12, 2006, at 10 A.M., for continued hearing.

APPEALS CALENDAR

102-06-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Marie & Louis Livan, lessees.

SUBJECT – Application May 23, 2006 – Proposed reconstruction and enlargement of an existing single family dwelling located in the bed of a mapped street (Oceanside Avenue) contrary to General City Law Section 35 and the upgrade of an existing private disposal system located in the bed of mapped street contrary to Section 35, Article 3 of General City Law.

PREMISES AFFECTED – 1 Arcadia Walk, intersection of Oceanside Avenue and Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD – Appeal granted.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated May 7, 2006, acting on Department of Buildings Application No. 402368852, reads in pertinent part:

“A1- The existing building to be altered lies within the bed of a mapped street contrary to General City Law Article 3, Section 35; and

A2- The proposed upgraded private disposal system is in the bed of a mapped street contrary to Department of Buildings Policy.”; and

WHEREAS, a public hearing was held on this application

MINUTES

on October 24, 2006 after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated June 9, 2006, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated June 12, 2006, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated September 26, 2006, the Department of Transportation states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated May 7, 2006, acting on Department of Buildings Application No. 402368852 is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received May 23, 2006"-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, October 24, 2006.

125-06-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative Inc., owner;

SUBJECT – Application June 14, 2006 – Proposed reconstruction and enlargement of an existing single family dwelling located partially in the bed of mapped street (Breezy Point Blvd.) contrary to General City Law Section 35 and the upgrade of an existing private disposal system located in the bed of mapped street and service road is contrary to Department of Buildings Policy. Premises is located within an R4 Zoning District.

PREMISES AFFECTED – 43 Kildare Walk, northeast corner of Kildare Walk and Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD – Application granted on

condition.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated June 7, 2006, acting on Department of Buildings Application No. 402381445, reads in pertinent part:

“A1- The existing building to be altered lies within the bed of a mapped street contrary to General City Law Article 3, Section 35;

A2- The proposed upgraded private disposal system is in the bed of a mapped street contrary to Department of Buildings Policy.”; and

WHEREAS, a public hearing was held on this application on October 24, 2006 after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated June 22, 2006, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated July 12, 2006, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated September 20, 2006, the Department of Transportation states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated May 7, 2006, acting on Department of Buildings Application No. 402381445 is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received June 14, 2006"-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

MINUTES

Adopted by the Board of Standards and Appeals,
October 24, 2006.

230-06-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Donald & Arlyn Kelly, owners.
SUBJECT – Application September 8, 2006 – Reconstruction and enlargement of an existing one family dwelling not fronting on a mapped street, contrary to Article 3, Section 36 of the General City Law. Premise is located within the R-4 zoning district.

PREMISES AFFECTED – 107 Beach 220th Street, east side Beach 220th Street, 119.23’ south of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4
Negative:.....0

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4
Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated August 11, 2006, acting on Department of Buildings Application No. 402412135, reads in pertinent part:

“A1-The street giving access to the existing building to be altered is not duly placed on the official map of the City of New York, Therefore:

- a) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.
- b) Existing dwelling to be altered does not have at least 8% of total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code.”; and

WHEREAS, a public hearing was held on this application on October 24, 2006 after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated September 17, 2006, the Fire Department states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated August 11, 2006, acting on Department of Buildings Application No. 402412135, 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 shall substantially conform to the drawing filed with the application marked “Received September 8, 2006”–one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals,
October 24, 2006.

286-05-A

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Ezra G. Levin, owner.

SUBJECT – Application September 14, 2006 – Proposed reconstruction and alteration of an existing building located in the bed of a mapped street (Sycamore Avenue) is contrary to General City Law Section 35. Premises is located within the R1-2 Zoning District.

PREMISES AFFECTED – 5260 Sycamore Avenue, east side of Sycamore between West 252nd Street and West 254th Street, Block 5939, Lot 380, Borough of The Bronx.

COMMUNITY BOARD #8BX

APPEARANCES –

For Applicant: James Power.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4
Negative:.....0

ACTION OF THE BOARD – Laid over to October 31, 2006, at 10 A.M., for decision, hearing closed.

337-05-A

APPLICANT – Adam W. Rothkrug, Esq., for Adragna Realty, LLC, owner.

SUBJECT – Application November 23, 2005 – An Appeal seeking a determination that the owner of said premises has acquired a common law vested right to continue development commenced under the prior R4 zoning district. Premises is located in a R4-A zoning district.

PREMISES AFFECTED – 1717 Hering Avenue, between Morris Park Avenue and Van Nest Avenue, Block 4115, Lot 23, Borough of The Bronx.

COMMUNITY BOARD #11BX

APPEARANCES –

MINUTES

For Applicant: Adam Rothkrug, Irena Adragna and Frank Pono.

For Opposition: Michael R. Treanor and Jenice Toledo.

ACTION OF THE BOARD – Laid over to December 5, 2006, at 10 A.M., for continued hearing.

85-06-BZY

APPLICANT – Sanford Solny, for Menachem Realty, Inc., owner.

SUBJECT – Application May 5, 2006 – Proposed extension of time to complete construction of a minor development pursuant to Z.R. §11-331 for a mixed use building under the prior R6 zoning district. New zoning district is R4-1.

PREMISES AFFECTED – 1623 Avenue “P”, northwest corner of Avenue “P” and East 17th Street, Block 6763, Lot 46, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to November 14, 2006, at 10 A.M., for continued hearing.

164-06-A

APPLICANT – Cozen O’Connor Attorneys, for Elba and Jeanette Bozzo, owners.

SUBJECT – Application July 26, 2006 – Appeal filed to challenging the Order of Closure issued by the Department of Buildings on June 30, 2006 pursuant to Administrative Code Section 26-127.2 regarding the use of the basement, first, second and third floor of the subject premises which constitutes an illegal commercial use in a residential district.

PREMISES AFFECTED – 148 East 63rd Street, south side of East 63rd Street, 120’ east of Park Avenue, Block 1397, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Peter Geis.

For Administration: Ingrid Addison and Lisa Orrantia, Department of Buildings.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to December 12, 2006, at 10 A.M., for decision, hearing closed.

270-06-A

APPLICANT – Commissioner of New York City Department of Buildings.

OWNER: Elba & Jeanette Bozzo

LESSEE: Relais and Chateaux

SUBJECT – Application October 5, 2006 – to revoke Certificate of Occupancy #26180, on the grounds that the non conforming Use Group 5 of the premises has been discontinued for a period of two or more years and therefore has lapsed pursuant to ZR § 52-61

PREMISES AFFECTED – 148 East 63rd Street, 120’ from south east corner of Lexington Avenue and East 63rd Street, Block 1397, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES –

For Applicant: Ingrid Addison, Department of Buildings.

For Opposition: Peter Geis.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to December 12, 2006, at 10 A.M., for decision, hearing closed.

Jeffrey Mulligan, Executive Director

Adjourned: A.M.

MINUTES

**REGULAR MEETING
TUESDAY AFTERNOON, OCTOBER 24, 2006
1:30 P.M.**

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

ZONING CALENDAR

199-05-BZ

CEQR #06-BSA-014M

APPLICANT – Joseph Morsellino, Esq., for Stefano Troia, owner.

SUBJECT – Application August 23, 2005 – under Z.R. §72-21 to allow a proposed twelve (12) story residential building with ground floor retail containing eleven (11) dwelling units in an M1-6 Zoning District; contrary to Z.R. §42-00.

PREMISES AFFECTED – 99 Seventh Avenue, located on the southeast corner of 7th Avenue and West 27th Street (Block 802, Lot 77), Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Joseph Morsellino.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated July 29, 2005, acting on Department of Buildings Application No. 104124626, reads in pertinent part:

“ZR 42-10 Proposed layout of 2-11 floors indicate residential use (UG 2) within M1-6 zone is not permitted.

ZR 43-43 Proposed building does not comply with height and setback requirements on 27th (narrow) street front. Show compliance with sky exposure requirement.”; and

WHEREAS, this is an application under ZR § 72-21, to permit within an M1-6 zoning district, the construction of a ten-story, nine-unit mixed-use residential and retail multiple dwelling, with a total Floor Area Ratio (FAR) of 9.99, a street wall height of 107 ft., and a total height of 130 ft., which does not comply with zoning requirements for use, street wall height, and set back, contrary to ZR §§ 42-10 and 43-43; and

WHEREAS, initially, the applicant proposed an eleven-story, 10-unit mixed-use dwelling, with a total FAR of 11.0, a street wall height of 85 ft. and a total height of 187 ft.; and

WHEREAS, as discussed more fully below, the Board expressed concerns about an 11.0 FAR building representing the minimum variance, and also noted that the 85 ft. street wall and

the 187 ft. overall height did not comport with the character of the neighborhood, especially along Seventh Avenue; and

WHEREAS, in particular, the Board noted that the FAR of 11.0 was based upon the presumption that the existing building at the site would be retained and enlarged, which was actually not proposed; and

WHEREAS, the applicant then revised the proposal to an FAR of 10.0, but maintained the street wall height at 85 ft.; and

WHEREAS, the Board continued to object, and the applicant subsequently revised the proposal to the current version; and

WHEREAS, a public hearing was held on this application on June 6, 2006, after due notice by publication in the *City Record*, with continued hearings on July 18, 2006, September 12, 2006 and October 17, 2006, and then to decision on October 24, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Babbar, and Commissioner Collins; and

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

WHEREAS, the condominium association and board of managers of 291 Seventh Avenue initially appeared in opposition to this application, stating that the applicant had not established that the site conditions were unique, that the building as initially proposed did not reflect the minimum variance, and that the Environmental Assessment Statement was deficient in that the impact of excavation was not addressed; and

WHEREAS, the Board notes that after the applicant revised the proposal to the current version, the opposition did not appear or make further submissions; and

WHEREAS, as reflected below, the applicant addressed the concerns about uniqueness and minimum variance; and

WHEREAS, further, excavation of the site must occur in compliance with all applicable provisions of the Building Code and other laws; and

WHEREAS, accordingly, the Board finds that none of the opposition’s arguments are persuasive or relevant; and

WHEREAS, the subject premises is a 1,683 sq. ft. corner lot with 24’-9” of frontage on Seventh Avenue (a wide street) and 68’-0” of frontage along West 27th Street (a narrow street), and is situated in the Chelsea neighborhood of Manhattan; and

WHEREAS, the site is currently developed with a 3,366 sq. ft., one- and two-story with cellar commercial building, occupied by a restaurant; and

WHEREAS, as noted above, the applicant proposes the demolition of this existing building, and the construction of a new ten-story building; and

WHEREAS, the proposed residential use is on floors two through ten; a duplex penthouse is proposed for the top floor, where the building sets back 10 feet on both frontages; and

WHEREAS, commercial use is proposed for the first floor, the first floor mezzanine and the cellar; and

WHEREAS, the Board notes that the building will be

MINUTES

designed using “green” environmentally friendly technology, but also notes that the costs related to such features were not considered by the Board as premium costs that would add to the degree of relief requested; and

WHEREAS, the non-conforming and non-complying parameters of the proposed building are as follows: UG 2 residential use (UG 2 is not permitted); residential floor area of 15,082 sq. ft. (residential floor area is not permitted); a residential FAR of 8.97 (residential FAR is not permitted); nine dwelling units (dwelling units are not permitted); a street wall height of 107 ft. (a street wall height of 85 ft. is the maximum permitted); a setback of 10 ft. on both frontages (a setback of 20 ft. is required on West 27th Street and a setback of 15 ft. is required on Seventh Avenue); and a sky exposure plane non-compliance; and

WHEREAS, the lack of compliance with the above-mentioned use and bulk provisions necessitates the instant variance application; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and an unnecessary hardship in developing the site in conformance and compliance with applicable regulations: (1) the site is unusually shallow and narrow; and (2) the site is unusually small; and

WHEREAS, while the Board acknowledges that the site is small, shallow and narrow, it asked the applicant to further establish that such conditions were unique to the site, and requested a study of a broader area for comparison; and

WHEREAS, the applicant then submitted a revised land use map, showing the area along Seventh Avenue from West 25th Street to West 31st Street; and

WHEREAS, in response to the concerns of the Board, the applicant cited to this revised map and noted that the site is the only small lot in this area that is both narrow and shallow to the degree noted; and

WHEREAS, the applicant further notes that of the 113 lots in this area, only five lots have a narrow frontage and shallow depth similar to the subject lot; and

WHEREAS, the Board agrees that the shallowness, narrowness and size of the subject lot are unusual in the immediate area and in the subject M1-6 zoning district; and

WHEREAS, the Board also agrees that the small size of the lot does not allow for the creation of efficient floor plates that could sustain a viable manufacturing/commercial development; and

WHEREAS, based upon the above, the Board finds that the above-mentioned unique physical conditions inherent to the subject zoning lot, namely, the smallness, shallowness and narrowness of the site, create unnecessary hardship and practical difficulty in developing it in conformance and compliance with the applicable regulations; and

WHEREAS, the applicant initially submitted a feasibility study analyzing the following as-of-right scenario: a 10.2 FAR, 18-story office building, utilizing the existing building’s perimeter walls; and

WHEREAS, the study concluded that this scenario would

not result in a reasonable return, due to increased construction costs related to the size and depth of the site, as well as its corner location and the poor returns that the small floor plates would generate; and

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

WHEREAS, the applicant represents that the surrounding area is characterized by buildings occupied by residential use, and cites to residential development above the lowest floor in buildings on the same block, and in the general area; and

WHEREAS, more specifically, the applicant cites to an eleven-story condominium on the same block; and

WHEREAS, the applicant also cites to two 20-story condominiums location on the block across West 27th Street; and

WHEREAS, the applicant notes that there are other condominium buildings along West 27th Street; and

WHEREAS, finally, the applicant notes that Block 775, which is diagonally across from the subject block, was recently rezoned C6-3X, and allows residential development as of right; the applicant cites to an 18-story multiple dwelling on this block; and

WHEREAS, the Board agrees that the immediate and surrounding area has a sufficient residential context such that additional residential use will not have a negative effect on the character of the neighborhood; and

WHEREAS, however, as noted above, the Board determined that the initial proposal did not comport with the character of the neighborhood in terms of its bulk because no context exists for an 11.0 FAR, 187 ft. high building, with a street wall height of 85 ft. along Seventh Avenue; and

WHEREAS, the Board notes that the overwhelming majority of buildings in the neighborhood are high street wall loft-style buildings that do not setback at 85 ft.; and

WHEREAS, the Board notes that relatively recent rezonings in Southeast Chelsea, along Avenue of the Americas, and along Seventh Avenue, as well as the Ladies Mile rezoning, all allow high FAR residential development, but the areas subject to these rezonings all had an existing high street wall context and the new zoning parameters imposed by the rezonings encouraged high street wall development (particularly along Seventh Avenue); and

WHEREAS, for this reason, the Board expressed concern about both the initial and intermediate proposals, and suggested that the applicant propose a building with a different envelope; and

WHEREAS, specifically, the Board asked the applicant to analyze a building with a 9.0 FAR (which would comport with the allowable FAR in a C6-3X zoning district) and a building with a 10.0 FAR (which would comport with the allowable FAR in a C6-4A zoning district); and

WHEREAS, as noted above, the applicant then modified the proposal to comport with a C6-4A-equivalent envelope; the building is now at 9.99 FAR, with a street wall height at 107 ft.

MINUTES

and a total height of 130 ft., which is consistent with the high street wall context and lesser overall building heights along Seventh Avenue; and

WHEREAS, the Board concludes that the envelope of the building as now proposed would be more consistent with both the character of the neighborhood as well as the land use policies for the area; and

WHEREAS, based upon the above, 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 the hardship herein was not created by the owner or a predecessor in title, but is rather the result of the above-mentioned unique physical conditions inherent to the subject zoning lot, which has been in its current configuration since prior to 1961; and

WHEREAS, in terms of establishing the minimum variance, the Board notes that for the initial proposal scenario, it questioned the proposed sell-out value for the residential units; and

WHEREAS, in response, the applicant submitted a supplementary letter explaining that the comparables used to establish the average sell-out value were in fact reasonable comparables; and

WHEREAS, the Board finds that this letter is a sufficient response to its concerns, and notes that the same comparables were used to establish sell-out value in the later feasibility studies, including that of the final proposal; and

WHEREAS, in addition to analyzing the conforming office scenario, the initial proposal and the final proposal, the applicant also submitted a financial analysis of the C6-3X scenario mentioned above; and

WHEREAS, the applicant concludes that such a scenario would not realize a reasonable return; and

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

WHEREAS, based upon the above, 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 Sections 617.6(h) and 617.2(h) of 6NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 06BSA014M, dated September 7, 2005; and

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

Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §72-21 and grants a variance to permit within an M1-6 zoning district, the construction of a ten-story, nine-unit mixed-use residential and retail multiple dwelling, with a total Floor Area Ratio of 9.99, a street wall height of 107 ft., and a total height of 130 ft., which does not comply with zoning requirements for use, street wall height, and set back, contrary to ZR §§ 42-10 and 43-43, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 23, 2006"- nine (9) sheets; and *on further condition*:

THAT the bulk parameters of the building shall be as follows: ten stories, nine dwelling units, a residential FAR of 8.97; a commercial FAR of 1.02; a total FAR of 9.99; a total height of 130'-4"; a street wall height of 107 ft.; a setback of 10 ft. on all frontages; and sky exposure planes as indicated on the BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, October 24, 2006.

58-06-BZ

MINUTES

CEQR #06-BSA-071M

APPLICANT – Sheldon Lobel, P.C., for Rose Weinstein, owner.

SUBJECT – Application March 31, 2006 – Zoning variance under §72-21 to allow retail use (U.G. 6) to be located on the first floor and cellar level of an existing building in an M1-5B district; contrary to §42-10.

PREMISES AFFECTED – 499 Broadway, 100' north of Broome Street, Block 484, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Richard Lobel and Doris Diether, Community Board #2.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated July 17, 2006 acting on Department of Buildings Application No. 104356233, reads in pertinent part:

“Proposed commercial use group 6 is not permitted as of right in M1-5B zoning district – this is contrary to section 42-10 ZR.

Proposed project is also contrary to ZR 42-14(d)(2)(b) which specifies the use regulations for commercial and manufacturing uses below the floor level of the second story in M1-5B.”; and

WHEREAS, this is an application under ZR § 72-21, to permit within an M1-5B zoning district within the SoHo Cast Iron Historic District, the conversion of the first floor and cellar of an existing four-story building to a commercial retail use (UG 6), contrary to ZR §§ 42-10 and 42-14; and

WHEREAS, a public hearing was held on this application on September 26, 2006, after due notice by publication in the *City Record*, and then to decision on October 24, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, including Chair Srinivasan and Commissioner Collins; and

WHEREAS, Community Board 2, Manhattan, recommends approval of the application, with the recommendation that the entrance to the proposed retail use be on Broadway rather than Mercer Street; and

WHEREAS, the subject premises is located on a through lot located between Broadway and Mercer Street, approximately 100 feet north of Broome Street; and

WHEREAS, the site has a lot area of approximately 4,000 sq. ft.; and

WHEREAS, the lot has a depth of 200 feet, with a width of 20'-5 ¾" on Mercer Street and 19'-9 ½" on Broadway; and

WHEREAS, the site is currently occupied with a four-story mixed-use building with an interior court in the middle of

the building, which is open above the first floor; and

WHEREAS, the applicant proposes to divide the first floor and cellar level into separate spaces for commercial retail use with access from the Mercer Street and Broadway frontages; and

WHEREAS, the three upper floors are occupied by Joint Living Work Quarters for Artists (JLWQA) (UG 17D) and the first floor and cellar is occupied by storage (UG 16); and

WHEREAS, the uses on the three upper floors will not change and are not included in the proposal; and

WHEREAS, the site is the subject of two prior Board actions, under BSA Cal. Nos. 267-61-A (sprinklering) and 502-83-ALC (conversion contribution), and a November 1984 special permit from the City Planning Commission (CPC) permitting JLWQA use on the upper floors; and

WHEREAS, the Board notes that a CPC special permit is available for the requested use change; and

WHEREAS, however, the applicant states that it cannot pursue this special permit because the subject space is currently occupied by a tenant and therefore the applicant cannot make a good faith marketing attempt as required; and

WHEREAS, because UG 6 retail is not permitted as of right or below the second floor in an M1-5B zoning district, the requested waivers are necessary; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in conformance with underlying district regulations: (1) the lot is narrow, and (2) the existing building is obsolete for manufacturing use; and

WHEREAS, as to narrowness, the applicant represents that the narrow width of the through lot results in narrow, relatively small floor plates that are inefficient for conforming uses, such as warehouses and wholesale distributors; and

WHEREAS, the applicant asserts that the floor plates would be impractical for either industrial or office use as it would be difficult to build out the narrow space either as a whole or divided for multiple uses with access from the separate frontages; and

WHEREAS, as to the uniqueness of this condition, the applicant represents that the site is the narrowest lot within a 400 ft. radius of the site, as evidenced by a submitted radius diagram; and

WHEREAS, further, the applicant analyzed the 15 through lots within the radius, and determined that the average frontage of such lots is 55 feet; and

WHEREAS, the Board reviewed the submitted diagram and agrees that the subject lot is the only one within the radius with such limited frontage; and

WHEREAS, as to the obsolescence of the building for a conforming use, the applicant cites to the following limitations: (1) there is no passenger elevator; (2) access to the building is limited to two pedestrian sized doors on each frontage; and (3) there is no loading dock or space to install one; and

WHEREAS, the applicant represents that it would be difficult to receive and transfer bulk shipments and to provide adequate access to the building for a conforming use based on

MINUTES

these inefficiencies; and

WHEREAS, the applicant notes that although the obsolescence affects the entire building, the second through fourth floors will be maintained as JLWQA and the applicant is only seeking relief for the cellar level and ground floor; and

WHEREAS, the Board agrees that the unique physical conditions cited above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study analyzing the following scenarios, all of which include the existing JLWQA tenants on the upper floors: (1) an as of right warehouse/storage use on the ground floor, (2) an as of right business service establishment on the ground floor, and (3) the proposed ground floor and cellar retail use; and

WHEREAS, the applicant asserts that the two as of right scenarios would result in a negative rate of return and that the proposed use is the minimum necessary to achieve a reasonable return; and

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

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant notes that no changes to the exterior of the building are proposed; and

WHEREAS, the applicant notes that many of the buildings in the immediate vicinity are used for commercial purposes on the first floor with residential or loft space above; and

WHEREAS, specifically, the applicant represents that there are 25 commercial stores on the first floor of buildings within the 200 ft. radius, all within M1-5A and M1-5B zoning districts; and

WHEREAS, the Board notes that the applicant obtained a Certificate of No Effect from the Landmarks Preservation Commission for the proposal; and

WHEREAS, based upon the above, 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 the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the applicant represents that the proposed represents the minimum variance needed to allow for a reasonable and productive use of the site; and

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

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

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Sections 617.6(h) and 617.2(h) of 6

NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 06BSA071M, dated July 20, 2006; and

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

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

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

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 within an M1-5B zoning district within the SoHo Cast Iron Historic District, the conversion of the first floor and cellar of an existing four-story building to a commercial retail use (UG 6), contrary to ZR §§ 42-10 and 42-14; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 5, 2006"—five (5) sheets; and *on further condition*:

THAT the internal floor layouts on each floor of the proposed building shall be as reviewed and approved by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, October 24, 2006.

176-06-BZ

APPLICANT— Lewis E. Garfinkel, R.A., for Aryeh Adler, owner.

MINUTES

SUBJECT – Application August 16, 2006 – Pursuant to ZR 73-622 for the enlargement of a single family home which proposes less than the minimum rear yard, ZR 23-47, side yards, ZR 23-461, open space, ZR 23-141 and exceeds the permitted FAR, ZR 23-141. The premise is located in an R2 zoning district.

PREMISES AFFECTED – 1253 East 28th Street, east side of East 28th Street, Block 7646, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lewis Garfinkel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated August 15, 2006, acting on Department of Buildings Application No. 302180333, reads in pertinent part:

- “1. Proposed plans are contrary to Z.R. 23-141(a) in that the proposed Floor Area Ratio (FAR) exceeds the permitted 50%.
 2. Proposed plans are contrary to Z.R. 23-141(a) in that the proposed Open Space Ratio (OSR) is less than the required 150%.
 3. Plans are contrary to Z.R. 23-461(a) in that the existing minimum side yard is less than the required minimum 5’-0”.
 4. Proposed plans are contrary to Z.R. 23-47 in that the proposed rear yard is less than 30’-0”.”;
- and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family dwelling, which does not comply with the zoning requirements for Floor Area Ratio (FAR), floor area, open space ratio, and rear and side yards, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on October 17, 2006, after due notice by publication in *The City Record*, and then to decision on October 24, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chair Srinivasan and Commissioner Collins; and

WHEREAS, the subject lot is located on the east side of East 28th Street, between Avenue L and Avenue M; and

WHEREAS, the subject lot has a total lot area of 3,000 sq. ft., and is occupied by a 2,244 sq. ft. (0.748 FAR) single-family home; and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,244 sq. ft. (0.748 FAR) to 2,411.85 sq. ft. (0.80

FAR); the maximum floor area permitted is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will decrease the open space ratio from 61.6 percent to 56.8 percent (the minimum permitted open space ratio is 150 percent); and

WHEREAS, the proposed enlargement will maintain the existing non-complying side yard of 3’-0” and the complying side yard of 10’-8” (side yards totaling 13’-0” are required with a minimum width of 5’-0” for each); and

WHEREAS, the proposed enlargement will reduce the rear yard from 30’-2” to 20’-0” (the minimum rear yard required is 30’-0”); and

WHEREAS, the enlargement of the building into the rear yard is not located within 20’-0” of the rear lot line; and

WHEREAS, the proposed enlargement will be one story with a cellar and will be located entirely at the rear of the existing home; and

WHEREAS, the Board notes that the enlargement will not be clearly visible from the street; and

WHEREAS, the Board notes that the FAR increase is comparable to other FAR increases that the Board has granted through the subject special permit for lots of comparable size in the subject zoning district; and

WHEREAS, the Board also notes that the FAR request is reasonable as it represents a small increase to the existing FAR; and

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, in an R2 zoning district, the proposed enlargement of a single-family dwelling, which does not comply with the zoning requirements for Floor Area Ratio (FAR), floor area, open space ratio, and rear and side yards, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received August 16, 2006”–(9) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the above condition shall be set forth in the certificate of occupancy;

MINUTES

THAT the following shall be the bulk parameters of the building and the yard coverage and dimensions: a total floor area of 2,411.85 sq. ft., a total FAR of .80, one side yard of 3'-0", one side yard of 10'-8", a rear yard of 20'-0", and an open space ratio of 56.8 percent, as illustrated on the BSA-approved plans;

THAT the use and layout of the cellar shall be as approved by DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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

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

Adopted by the Board of Standards and Appeals, October 24, 2006.

165-05-BZ

APPLICANT – Sullivan Chester & Gardner, P.C., for 801-805 Bergen Street, LLC, owner.

SUBJECT – Application July 25, 2005 – Variance Z.R. §72-21 to permit the propose four-story residential building, located in an M1-1 zoning district.

PREMISES AFFECTED – 799-805 Bergen Street, North Side, 156'-3" East of Grand Avenue, Block 1141, Lots 76-79, Borough of Brooklyn.

COMMUNITY BOARD #8BK

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to December 5, 2006, at 1:30 P.M., for deferred decision.

288-05-BZ

APPLICANT – Harold Weinberg, P.E., for Maria Musacchio, owner.

SUBJECT – Application September 16, 2005 – Pursuant to ZR §73-622 Special Permit for an In-Part Legalization to a single family home which exceeds the allowable floor area ratio and is less than the allowable open space, 23-141 and exceeds the maximum allowable perimeter wall height, 23-631. The premise is located in an R3-1 zoning district.

PREMISES AFFECTED – 1060 82nd Street, South side, 197'3" west of 11th Avenue, between 10th Avenue, Block 6012, Lot 30, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES –

For Applicant: Harold Weinberg, Maria Musacchio, Philip Musacchio and Eduardo Nuñez.

For Opposition: Adriano Santini, Violet Santini, Thomas A. Delorazzo and Ted K.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar,

Commissioner Collins and Commissioner Ottley-Brown.....4
Negative:.....0

ACTION OF THE BOARD – Laid over to November 14, 2006, at 1:30 P.M. for decision, hearing closed.

290-05-BZ

APPLICANT – Stuart A. Klein, for Yeshiva Imrei Chaim Viznitz, owner.

SUBJECT – Application September 19, 2005 and updated April 19, 2006 – Variance pursuant to Z.R. §72-21 to permit a catering hall (Use Group 9) accessory to a synagogue and yeshiva (Use Groups 4 & 3). The site is located in an R5 zoning district.

PREMISES AFFECTED – 1824 53rd Street, south side, 127.95' east of the intersection of 53rd and 18th Avenue, Block 5480, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant:

THE VOTE TO REOPEN HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to November 21, 2006, at 1:30 P.M., for continued hearing.

60-06-A

APPLICANT – Stuart A. Klein, for Yeshiva Imrei Chaim Viznitz, owner.

SUBJECT – Application April 5, 2006 – Request pursuant to Section 666 of the New York City Charter for a reversal of DOB's denial of a reconsideration request to allow a catering use as an accessory use to a synagogue and yeshiva in an R5 zoning district.

PREMISES AFFECTED – 1824 53rd Street, south side, 127.95' east of the intersection of 53rd and 18th Avenue, Block 5480, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant:

THE VOTE TO REOPEN HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to November 21, 2006, at 1:30 P.M., for continued hearing.

29-06-BZ

APPLICANT– Sheldon Lobel, P.C., for Iliva Honovich, owner.

SUBJECT – Application February 16, 2006 – Zoning variance pursuant to ZR § 72-21 to allow a proposed multiple family dwelling containing fourteen (14) dwelling units to violate applicable floor area, open space, lot coverage, density, height and setback, and front and side yards

MINUTES

requirements; contrary to ZR §§ 23-141, 23-22, 23-45, 23-461 and 23-633. Premises is located within an R4 district. PREMISES AFFECTED – 1803 Voorhies Avenue, East 18th Street and East 19th Street, Block 7463, Lots 47, 49, Borough of Brooklyn.

COMMUNITY BOARD # 15BK

APPEARANCES –

For Applicant: Irving Minkin.

ACTION OF THE BOARD – Laid over to January 9, 2007, at 1:30 P.M., for continued hearing.

36-06-BZ

APPLICANT – Sheldon Lobel, P.C., for The RNR Group Ltd., owner.

SUBJECT – Application March 1, 2006 – Special Permit pursuant to Z.R. §73-53 to permit the enlargement of an existing non-conforming manufacturing building located within a district designated for residential use (R3-2). The application seeks to enlarge the subject contractor's establishment (Use Group 16) by 2,485 square feet.

PREMISES AFFECTED – 2125 Utica Avenue, east side of Utica Avenue between Avenue M and Avenue N, Block 7875, Lot 20, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to December 5, 2006, at 1:30 P.M. for continued hearing.

41-06-BZ

APPLICANT– Steven Sinacori, Stadtmauer Bailkin, LLP, for New York Hospital Queens, owner.

SUBJECT – Application March 9, 2006 – Variance pursuant to Z.R. §72-21 to allow a predominantly below-grade group parking facility, accessory to New York Hospital Queens, to violate applicable front and side yard requirements. Site is located within R4 and R4/C1-2 districts (proposed as part of a Large Scale Community Facility Plan); contrary to Z.R. §24-33, §24-34, and §24-35. 42-06-BZ: Variance pursuant to Z.R. §72-21 to allow a new five-story hospital building, to be constructed on the existing campus of New York Hospital – Queens, to violate applicable height, setback and rear yard equivalent requirements. Project site is located within an R4 district (proposed as R6 within Large Scale Community Facility Plan); contrary to Z.R. §24-522 and §24-382.

PREMISES AFFECTED – 139-24 Booth Memorial Avenue, south side of Booth Memorial Avenue and West side of 141st Street, Block 6410, Lots 1, 19, 21, 24, 25, 26, 28, Borough of Queens.

COMMUNITY BOARD # 7Q

APPEARANCES –

For Applicant: Steven Sinacori, Francis Gunther and Chuck Apecian, Community Board #7Q.

For Opposition: Ray DiPaoci, Monica Pinzon, Mae Montagna and Ezeucca Solano.

ACTION OF THE BOARD – Laid over to November

14, 2006, at 1:30 P.M., for decision, hearing closed.

42-06-BZ

APPLICANT– Steven Sinacori, Stadtmauer Bailkin, LLP for New York Hospital Queens, owner.

SUBJECT – Application March 9, 2006 – Variance pursuant to Z.R. §72-21 to allow a predominantly below-grade group parking facility, accessory to New York Hospital Queens, to violate applicable front and side yard requirements. Site is located within R4 and R4/C1-2 districts (proposed as part of a Large Scale Community Facility Plan); contrary to Z.R. §24-33, §24-34, and §24-35. 42-06-BZ: Variance pursuant to Z.R. §72-21 to allow a new five-story hospital building, to be constructed on the existing campus of New York Hospital – Queens, to violate applicable height, setback and rear yard equivalent requirements. Project site is located within an R4 district (proposed as R6 within Large Scale Community Facility Plan); contrary to Z.R. §24-522 and §24-382.

PREMISES AFFECTED – 139-24 Booth Memorial Avenue, south side of Booth Memorial Avenue and West side of 141st Street, Block 6410, Lots 1, 19, 21, 24, 25, 26, 28, Borough of Queens.

COMMUNITY BOARD # 7Q

APPEARANCES –

For Applicant: Steven Sinacori and Francis Gunther.

ACTION OF THE BOARD – Laid over to November 14, 2006, at 1:30 P.M., for decision, hearing closed.

64-06-BZ

APPLICANT – Greenberg Traurig LLP/Jay A. Segal, for 363 Lafayette LLC, owner.

SUBJECT – Application April 11, 2006 – Zoning variance pursuant to Z.R. §72-21 to allow a seven (7) story multi-family residential building with ground floor retail containing fourteen (14) dwelling units. The site is located within an M1-5B district; contrary to Z.R. 42-10.

PREMISES AFFECTED – 363-371 Lafayette Street, between Great Jones and Bond Streets, Block 530, Lot 17, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES – None.

ACTION OF THE BOARD – Laid over to November 21, 2006, at 1:30 P.M., for adjourned hearing.

106-06-BZ

APPLICANT– Sheldon Lobel, P.C., for Mendel Bobker, owner.

SUBJECT – Application May 23, 2006 – Pursuant to ZR §73-622 Special Permit to allow the enlargement of a two-family residence which exceeds the allowable floor area ratio per ZR 23-141, side yards less than the minimum per ZR 23-461 and proposes a rear yard less than the minimum required per ZR 23-47. The premise is located in an R-2 zoning

MINUTES

district.

Jeff Mulligan, Executive Director

PREMISES AFFECTED – 1436 East 28th Street, west side of East 28th Street, 280 between Avenue N and Kings Highway, Block 7681, Lot 62, Borough of Brooklyn.

Adjourned: 3:30 P.M.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel.

For Opposition: Frank Puleo.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to October 31, 2006, at 1:30 P.M. for decision, hearing closed.

121-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Leemilt’s Petroleum, Inc., owner.

SUBJECT – Application June 12, 2006 – Application filed pursuant to sections 11-411 & 11-12 of the zoning resolution to request the re-establishment of the previously granted variance permitting the operation of an automotive service station in a R7-1 zoning district and to legalize certain minor amendments made to the previously approved plans.

PREMISES AFFECTED – 495 East 180th Street, northwest corner of the intersection formed between 180th Street and Bathgate Avenue, Block 3047, Lot 21, Borough of The Bronx.

COMMUNITY BOARD #6BX

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Laid over to November 21, 2006, at 1:30 P.M., for continued hearing.

158-06-BZ

APPLICANT – Lewis E. Garfinkel, R.A., for Debbie Tokayer, owner.

SUBJECT – Application July 18, 2006 – Pursuant to ZR 73-622 for the enlargement of a single family residence which is contrary to ZR 23-141 for open space and floor area, ZR 23-461 for less than the minimum side yards and ZR 23-47 for less than the required rear yard. The premise is located in an R-2 zoning district.

PREMISES AFFECTED – 1410 East 22nd Street, West side of East 22nd Street, 380’ south of Avenue M, Block 7657, Lot 66, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lewis E. Garfinkel.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Collins and Commissioner Ottley-Brown.....4

Negative:.....0

ACTION OF THE BOARD – Laid over to November 14, 2006, at 1:30 P.M. for decision, hearing closed.
