BULLETIN

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DIRECTORY

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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

JANUARY 23, 2007, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, January 23, 2007, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

1053-88-BZ
APPLICANT – Freda Design Associates, Ltd., for Isidore Izzo, owner.
SUBJECT – Application August 23, 2006 - Extension of Term and waiver of the rules for a variance (§72-21) to allow a (UG6) pharmacy (Rite-Aid) in a R7-1 zoning district which expired on September 27, 2004.
PREMISES AFFECTED – 590/596 East 183rd Street, located between Arthur Avenue and Adams Avenue, Block 3071, Lots 16 & 17, Borough of The Bronx.
COMMUNITY BOARD #6BBX

20-02-BZ
APPLICANT – The Law Office of Fredrick A. Becker, for 303 Park Avenue South Leasehold Co., LLC, owner; New York Sports Club, lessee.
SUBJECT – Application September 18, 2006 - Extension of Term/Amendment-To allow the operation of a Physical Culture Establishment/Health Club and change in hour of operation, on portions of the cellar, first floor and second floor of the existing five story mixed use loft building.
PREMISES AFFECTED – 303 Park Avenue South, northeast corner of Park Avenue South and East 23rd Street, Block 879, Lot 1, Borough of Manhattan.
COMMUNITY BOARD #5M

265-02-BZ
APPLICANT – Peter Hirshman, for Ramakrishna Vivekananda Center, owner.
SUBJECT – Application October 13, 2006 - Extension of time to complete construction and to obtain a Certificate of Occupancy which expires on August 12, 2007 for a community facility use (UG4) (Ramakrishna-Vivekananda Center of New York) located in an R8B and R10 zoning district.
PREMISES AFFECTED – 19 East 94th Street, south side 108' west of the intersection of Madison Avenue, Block 1506, Lot 13, Borough of Manhattan.
COMMUNITY BOARD #8M

383-04-BZ
APPLICANT – New York City Board of Standards and Appeals.
OWNER: Israel Realty; lessee: Total Fitness & Karate Center
SUBJECT – Application December 6, 2004 – To consider dismissal for lack of prosecution.
PREMISES AFFECTED – 46-21 Greenpoint Avenue, 47th Street, Block 152, Lot 1, Borough of Queens.
COMMUNITY BOARD #2 Q

312-05-BZ
APPLICANT – New York City Board of Standards and Appeals.
OWNER: Gladiator Gymnasium.
SUBJECT – Application October 19, 2005 – To consider dismissal for lack of prosecution.
PREMISES AFFECTED – 82-24 Northern Boulevard, between 82nd and 83rd Streets, Block 1430, Lot 6, Borough of Queens.
COMMUNITY BOARD #3Q

APPEALS CALENDAR

77-06-A & 78-06-A
APPLICANT – Stephen J. Rizzo, Esq., for Block 7092 LLC, owner.
SUBJECT – Application April 27, 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 zoning district regulations in effect as of March 1999. R3-2 Zoning District.
PREMISES AFFECTED – 96 Crabtree Avenue, Woodrow Road east of Turner Street, Block 7092, Lot 1, Block 7105, Lots 555 & 561, Borough of Staten Island.
COMMUNITY BOARD #3SI

105-05-A
APPLICANT – New York City Board of Standards and Appeals.
OWNER: Elizabeth Iocovello.
SUBJECT – Application May 9, 2005 – To consider dismissal for lack of prosecution.
PREMISES AFFECTED – 3242 Reservoir Oval East, south side, approx. 240' east of Bainbridge Avenue, west of Holt Place, Block 3343, Lot 28, Borough of The Bronx.
COMMUNITY BOARD #7BX

229-06-A
APPLICANT – Sheldon Lobel, P.C., for Breezy Point

Cooperative, Inc., owner; Thomas Carroll, lessee.
SUBJECT – September 6, 2006 - Appeal seeking to revoke permits and approvals for the reconstruction and enlargement of an existing one family dwelling which creates new non-compliances, increases the degree of existing non-compliances with the bulk provisions of the Zoning Resolutions and violates provisions of the Building Code, regarding access and fire safety. R4 - Zoning District.
PREMISES AFFECTED – 607 Bayside Drive, adjacent to service road, Block 16350, Lot 300, Borough of Queens.
COMMUNITY BOARD #14Q

287-05-A
APPLICANT – New York City Board of Standards and Appeals.
OWNER: 32-42 33 Street, LLC, owner.
SUBJECT – Application September 15, 2005 – To consider dismissal for lack of prosecution.
PREMISES AFFECTED – 32-42 33rd Street, between Broadway and 34th Avenue, Block 612, Lot 53, Borough of Queens.
COMMUNITY BOARD #1Q

JANUARY 23, 2007, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, January 23, 2007, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

151-04-BZ
APPLICANT– Philips Nizer, LLP, for Fred M. Schildwachter & Son, Inc., c/o Dan Schildwachter, owner; Adriana A. Salamone, lessee.
SUBJECT – Application April 9, 2004 - Special Permit (§73-36) to permit the legalization of an existing physical culture establishment (Star Fitness) in an M3-1 Zoning District.
PREMISES AFFECTED – 1385 Commerce Avenue, southwest corner of Butler Place, Block 1385, Lot 13, Borough of The Bronx.
COMMUNITY BOARD #10BX

25-06-BZ
APPLICANT– Dominick Salvati and Son Architects, for Josef Packman, owner.
SUBJECT – Application February 14, 2006 - Variance (§ 72-21) to allow an eight (8) story residential building with ground floor community facility use to violate applicable regulations for dwelling unit density (§ 23-22), street wall height (§ 23-631 & § 24-521), maximum building height (§ 23-631), front yard (§ 24-34), side yards (§ 24-35 & §24-551), FAR (§ 24-11, 24-162 & 23-141) and lot coverage (§ 23-141 & § 24-11). Project is proposed to include 29 dwelling units and 31 parking spaces. R3-2 district.
PREMISES AFFECTED – 2908 Nostrand Avenue, Block 7690, Lots 79 and 80, Borough of Brooklyn.
COMMUNITY BOARD #15BK

103-06-BZ
APPLICANT– Eric Palatnik, P.C., for Charles Mandlebaum, owner.
SUBJECT – Application May 23, 2006 - Special Permit (73-622) for the enlargement of a single family residence. This application seeks to vary open space and floor area (23-141(a)) and rear yard (23-47) in R-2 zoning district.
PREMISES AFFECTED – 1324 East 23rd Street, East 23rd Street between Avenues M and N, Block 7658, Lot 60, Borough of Brooklyn.
COMMUNITY BOARD #14BK

107-06-BZ
APPLICANT– Kramer Levin Naftalis & Frankel, LLP, for Barbizon Hotel Associates, L.L.P.
SUBJECT – Application May 25, 2006 - Special Permit (§ 73-36) To allow a physical culture establishment use (Equinox) in the cellar, subcellar, first floor and second floor of a 22 story mixed use building. C1-8X/R8B zoning district.
PREMISES AFFECTED – 140 East 63rd Street, northwest corner block bounded by Lexington and Third Avenues, Block 1397, Lot 49, Borough of Manhattan.
COMMUNITY BOARD #8M

133-06-BZ
APPLICANT– The Law Office of Fredrick A. Becker, for Parish of Trinity Church, owner; TSI Varick Street dba New York Sports Club; lessee.
SUBJECT – Application June 23, 2006 – Special Permit (§73-36) Proposed physical culture establishment to be located on the second floor of an existing 12 story commercial building. M1-5 Zoning District.
PREMISES AFFECTED – 225 Varick Street, westerly side of Varick Street between West Houston Street and Clarkson Street, Block 581, Lot 63, Borough of Manhattan.
COMMUNITY BOARD #2M

175-06-BZ

APPLICANT– Rothkrug Rothkrug & Spector, for Sal Calcagno & Family Realty, LLC, owner.
SUBJECT – Application August 14, 2006 – Special Permits (Sections 73-243 and 73-44) to allow, within C1-1 (R1-2) (NA-1) zoning districts, the development of an eating and drinking establishment (UG 6) with an accessory drive-through facility and to permit a reduction in the amount of required off-street parking for UG 6 parking category B-1 uses. The proposal is contrary to Sections 32-15 and 36-21 respectively.
PREMISES AFFECTED – 1653/9 Richmond Road, west side of Richmond Road, 417.06' south of intersection with Four Corners Road, Block 883, Lot Tentative 27, Borough of Staten Island.
COMMUNITY BOARD # 2SI

177-06-BZ
APPLICANT– Sheldon Lobel, P.C., for 1840 EMAB LLC, owner.
SUBJECT – Application August 16, 2006 – Special permit (§§ 11-411, 11-413). On a lot consisting of 9,700 SF, in a C2-2 in R3A district, permission sought to legalize auto repair and sale of used cars (UG 16). The existing and proposed FAR is .14 for the one-story commercial building. DOB Objection: Section 32-25: Auto repair and auto sales (UG16) not permitted in C2-2 district.
PREMISES AFFECTED – 1840 Richmond Terrace, Clove Road and Bodine Street, Block 201, Lot 32, Borough of Staten Island.
COMMUNITY BOARD #1SI

236-06-BZ
APPLICANT– Moshe M. Friedman, for Michael Dalezman, owner.
SUBJECT – Application September 12, 2006 - Special Permit (73-622) for the enlargement of a single family residence. This application seeks to vary open space, floor area (23-141) and rear yard (23-47) in an R-2 zoning district.
PREMISES AFFECTED – 1500 East 21st Street aka Kenmore Place, 115' north of intersection formed by East 21st Street and Avenue N, Block 7656, Lot 4, Borough of Brooklyn.
COMMUNITY BOARD #14BK

274-06-BZ
APPLICANT– Stadtmauer Bailkin, LLP, for Rockaway Homes, Inc., owner.
SUBJECT – Application October 11, 2006 – Variance (§72-21) for the construction of a two-story one family residence on a vacant lot which seeks to vary the required front yards (23-45) and minimum lot width (23-32) in an R3-2 zoning district.
PREMISES AFFECTED – 116-07 132nd Street, vacant triangular lot with Lincoln Street to the east 132nd Street to the west and 116th Avenue to the north, Block 11688, Lot 1, Borough of Queens.
COMMUNITY BOARD #10Q

Jeff Mulligan, Executive Director

MINUTES

REGULAR MEETING
TUESDAY MORNING, DECEMBER 12, 2006
10:00 A.M.

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

The motion is to approve the minutes of regular meetings of the Board held on Tuesday morning and afternoon, September 26, 2006 and September 27, 2006 as printed in the bulletin of October 6, 2006, Vol. 91, No. 38. If there be no objection, it is so ordered.

SPECIAL ORDER CALENDAR

441-65-BZ
APPLICANT – Sheldon Lobel, P.C. for Eleanor Barrett c/o JP Morgan Chase, owner; Hess Amerada Corporation, lessee.
SUBJECT – Application March 20, 2006 – Pursuant to ZR §73-11 and §73-211 an Amendment to a previously granted special permit for the redevelopment of a gasoline service station, to construct an accessory convenience store (Hess Express), to construct a new canopy and six pump islands with MPD dispensers and one diesel fuel dispenser. The premise is located in C2-1/R3-2 zoning district.
PREMISES AFFECTED – 2488 Hylan Boulevard, located on the east side of Hylan Boulevard between Jacques Avenue and New Dorp Lane, Block 3900, Lot 12, Borough of Staten Island.
COMMUNITY BOARD #2SI
APPEARANCES –
For Applicant: Josh Rinesmith.
ACTION OF THE BOARD – Application granted on condition.
THE VOTE TO GRANT –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0
THE RESOLUTION:

WHEREAS, this is an application for a re-opening and an amendment to the previously granted variance for a gasoline service station with accessory uses; and

WHEREAS, a public hearing was held on this application on August 15, 2005, after due notice by publication in *The City Record*, to continued hearings on October 17, 2006 and November 14, 2006, and then to decision on December 12, 2006; and

WHEREAS, Community Board 2, Staten Island, recommends disapproval of this application, citing concerns about the initial traffic plan and its potential impact on traffic congestion on New Dorp Lane; and

WHEREAS, the Borough President submitted testimony in opposition to the application, citing concerns about traffic, the proposed street widening, site design, and interference with an existing bus stop; and

WHEREAS, by letter dated September 25, 2006, the Department of Transportation (DOT) stated that it has initiated a Capital Project for Fiscal Year 2007, which calls for the acquisition of a ten-foot strip at the site along New Dorp Lane so as to create a right turn bay onto Hylan Boulevard; the capital project is in the ULURP process; and

WHEREAS, accordingly, DOT requests that the access from New Dorp Lane be restricted to one curb cut at the most remote point from the intersection; and

WHEREAS, the premises is located on the east side of Hylan Boulevard between Jacques Avenue and New Dorp Lane; and

WHEREAS, the site is located within a C2-1 (R3-2) zoning district and is improved upon with a gasoline service station; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 25, 1961 when, under BSA Cal. No. 568-61-BZ, the Board granted an application for the reconstruction of an existing gasoline service station; and

WHEREAS, subsequently, the grant was amended twice to permit an extension of time to complete construction; and

WHEREAS, on July 13, 1965, under the subject calendar number, the Board granted a special permit to permit the reconstruction of the existing gasoline service station; and

WHEREAS, most recently, on January 22, 1991, under the subject calendar number, the Board reopened and amended the resolution to allow for certain site modifications; and

WHEREAS, the applicant now seeks to make the following changes to the site: remove the existing accessory building, construct a 2,478 sq. ft. accessory convenience store, relocate the underground storage tanks, install a new canopy and six concrete pump islands, increase the number of pumps, and reduce the number of curb cuts from seven to five; and

WHEREAS, during the hearing process, the applicant addressed the Community Board's concern about the traffic plan and its impact on traffic congestion on New Dorp Lane, and

WHEREAS, further, the applicant addressed DOT's concern about accommodating the street widening and the planned right turn bay on New Dorp Lane; and

WHEREAS, finally, the applicant addressed the following concerns of the Borough President: (1) traffic congestion, (2) site design, and (3) interference with an existing bus stop; and

WHEREAS, as to the impact on traffic congestion on New Dorp Lane, the applicant eliminated the curb cut on New Dorp Lane closest to the intersection with Hylan Boulevard, which leaves only one curb cut on New Dorp Lane, 50'-9" from Hylan Boulevard; and

WHEREAS, the applicant asserts that the proposed traffic plan with one curb cut on New Dorp Lane provides for an unobstructed path between the New Dorp Lane curb cut and the convenience store and the pump islands, which is designed to reduce any backups at the site; and

WHEREAS, further, the applicant asserts that traffic will primarily access the site via Hylan Boulevard and the two curb cuts on this street, rather than via New Dorp Lane; and

WHEREAS, as to the accommodation of the proposed

DOT acquisition and street widening, the applicant redesigned the site so that the pump islands would be located deeper into the site and further away from New Dorp Lane; and

WHEREAS, this will allow an ample buffer between the site and the planned widened road, permitting improved access to the proposed site improvements and unobstructed queuing space for the pumps; and

WHEREAS, the Board notes that DOT has no objection to the revised site design; and

WHEREAS, as to the site design generally, the applicant relocated the proposed convenience store, underground tanks, pump islands, and curb cuts so as to provide better access and maneuverability within the site; and

WHEREAS, as noted above, these changes included shifting the curb cuts so that they are aligned with unobstructed pathways through the site; and

WHEREAS, as to the question about a bus stop on Hylan Boulevard in front of the site, the applicant confirmed that no bus stop exists at that location; and

WHEREAS, in addition to the above-mentioned issues, the Board raised other concerns: (1) the potential interference between cars visiting the pump islands and those parking at the convenience store, (2) the proposed location of the curb cut on Jacques Avenue, and (3) the accessibility to any bus stops located along the site's street frontage, as noted by the Borough President; and

WHEREAS, in response, the applicant initially asserts that neither more pumps nor the convenience store would increase the amount of traffic at the site, since the modifications would allow more space to meet the demand of traffic already on Hylan Boulevard; and

WHEREAS, as to the site design, in the initial proposal, the applicant proposed to position the convenience store towards the middle of the site and along the southeast property line; and

WHEREAS, the Board asked the applicant if it would be possible to reorient the convenience store so that there would be more space between the pump islands and the accessory parking; and

WHEREAS, the applicant responded that, per the Building Code, the convenience store must be positioned so that the gas station attendant inside the store has a clear view of the pumps; and

WHEREAS, additionally, the applicant represents that the gas station corporate owner has a standard store design that must be followed; and

WHEREAS, nonetheless, the applicant revised the plans to reflect a re-positioning of the convenience store into the corner of the site formed by Hylan Boulevard and Jacques Avenue; and

WHEREAS, the Board observes that this position provides for better traffic circulation in and around the site while still allowing the gas station attendant an unobstructed view of the pumps; and

WHEREAS, specifically, the Board notes that the relocation of the building allows for a 35 ft. aisle between cars at the pump islands and those in the accessory parking spaces; and

WHEREAS, as to the proposed curb cuts, the applicant initially proposed two curb cuts on New Dorp Lane, two on Hylan Boulevard, and one on Jacques Avenue; and

WHEREAS, as noted, the applicant reduced the proposed number of curb cuts on New Dorp Lane to one and relocated the curb cuts on Hylan Boulevard; and

WHEREAS, at hearing, the Board expressed concern about the initially proposes Jacque Avenue curb cut as it was located very close to the corner with Hylan Boulevard; and

WHEREAS, specifically, the Board asked the applicant if a curb cut was necessary on Jacques Avenue and how it might affect the traffic flow; and

WHEREAS, the applicant responded by stating that Jacques Avenue is a short street with a small number of residences and that the curb cut on Jacques Avenue would be used to a very limited extent, primarily by the residents on the street; and

WHEREAS, additionally, the applicant revised the plans to indicate that the curb cut on Jacques Avenue will be limited to ingress only and will therefore not result in additional traffic exiting onto Jacques Avenue; and

WHEREAS, accordingly, the Board concludes that the applicant addressed all concerns raised by the Community Board, DOT, and the Borough President, as well as concerns raised by the Board at hearing; and

WHEREAS, based upon the above, the Board finds the proposed amendments are 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 13, 1965, so that as amended this portion of the resolution shall read: "to permit the construction of a new accessory convenience store building and to allow other noted site modifications *on condition* that all work and the site layout shall substantially conform to drawings as filed with this application, marked "November 28, 2006"-(8) sheets; and *on further condition*:

THAT an opaque fence six feet in height will be installed and maintained along the southeastern property line from New Dorp Lane to Jacques Avenue;

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;

THAT DOB shall review and approve the layout of the onsite parking;

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. 500821499)

Adopted by the Board of Standards and Appeals, December 12, 2006.

466-89-BZ
APPLICANT – Eric Palatnik, P.C., for Frank R. Bell Funeral Home Inc., owner.
SUBJECT – Application September 7, 2006 – Amendment to a previously granted Variance (§72-21) for the enlargement of an existing funeral home (UG7) to allow the increase of 1,250 square feet to the existing structure in an R6 zoning district.
PREMISES AFFECTED – 526, 528 and 536 Sterling Place, a/k/a 764 Classon Avenue, southwest corner of Sterling Place and Classon Avenue, Block 1174, Lots 32, 33, 35, Borough of Brooklyn.
COMMUNITY BOARD #8BK
APPEARANCES –
For Applicant: Eric Palatnik.
ACTION OF THE BOARD – Application granted on condition.
THE VOTE TO GRANT –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0
THE RESOLUTION:

WHEREAS, this is an application for a reopening and an amendment to the previously approved plans to allow for the enlargement of an existing funeral home; and

WHEREAS, a public hearing was held on this application on November 14, 2006, after due notice by publication in *The City Record*, and then to decision on December 12, 2006; and

WHEREAS, Community Board 8, Brooklyn, recommends approval of this application; and

WHEREAS, City Council Member Letitia James provided testimony in support of this application; and

WHEREAS, the subject premises is located on the southwest corner of Sterling Place and Classon Avenue; and

WHEREAS, the site is an irregularly-shaped lot occupied by a one and three-story funeral establishment with approximately 9,899 sq. ft. of floor area, located within an R6 zoning district; and

WHEREAS, on June 11, 1990, under the subject calendar number, the Board granted a variance to permit the enlargement of an existing lawful non-conforming funeral home; and

WHEREAS, the instant application seeks to build a 1,250-sq.-ft. second-floor addition onto the one-story portion of the existing building; and

WHEREAS, the enlargement is proposed to be occupied by office space which would be accessory to the existing funeral home; and

WHEREAS, the applicant states that the proposed enlargement will also provide for a new lobby area to separate the existing casket display area and the proposed office space; and

WHEREAS, at hearing, the Board asked the applicant to note the occupancy of each of the chapels and asked if any required public assembly permits had been obtained; and

WHEREAS, the applicant represents the public assembly permits will be obtained prior to the issuance of the new certificate of occupancy; and

WHEREAS, additionally, the Fire Department stated that there were not any outstanding violations and that it has no objection to the application; and

WHEREAS, the Board observes that the proposed amendment, to add 1,250 sq. ft. of floor area and to increase the building's total floor area from 8,485 sq. ft. to 9,735 sq. ft., is modest and does not affect the prior findings for the variance; and

WHEREAS, based upon the above, the Board finds that the requested amendment is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated January 11, 1990, so that as amended this portion of the resolution shall read: "to permit the enlargement of the existing funeral establishment; *on condition* that the use shall substantially conform to drawings as filed with this application, marked "December 6, 2006"-(5) sheets; and *on further condition*:

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."
(DOB Application No. 301192750)

Adopted by the Board of Standards and Appeals, December 12, 2006.

139-95-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
APPEARANCES –
For Applicant: Eric Palatnik
ACTION OF THE BOARD – Application granted on condition.
THE VOTE TO GRANT –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4

Negative:.....0
THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated June 27, 2006, acting on Department of Buildings Application No. 402371287, 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 on December 12, 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 July 18, 2006, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated August 21, 2006, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated November 16, 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 June 27, 2006, acting on Department of Buildings Application No. 402371287 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 July 6, 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, December 12, 2006.

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: Josh Rinesmith.
ACTION OF THE BOARD – Application withdrawn from the dismissal calendar.
THE VOTE TO WITHDRAW –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0

Adopted by the Board of Standards and Appeals, December 12, 2006.

615-57-BZ
APPLICANT – Sheldon Lobel, P.C., for Cumberland Farms, Inc., owner.
SUBJECT – Application October 10, 2006 – Extension of term for ten years, waiver of the rules for a gasoline service station (Exxon) which expired on June 5, 2003 and an extension of time to obtain a certificate of occupancy in an R-4 zoning district.
PREMISES AFFECTED – 154-11 Horace Harding Expressway, between Kissena Boulevard and 145th Place, Block 6731, Lot 1, Borough of Queens.
COMMUNITY BOARD #7Q
APPEARANCES –
For Applicant: Josh Rinesmith.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0

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

304-82-BZ
APPLICANT – Bryan Cave, LLP, for Dansar, LLC, owner.
SUBJECT – Application October 6, 2006 – Re-open and amend an existing variance (§72-21) granted in 1984 for the conversion of floors two through nine in a commercial building to residential use with an existing commercial (UG6) on the first and cellar floors in an M1-5M zoning district.
PREMISES AFFECTED – 36 East 22nd Street, south side of East 22nd Street, 205' west of the corner of Park Avenue, south and East 22nd, Block 850, Lot 54, Borough of Manhattan.
COMMUNITY BOARD #5M
APPEARANCES –
For Applicant: Ken Lowenstein and Robert Pauls.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0

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

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
APPEARANCES – None.
ACTION OF THE BOARD – Application granted on condition.

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

16-95-BZ
APPLICANT – Stadtmauer Bailkin, LP, for STA Parking Group, owner.
SUBJECT – Application September 29, 2006 – Extension of Time to complete construction, which expired on October 23, 2003, on a previously granted variance for a UG8 parking garage with accessory auto repairs and an amendment to permit the legalization of the ramps within the existing parking garage and the relocation of the accessory office from the first floor to the second floor in an R8B zoning district.
PREMISES AFFECTED – 434 East 77th Street, aka 433 East 76th Street, located between East 76th and 77th Street, between York and First Avenue, Block 1471, Lot 31, Borough of Manhattan.
COMMUNITY BOARD #8M
APPEARANCES –
For Applicant: Howard Zipser and Calvin Wong.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0

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

56-96-BZ
APPLICANT– Agusta & Ross, Rainer Group of New York, LLC, owner; Fountain of Youth Health Spa, Inc., lessee.
SUBJECT – Application April 23, 2006 – Extension of Term and waiver of the rules for a Special Permit (73-36) to allow a Physical Culture Establishment (Fountain of Youth Health Spa) in an M1-1 zoning district which expired on March 1, 2006, and an amendment to permit a change in the hours of operation and a change in ownership/control of the PCE.
PREMISES AFFECTED – 32-02 Linden Place, southerly block front of 32nd Avenue, between Farrington Street and Linden Place, Block 4950, Lot 48, Borough of Queens.
COMMUNITY BOARD #7Q
APPEARANCES –
For Applicant: Mitchell Ross.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0

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

395-04-BZ
APPLICANT – Moshe M. Friedman, P.E., for Congregation Imrei Yehudah Contract Vendee, owner; Meyer Unsdorfer, lessee.
SUBJECT –Application June 16, 2006 – Request for a re-opening and amendment to a previously-granted variance (§ 72-21) that allowed bulk waivers for a new house of worship in an R5 district. The proposed amendment includes the following: (1) increase in floor area and FAR, (2) increase in perimeter wall height; and (3) minor reduction in front yard provided.
PREMISES AFFECTED – 1232 54th Street, southwest side 242'-6" southeast of the intersection formed by 54th and 12th Avenue, Block 5676, Lot 17, Borough of Brooklyn.
COMMUNITY BOARD #12BK
APPEARANCES –
For Applicant: Moshe Friedman.

ACTION OF THE BOARD – Laid over to January 23, 2007, at 10 A.M., for decision, hearing closed.

48-05-BZ
APPLICANT – Wachtel & Masyr, LLP, for Bethune West Associates, LLC, owner.
SUBJECT – Application October 30, 2006 – Request for a re-opening and amendment of a previously granted zoning variance that allowed a fifteen- (15) and three- (3) story residential building with ground floor retail use (UG 6), sixty-four (64) dwelling units and sixty (60) accessory parking spaces in C1-7A and C1-6A zoning districts. The proposed amendment includes the following: (1) ground floor level to change from retail to residential use; (2) dwelling units to increase from 64 to 84; (3) minor increase in lot coverage; and (4) modifications to the building's height and setback.
PREMISES AFFECTED – 469 West Street, a/k/a 70 Bethune Street, West Street between Bethune Street and West 12th Street, Block 640, Lot 1, Borough of Manhattan.
COMMUNITY BOARD #2M
APPEARANCES –
For Applicant: Jerry Johnson.

ACTION OF THE BOARD – Laid over to January 9, 2007, 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: Eric Palatnik, Sanford Sulny.

For Opposition: Marisa Sasitorn.

For Administration: Narisa Sasitorn, Department of Buildings.

THE VOTE TO REOPEN HEARING –

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

Negative:.....0

ACTION OF THE BOARD – Laid over to January 23, 2007, at 10 A.M., for continued hearing.

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

APPEARANCES –

For Applicant: Eric Palatnik.

For Administration: Amanda Derr, Department of Buildings

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an appeal requesting a Board determination that the owner of the premises has obtained a vested right under the common law to complete a one-story enlargement of an existing two-story single-family dwelling; and

WHEREAS, a public hearing was held on this application on November 21, 2006 after due notice by publication in *The City Record*, with a continued hearing on December 5, 2006, and then to decision on December 12, 2006; and

WHEREAS, the site was inspected by a committee of the Board including Chair Srinivasan and Vice-Chair Collins; and

WHEREAS, the subject premises is a 3,486 sq. ft. site on the west side of East 13th Street, between Avenue N and Elm Street; and

WHEREAS, the premises is improved upon with a two-story single-family home; the addition of a third floor is in progress; and

WHEREAS, specifically, the proposed enlargement, a 1,417.68 sq. ft. third floor on top of the second floor of the existing home, is within the existing footprint; and

WHEREAS, the premises is currently located within an R4-1 zoning district, but was formerly located within an R6 zoning district; and

WHEREAS, the proposed enlargement complies with all the former R6 zoning district regulations, including yards, floor area, and height; and

WHEREAS, however, on April 5, 2006 (hereinafter, the "Enactment Date"), the City Council voted to adopt the Midwood Rezoning; and

WHEREAS, because the site is now within an R4-1 district, the proposed enlargement creates non-compliances with front yard, floor area, and height regulations and therefore is not permitted; and

WHEREAS, specifically, the floor area is proposed to be increased from 3,095 sq. ft. to 4,512 sq. ft. (3,139 sq. ft., including an attic bonus, is the maximum permitted in the R4-1 district); and

WHEREAS, as to the required front yard, the proposed enlargement maintains the 2'-0" front yard (a ten-foot front yard is required in the R4-1 zoning district, yet none was required in the former R6 zoning district); and

WHEREAS, the applicant proposes to increase the perimeter wall height and total height to 35'-0" (25'-0" is the maximum perimeter wall height and 35'-0" is the maximum total height permitted in the R4-1 zoning district); and

WHEREAS, the applicant requests that the Board find that based upon the amount of financial expenditures, including irrevocable commitments, and the amount of work completed, the owner has a vested right to continue construction and finish the proposed enlargement; and

WHEREAS, the applicant is requesting relief under the common law and constitutional theory of vested rights after it failed to obtain a reconsideration from DOB to allow work to continue; during the time that a reconsideration was sought, the statutory time limit to seek relief under ZR § 11-311 expired; and

WHEREAS, as a threshold matter in determining this appeal, the Board must find that the completed work was conducted pursuant to valid permits; and

WHEREAS, on March 23, 2006, under DOB Application No. 302093598, DOB issued a permit (the "Permit") to the owner to enlarge the existing home as discussed above; and

WHEREAS, on April 6, 2006, because of the zoning change, DOB issued a stop-work order on the Permit; and

WHEREAS, on May 4, 2006, DOB sent the applicant a ten-day notice to revoke approvals and permits based on

objections raised by a special audit; and

WHEREAS, on May 10, 2006, DOB issued a stop-work order; and

WHEREAS, on November 13, 2006, DOB performed a special audit and issued objections; and

WHEREAS, at hearing, the applicant stated that a meeting had been scheduled with DOB on November 30, 2006 to resolve any outstanding objections and asked that DOB stay the intent to revoke until the meeting date; and

WHEREAS, subsequently, at the December 5, 2006 hearing, DOB stated that all objections had been resolved and that the Permit was valid; and

WHEREAS, since the Permit is valid, the Board may properly consider all work performed between the time of its issuance and the Enactment Date; and

WHEREAS, assuming that a valid permit has been issued and that work proceeded under it, the Board notes that a common law vested right to continue construction generally exists where the owner has undertaken substantial construction and made substantial expenditures prior to the effective date of a zoning change, and where serious loss will result if the owner is denied the right to proceed under the prior zoning; and

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

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

WHEREAS, as to enlargements specifically, in Bayswater Health Related Facility v. Karagheuzoff, 37 NY2d 408, the Court of Appeals held that a vested right had been acquired for a conversion of existing structures to nursing homes because the "main building had already been gutted, its roof and sidewalks opened and exposed to the elements …"; and

WHEREAS, the Board notes that from these cases, it is apparent that such factors as tangible physical change are relevant to a finding of completion of substantial construction; and

WHEREAS, further, the Board agrees that, under the common law, a completion of substantial construction finding will depend, in part, upon a showing of actual construction work resulting in some tangible change to the structure being altered that is integral to the proposed work; and

WHEREAS, in written statements and testimony, the applicant represents that: (1) the owner would suffer serious economic harm if unable to complete the enlargement; (2) as of the Enactment Date, substantial construction had been completed; and (3) substantial expenditures were made after the issuance of the Permit; and

WHEREAS, as to serious economic harm, the applicant represents that considerable planning and construction has been expended towards the completion of the enlargement and costs associated with such activities cannot be recouped if construction were not permitted to proceed; and

WHEREAS, specifically, the applicant states that the former roof above the second floor has been removed and replaced by the partially completed roof above the third floor during the construction of the enlargement, and cannot be replaced without considerable expense; and

WHEREAS, the applicant states that, even without such additional expenses, the owner has spent $80,000.00 towards the total project cost of $177,000.00; and

WHEREAS, the Board agrees that the owner would suffer serious economic harm if the enlargement were not permitted to be completed; and

WHEREAS, as to substantial construction, the applicant states that work on the proposed enlargement subsequent to the issuance of the Permit involved the following: (1) the removal of the roof above the second floor; (2) the framing of the third floor; (3) partial completion of the new roof; (4) the partial installation of the new sub-floor; and (5) the installation of windows; and

WHEREAS, in support of this statement the applicant has submitted the following evidence: an affidavit from the architect stating the amount of work completed, a summary of construction costs, copies of cancelled checks to the construction company, and photographs of the site; and

WHEREAS, on its site visit, the Board observed the completed work described above; and

WHEREAS at hearing, the Board asked the applicant if any work had been performed on April 5, 2006 or at any time thereafter; and

WHEREAS, the applicant responded that no work had been done on or after the Enactment Date; and

WHEREAS, the Board has reviewed this documentation and agrees that it establishes that the afore-mentioned work was completed prior to the Enactment Date; and

WHEREAS, the Board concludes that based upon actual work performed under the Permit and its degree of complexity with relationship to the overall project, as well as based upon the fact that the work resulted in a tangible change to the building, that substantial construction has been completed sufficient to satisfy the general standards under the common law; and

WHEREAS, as to substantial expenditures, the applicant states that the expenditures made totaled $80,000.00 of the total project cost of $177,000.00 (46 percent); and

WHEREAS, in support of this claim, the applicant has submitted invoices, cancelled checks, and accounting statements, which the Board has reviewed and finds credible and sufficient to sustain the claim; and

WHEREAS, at hearing, the Board asked the applicant about $50,000.00 in checks that had been written after the re-zoning; and

WHEREAS, the applicant responded that $30,000.00

had been actually spent prior to the Enactment Date, but that a commitment had been made for another $50,000.00, which was paid after the Enactment Date for work already performed; and

WHEREAS, based upon the above, the Board finds that the degree of work completed and expenditures incurred are sufficient to meet the common law vesting standard; and

WHEREAS, accordingly, the owner has met the standard for vested rights under the common law and is entitled to the requested extension of the Permit and all other related permits for construction of the proposed enlargements.

Therefore it is Resolved that this appeal made pursuant to the common law of vested rights and requesting a reinstatement of Alteration Permit No. 302093598, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed enlargement for one term of one year from the date of this resolution, to expire on December 12, 2007.

Adopted by the Board of Standards and Appeals, December 12, 2006.

139-06-A

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

SUBJECT – Application July 6, 2006 – Proposed reconstruction and enlargement of an existing one family dwelling located within the bed of mapped street (Oceanside Avenue) and the proposed upgrade of an existing private disposal system is contrary to the Section 35 of the General City Law and the Department of Buildings Policy. R4 Zoning District.

PREMISES AFFECTED – 1 Irving Walk, east side of Irving Walk at intersection of Oceanside Avenue, 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 GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated June 27, 2006, acting on Department of Buildings Application No. 402371287, 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 on December 12, 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 July 18, 2006, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated August 21, 2006, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated November 16, 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 June 27, 2006, acting on Department of Buildings Application No. 402371287 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 July 6, 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, December 12, 2006.

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.

ACTION OF THE BOARD – Application denied.

THE VOTE TO GRANT –
Affirmative: 0
Negative: Chair Srinivasan, Vice Chair Collins and Commissioner Ottley-Brown…….3
THE RESOLUTION: [1]

WHEREAS, this is an appeal of a Order of Closure as to the subject premises, issued by the Commissioner of the Department of Buildings ("DOB") on June 30, 2006 (the "Order"), brought by the owners (hereinafter "Appellant"); and

WHEREAS, after this appeal was filed and a first hearing was held, DOB brought an application under BSA Cal. No. 270-06-A to modify the certificate of occupancy (CO No. 26180, issued May 29, 1940; hereinafter the "CO") for the four-story and cellar building located at the premises (the "Building); and

WHEREAS, a public hearing was held on this appeal on September 26, 2006 after due notice by publication in *The City Record*, with a continued hearing on October 24, 2006, and then to decision on December 12, 2006; and

WHEREAS, the subject site is located on the south side of East 63rd Street, approximately 120 feet east of Park Avenue, and is currently located within an R8B zoning district; and

WHEREAS, the Building is approximately 17 feet wide and 60 feet deep, and has a cellar, a basement (which functions as the ground floor), and first, second, and third floors; and

WHEREAS, the basement and first floor are hereinafter collectively referred to as the "accessory office floors"; and

WHEREAS, the CO for the Building indicates the following: Cellar – Storage; Basement – Office (hotel doctor); 1st Story – Office (hotel manager); 2nd Story – Two (2) Furnished rooms; 3rd Story – Three (3) Furnished rooms; and

WHEREAS, the CO also indicates that the occupancy classification is "Multiple Dwelling, Class B"; and

WHEREAS, Appellant claims that the Building was built and is currently configured as one "unit", and that there is no separation between the floors for different tenancies; and

WHEREAS, however, since no plans of the Building were submitted, there is no corroboration of this statement; and

HISTORY OF ACTUAL USE

WHEREAS, both Appellant and DOB agree that the Building was once both owned and used for business purposes by the Barbizon Hotel (hereinafter the "Barbizon"), located on the adjacent Lot 49, at 150 East 63rd Street; and

WHEREAS, DOB notes that the alteration application underlying the CO (Alt. No. 3320-1939) indicates that the two hotel offices on the accessory office floors, one for the Barbizon doctor and one for the Barbizon manager, were intended to be used in conjunction with the Barbizon, and that doors were to be cut in the walls between the Building and the Barbizon; and

WHEREAS, this alteration application also indicates that the Barbizon doctor would occupy the furnished rooms in the Building; and

WHEREAS, DOB also cites to a 1982 application for the conversion of the accessory office floors to a hotel dining room and conference room, as well as documents that indicate that the successor hotel to the Barbizon used the Building for HVAC purpose,s serving the hotel, from 1994 to 1996; and

WHEREAS, notwithstanding the documents cited by DOB, Appellant claims that immediately prior to its purchase of the Building in 1996, it appeared to be used for offices, related storage, and as a living space for a property manager; and

WHEREAS, however, there is no documentary evidence to support a conclusion that the Building was not being used by the hotel on Lot 49 at any point prior to 1996; and

WHEREAS, thus, when Appellant took title to the Building in 1996, the Board concludes that it previously had been used exclusively in conjunction with the Barbizon and the successor hotel; and

PROCEDURAL HISTORY

WHEREAS, subsequent to purchasing the Building in 1996, Appellant rented the Building to a series of commercial tenants with no relation to the hotel building on Lot 49; and

WHEREAS, Appellant states that the current occupants of the site are commercial lessees who use the accessory office floors as primary business offices and the upper floors allegedly for occasional sleeping purposes; and

WHEREAS, DOB states that in July of 2005, in response to a complaint, an inspector visited the premises and observed Use Group ("UG") 6 business offices on the basement, first, second and third floors of the Building; and

WHEREAS, DOB determined that such UG 6 business offices were not permitted in the subject R8B zoning district, and proceeded to enforce against Appellant pursuant to Administrative Code § 26-127.2, otherwise known as the Padlock Law; and

WHEREAS, in sum and substance, the Padlock Law provides DOB with the authority to declare illegal commercial uses in residential zoning districts to be a nuisance, and to then close such uses; and

WHEREAS, however, prior to the issuance of an Order of Closure, the Padlock Law provides that the owner is entitled to a hearing at the City's Office of Administrative Trials and Hearings ("OATH"); and

WHEREAS, accordingly, a hearing was held before an OATH administrative law judge ("ALJ") on April 4, 2006; and

WHEREAS, the ALJ, through a report dated June 29, 2006, recommended that the business uses present in the Building be closed; and

WHEREAS, subsequently, the Order was issued; and

WHEREAS, however, pursuant to the City Charter, Appellant may appeal the Order to the Board, and the Board has the authority to review the validity of the Order and the underlying issues *de novo*; it is not bound by any finding or determination of the OATH ALJ, nor is any other party; and

THE CERTIFICATE OF OCCUPANCY AND LEGAL USE FROM 1940 TO 1961

WHEREAS, in 1940, when the CO was issued, the site was within a residence district where transient residential uses such as furnished room houses were permitted as of right, but business office use was not; and

WHEREAS, presuming the CO was validly issued, the accessory office floors must have been accessory to the furnished rooms on the upper floors; they could not have been

1 Headings are utilized only in the interest of clarity and organization.

independent business offices; and

WHEREAS, Appellant states, and the Board agrees, that the uses in the Building were not technically accessory uses to the Barbizon, because in 1940, the zoning code in effect did not allow accessory uses to be located on different tax lots; and

WHEREAS, however, DOB contends that the office floors did become accessory to the Barbizon later, due to a 1943 text amendment to the zoning code; and

WHEREAS, this amended text provides that a lot for zoning purposes did not have to be limited to a tax lot, but could include more than one tax lots; and

WHEREAS, specifically, this amended text reads "A 'lot' is a parcel or plot of ground which is or may be occupied by a building and accessory buildings including the open spaces"; and

WHEREAS, DOB argues that the accessory office floors became accessory to the Barbizon because of this text change; and

WHEREAS, the Board does not find this explanation sufficient, because the 1943 text is silent as to what a property owner must do to have the City recognize two tax lots as one lot for zoning purposes, and there is no indication in the record that the Barbizon took any affirmative step to gain such recognition; and

WHEREAS, nevertheless, DOB also argues that the two tax lots merged into one zoning lot as of 1961; and

THE LEGAL USE SINCE 1961

WHEREAS, upon adoption of the current ZR on December 15, 1961, the site was mapped within an R8 zoning district where UG 6 business offices are not permitted as of right; and

WHEREAS, DOB maintains, in sum and substance, that even if the Building was a stand alone transient residential and accessory use prior to 1961, after the new ZR was adopted, the accessory office floors became UG 5 hotel accessory uses and the furnished rooms became UG 2 residences; and

WHEREAS, as discussed above, DOB notes that as of 1961, the subject Lot 48 and the Barbizon site (Lot 49) were in joint ownership, the buildings on each lot were connected, and the uses in each building were interrelated; and

WHEREAS, thus, DOB states that the two lots became one zoning lot in 1961, based on this interrelation and pursuant to ZR § 12-10 (b) "zoning lot", which provides that a zoning lot is a "tract of land consisting of two or more contiguous lots of record, located within a single block, which, on December 15, 1961 . . . was in single ownership"; and

WHEREAS, Appellant disputes this, noting that the metes and bounds for Lot 49's various certificates of occupancy do not reflect Lot 48; normally, a certificate of occupancy should reflect the metes and bounds for the entire zoning lot; and

WHEREAS, DOB responds that one of the certificates does reflect the metes and bounds of Lot 48 as well, and contends that the other certificates are in error insofar as the metes and bounds are inaccurate; and

WHEREAS, the Board does not find that the certificates control the validity of a merger; that such certificates reflect error in the metes and bounds cannot invalidate the operation of law; and

WHEREAS, thus, the Board agrees that Lots 48 and 49 did become one zoning lot in 1961, and that the accessory office floors therefore became lawful non-conforming UG 5 hotel accessory uses; and

WHEREAS, further, as discussed below, even assuming *arguendo* that Appellant is correct in asserting that Lots 48 and 49 never became one zoning lot and that the Building remained an independent use, this would not affect the outcome of this matter; and

THE LEGALITY OF USE GROUP 6 BUSINESS USES

WHEREAS, the Board must consider whether there is any legal basis for the current use of the Building for UG 6 business office purposes, and if not, what the legal uses of the Building should be; and

WHEREAS, Appellant's primary argument in support of its appeal of the Order is that the CO itself authorizes UG 6 business offices on the accessory office floors; and

WHEREAS, as already established, unrestricted business offices were not permitted on the site when the CO was issued because the site was within a residence district; and

WHEREAS, instead, in 1961, the accessory office floors, previously legal per the CO since they were transient residential accessory uses, became UG 5 hotel accessory uses; and

WHEREAS, while use of the accessory office floors for UG 5 hotel accessory use was lawfully non-conforming and therefore permitted to continue after 1961, pursuant to ZR 52-61, lawful non-conforming uses may not be discontinued for a period of more than two years; and

WHEREAS, by Appellant's own admission, the accessory office floors have not been used for UG 5 hotel accessory use since at least 1996; instead, UG 6 business offices uses now occupy the accessory office floors as primary uses; and

WHEREAS, no provision in Article V of the ZR, which governs non-conforming uses, permits the conversion of UG 5 uses to UG 6 uses; and

WHEREAS, accordingly, the Board finds that the right to use the accessory office floors for UG 5 accessory uses has been discontinued and may not be reinstated, and that the UG 6 business offices that currently occupy the Building are illegal; and

WHEREAS, Appellant makes the following counter-arguments in support of its contention that the CO does not authorize hotel use, but instead authorizes unrestricted business office use: (1) there is nothing to indicate that the Building was ever used for public rentals; (2) the parenthetical description of the offices as "hotel" is not dispositive of the permitted uses, but rather raises an ambiguity as to what the permitted uses are, which is an ambiguity that must be resolved in favor of Appellant; (3) the ambiguity of the CO permits the current owner to choose the Use Group in which the offices should be categorized; and

WHEREAS, the Board notes that the fundamental supposition underlying these arguments is that when the CO was issued, it permitted unrestricted business office use and not transient residential and accessory uses; and

WHEREAS, as noted above, when the CO was issued, the site was within a residence district where business office use was not permitted; and

WHEREAS, thus, acceptance of Appellant's position means that DOB issued the CO even though the proposed uses were contrary to zoning; and

WHEREAS, Appellant has not offered any rational explanation as to why DOB would issue a CO that lists illegal uses, nor any explanation as to why the Board should consider such uses legal now; and

WHEREAS, assuming that DOB intended for the CO to authorize business offices, the Board would find that the CO was invalidly issued as to the office floors, and that the existing business offices are still illegal; and

WHEREAS, however, it is more logical to presume that the CO was properly issued by DOB because it allowed transient residential and accessory uses, which were permitted as of right in a residence district in 1940; and

WHEREAS, moreover, the Board does not find any merit to the specific arguments; and

WHEREAS, first, a history of public rentals is not necessary for the accessory office floors to be characterized as UG 5 hotel accessory uses, since hotel accessory uses need not be rentable rooms; and

WHEREAS, second, while the Board agrees that the description of the offices on the CO, with the parenthetical references to "hotel manager" and "hotel doctor", is not controlling as to use, it is a strong indication that the Building and the Barbizon were used in conjunction, which provides the basis for DOB's conclusion that as of 1961, Lots 48 and 49 became one zoning lot and the accessory office floors became UG5 hotel accessory uses; and

WHEREAS, third, the Board disagrees that: (1) the CO is ambiguous as to the permitted uses within the Building; and (2) the placement of the Building's uses within a Use Group category is discretionary on the part of the current owner; and

WHEREAS, as noted above, Appellant argues that since DOB has failed to conclusively establish what the legal uses in the Building are, the owner has the option of selecting UG 6 business offices as the lawful non-conforming use for the accessory office floors; and

WHEREAS, Appellant cites to other certificates of occupancy for hotels in support of the contention that DOB now categorizes hotel offices as UG 6 and should do so here; and

WHEREAS, these certificates show that offices within certain hotels are categorized as UG 6; and

WHEREAS, however, DOB notes that the specific hotels cited by Appellant are all within commercial zoning districts where UG 6 uses are permitted as of right, which allows hotels to choose a UG 5 hotel accessory designation or a UG 6 business office designation; and

WHEREAS, therefore, Appellant's citation to these certificates in support of the proposition that an owner of a building may choose a UG 6 definition for prior hotel accessory offices where such offices are non-conforming and not legally established is erroneous; and

WHEREAS, instead, the option to choose a particular Use Group designation for a hotel accessory office is only available when the chosen Use Group is permitted in the particular zoning district; here, that is not the case; and

WHEREAS, in sum, the CO does not provide any basis for the continuation of the illegal business offices currently occupying the Building; and

WHEREAS, the Board observes that Appellant never provided any colorable argument as to how the CO could authorize UG 6 unrestricted business offices after 1961 when such unrestricted offices were not permitted on the site prior to 1961; and

WHEREAS, the Board is unaware of any examples of a building that enjoys lawful non-conforming use status for a use that was expressly not permitted at the time that it came into existence; and

WHEREAS, in fact, the Board notes that ZR § 12-10 "non-conforming use" provides, in sum and substance, that a lawful non-conforming use is one that was lawful at the time a zoning change made it unlawful; again, that is not the case here; and

LEGAL USE OF THE PREMISES PRESUMING THAT LOTS 48 AND 49 ARE SEPARATE ZONING LOTS

WHEREAS, even if the Board did accept Appellant's argument that the adoption of the 1961 ZR did not merge Lots 48 and 49 and make the Building accessory the Barbizon, it would still reach the same result; and

WHEREAS, as noted above, when the CO was issued, the Building was occupied by stand-alone transient residential uses and accessory offices; and

WHEREAS, in 1961, assuming there was no merger of Lots 48 and 49, the office floors would have to be accessory to the furnished rooms, which means that they would be UG 2 accessory offices; and

WHEREAS, since the record indicates that the accessory office floors have not been used for residential accessory office purposes for at least a full two year period starting in 1996, such use was likewise discontinued; and

WHEREAS, Appellant, however, makes the supplementary argument that since no merger of Lots 48 and 49 occurred in 1961, the use of the Building could have been appropriately placed in UG 7 as a motel; and

WHEREAS, ZR § 12-10 "Motel or tourist cabin" reads "a motel or tourist cabin is a building or group of buildings which: (a) contains living or sleeping accommodations used primarily for transient occupancy; and (b) has individual entrances from outside the building to serve each such living or sleeping unit."; and

WHEREAS, Appellant notes that pursuant to ZR § 52-34, a non-conforming UG7 use may be converted to a non-conforming UG 6 use in an R8 zoning district; and

WHEREAS, Appellant contends that the conversion of the Building from UG 7 motel to UG 6 office was therefore lawful (even though never applied for at DOB) and should be allowed to continue; and

WHEREAS, however, Appellant has failed to explain why the use and configuration of the Building would meet the definition of a UG 7 motel; and

WHEREAS, the Board members, based upon personal experience with motels as opposed to other forms of transient residential occupancy, is aware of what motels are, and finds that the Building was definitely not a motel; and

WHEREAS, further, as noted by DOB, this explanation is

contradicted by the parenthetical listings on the CO, which reads "hotel", not motel; and

WHEREAS, also, assuming that Appellant is correct in asserting that there is no evidence of transient rental of the Building's furnished rooms, it is difficult to understand why the Building should be characterized as a motel rather than as a UG 2 residence with accessory offices; and

WHEREAS, for the above reasons, the Board rejects the argument that the Building could ever appropriately be characterized as a UG 7 motel, either before or after 1961; and

CONCLUSION

WHEREAS, in sum, the Board concludes as follows: (1) the CO on its face does not authorize UG 6 unrestricted business office use, because such use was not permitted at the time the CO was issued; (2) the CO instead reflects permitted transient residential and accessory office use, since such use was permitted when the CO was issued; (3) when the 1961 ZR was adopted, Lots 48 and 49 became one zoning lot, the accessory office floors became lawful non-conforming UG 5 hotel accessory uses, and the furnished rooms became UG 2 residences; and (4) since any UG5 hotel accessory use of the accessory office floors has been discontinued for more than two years, the accessory office floors may now only be used for conforming uses allowed in the R8B zoning district; and

WHEREAS, further, assuming *arguendo* that Lots 48 and 49 did not become one zoning lot as of 1961, the Board would conclude as follows: (1) the uses within the Building constituted lawful conforming transient residential and accessory office uses prior to 1961; (2) as of 1961, such uses could not properly be characterized as UG 7 motel uses; (3) instead, the furnished rooms became UG 2 and the office floors became UG 2 accessory offices, for purposes of application of Article V; and (4) since any residential accessory use of the accessory office floors has been discontinued for more than two years, the accessory office floors may now only be used for conforming uses allowed in the R8B zoning district.

Therefore it is Resolved that this appeal, which challenges an Order of Closure issued by DOB on June 30, 2006, is denied.

Adopted by the Board of Standards and Appeals, December 12, 2006.

169-06-A

APPLICANT – Timothy Costello, for Breezy Point Cooperative, Inc., owner; Raymond Wasson, lessee.

SUBJECT – Application August 10, 2006 – Proposed reconstruction and enlargement of an existing one family dwelling located partially within the bed of mapped street (Oceanside Avenue) contrary to Section 35 of the General City Law. R4 Zoning District.

PREMISES AFFECTED – 175 Oceanside Avenue, Block 16350, Lot 400, Borough of Brooklyn.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Timothy Costello.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated July 26, 2006, acting on Department of Buildings Application No. 402311173, reads in pertinent part:

"Respectfully request to erect a new building to replace an existing dwelling located on a site partially within the bed of a mapped street and contrary to General City Law 35."; and

WHEREAS, a public hearing was held on this application on December 12, 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 August 16, 2006, the Fire Department states that it has reviewed the above project and has no objections; and

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

WHEREAS, by letter dated November 16, 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 July 26, 2006, acting on Department of Buildings Application No. 402311173 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 November 22, 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, December 12, 2006.

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 Opposition: Peter Geis.
ACTION OF THE BOARD – Application granted on condition.
THE VOTE TO GRANT –
Affirmative: Chair Srinivasan, Vice Chair Collins and Commissioner Ottley-Brown……...3
Negative:.....0
THE RESOLUTION:

WHEREAS, this is an application to modify certificate of occupancy No. 26180, issued May 29, 1940 (hereinafter the "CO") for the four-story and cellar building located at the premises (the "Building), which is located within an R8B zoning district; and

WHEREAS, the CO for the Building indicates the following: Cellar – Storage; Basement – Office (hotel doctor); 1st Story – Office (hotel manager); 2nd Story – Two (2) Furnished rooms; 3rd Story – Three (3) Furnished rooms; and

WHEREAS, the CO also indicates that the occupancy classification is "Multiple Dwelling, Class B"; and

WHEREAS, this case was brought by the Department of Buildings ("DOB") subsequent to the commencement of an appeal of an Order of Closure as to the Use Group 6 businesses located at the subject premises, issued by the Commissioner of DOB on June 30, 2006 (the "Order"); this appeal was brought under BSA Cal. No. 164-06-A by the owners of the premises; and

WHEREAS, initially, DOB asked that the Board revoke the CO as part of its determination of the appeal of the Order; however, the Board found that it was more appropriate for DOB to bring the instant application; and

WHEREAS, thus, after an initial hearing was held on the appeal, DOB brought this application, and the two matters were heard concurrently thereafter; 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 decision on December 12, 2006; and

WHEREAS, for the reasons set forth in its resolution for BSA Cal. No. 164-06-A, decided the date hereof, the Board finds that the non-conforming status of the Building's basement and first floor as Use Group 5 hotel accessory use has lapsed for a period of more than two years, and that the business uses currently occupying the Building are unlawful; and

WHEREAS, accordingly, since the CO only authorizes hotel accessory uses on these floors and the right to such uses has been terminated, the CO must be modified, and these floors of the Building may only be occupied hereafter by conforming uses permitted in the subject R8B zoning district.

Therefore it is Resolved that this application for modification of certificate of occupancy No. 26180, to eliminate "Office (hotel doctor)" from the basement listing, and "Office (hotel manager)" from the first floor listing, is granted.

Adopted by the Board of Standards and Appeals, December 12, 2006.

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
APPEARANCES – None.
ACTION OF THE BOARD – Application granted on condition.
THE VOTE TO GRANT –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0
THE RESOLUTION:

WHEREAS, this is an application under ZR § 11-332, to permit an extension of time to complete construction and obtain a certificate of occupancy for a single-family home under construction at the subject premises; and

WHEREAS, a public hearing was held on this application on November 21, 2006, after due notice by publication in *The City Record*, and then to decision on December 12, 2006; and

WHEREAS, the subject premises is located at the intersection of Greaves Avenue, Dewey Avenue, and Dewey Place; and

WHEREAS, the premises is located within an R3-1 zoning district, which was affected by the enactment of the Lower Density Growth Management Text Amendments; and

WHEREAS, the development complied with the relevant R3-1 zoning district parameters prior to the enactment of the text amendments; and

WHEREAS, however, on August 12, 2004 (hereinafter, the "Enactment Date"), the City Council voted to adopt the text amendments, which resulted in a change to certain of the subject R3-1 zoning district parameters; and

WHEREAS, as of that date, foundation construction had progressed, such that the right to continue construction was vested pursuant to ZR § 11-331, which allows the Board to determine that construction may continue under such circumstances; and

WHEREAS, the Board made its initial determination as to the application on June 7, 2005; and

WHEREAS, however, only two years are allowed for completion of construction and to obtain a certificate of

occupancy; and

WHEREAS, accordingly, because the two-year time limit has expired and construction is still ongoing, the applicant seeks relief pursuant to ZR § 11-332; and

WHEREAS, first, the Board notes that ZR § 11-31(c)(1) defines construction such as the proposed development, which involves the construction of one building as a "minor development"; and

WHEREAS, for "minor development," an extension of time to complete construction, previously authorized under a grant for an extension made pursuant to ZR § 11-331, may be granted by the Board pursuant to ZR § 11-332; and

WHEREAS, ZR § 11-332 reads, in pertinent part: "In the event that construction permitted in Section 11-331 (Right to construct if foundations completed) has not been completed and a certificate of occupancy including a temporary certificate of occupancy, issued therefore within two years after the effective date of any applicable amendment . . . the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew such building permit for two terms of not more than two years each for a minor development . . . In granting such an extension, the Board shall find that substantial construction has been completed and substantial expenditures made, subsequent to the granting of the permit, for work required by any applicable law for the use or development of the property pursuant to the permit."; and

WHEREAS, turning to the substantive findings of ZR § 11-332, the Board notes that there is no fixed standard in an application made under this provision as to what constitutes substantial construction or substantial expenditure in the context of new development; and

WHEREAS, the Board also observes that the work to be measured under ZR § 11-332 must be performed after the issuance of the permit; and

WHEREAS, similarly, the expenditures to be assessed under ZR § 11-332 are those incurred after the permit is issued; and

WHEREAS, accordingly, as is reflected below, the Board only considered post-permit work and expenditures, as submitted by the applicant; and

WHEREAS, in written statements and testimony, the applicant represents that, since the issuance of the new building permit, substantial construction has been completed and substantial expenditures were incurred; and

WHEREAS, at hearing, the Board asked the applicant to provide a written narrative describing the completed work; and

WHEREAS, in response, the applicant submitted a timeline of the work completed with the associated source and cost of the work, which includes general construction, plumbing, electrical, and site work; and

WHEREAS, in support of this timeline the applicant has submitted the following: photographs of the site, which show a nearly completed home, and financial statements; and

WHEREAS, the Board has reviewed all documentation and agrees that it establishes that the afore-mentioned work was completed subsequent to the issuance of the valid permits; and

WHEREAS, the Board notes that the actual completion of physical construction is substantial in itself, in that it resulted in tangible above-grade construction; and

WHEREAS, specifically, the Board notes, that the home appears to be almost complete and that other completed work includes the running of utilities, septic, and water, as well as grading and other site planning; and

WHEREAS, at hearing, the Board asked the applicant how much additional time was required to complete the construction and obtain a certificate of occupancy; and

WHEREAS, the applicant responded that the work could be completed and the certificate of occupancy obtained within one year; and

WHEREAS, the applicant represents that there have been delays associated with connecting the site to certain utility providers; and

WHEREAS, as to costs, the applicant represents that the total expenditure paid is $192,995 and remaining costs are approximately $45,000; in support of this claim, the applicant has submitted a financial statement, invoices, and cancelled checks; and

WHEREAS, the applicant contends that this percentage constitutes a substantial expenditure sufficient to satisfy the finding in ZR § 11-332; and

WHEREAS, based upon its review of all the submitted evidence, the Board finds that substantial construction was completed and that substantial expenditures were made since the issuance of the permits; and

WHEREAS, therefore, the Board finds that the applicant has adequately satisfied all the requirements of ZR § 11-332, and that the owner is entitled to the requested reinstatement of the permits, and all other permits necessary to complete the proposed development; and

WHEREAS, accordingly, the Board, through this resolution, grants the owner of the site a nine-month extension for completion of construction, pursuant to, ZR § 11-332.

Therefore it is Resolved that this application made pursuant to ZR § 11-332 to renew Building Permit No. 500695606, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed development and obtain a certificate of occupancy for one term of twelve months from the date of this resolution, to expire on December 12, 2007.

Adopted by the Board of Standards and Appeals, December 12, 2006.

84-06-BZY

APPLICANT – Eric Palatnik, P.C., for Debra Wexelman,owner.

SUBJECT – Application May 4, 2006 – Proposed extension of time to complete construction minor development pursuant to ZR §11-331 for a four story mixed use building. Prior zoning was R6 and new zoning district is R4-1 as of April 5, 2006.

PREMISES AFFECTED – 1472 East 19th Street, between Avenue N and Avenue O, Block 6756, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –
For Applicant: Eric Palatnik and David Shteirman.
For Opposition: Mark J. Kurzman and Joel Cohen.
For Administration: Angelina Martinez, Department of Buildings.

ACTION OF THE BOARD – Laid over to January 23, 2007, at 10 A.M., for continued hearing.

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

APPEARANCES –
For Applicant: Eric Palatnik and Zan Angelides.
For Administration: Lisa Orrantia, Department of Buildings.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0

ACTION OF THE BOARD – Laid over to January 30, 2007, at 10 A.M., for decision, hearing closed.

182-06-A thru 211-06-A

APPLICANT – Stadtmauer Bailkin, LLP, for Beachfront Community, LLC, owner.
SUBJECT – Application August 22, 2006 – An appeals seeking a determination that the owner of said premises has acquired a common law vested right to continue development commenced under the prior R5 Zoning district. Premises is located in an R4-A Zoning district.
PREMISES AFFECTED – Beach 5th Street, Beach 6th Street and Seagirt Avenue, bound of Seagrit Avenue to the north, Beach 5th Street to the east, Beach 6th Street to the west Reynolds Channel to the south, Block 15609, Lots 1, 3, 6, 8, 10, 12, 14, 16, 18, 58, 63, 64, 65, 66, 67 and 68; Block 15608, Lots 1, 40, 42, 45, 51, 52, 53, 57, 58, 61, 63, 65, 67 and 69 Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –
For Applicant: Steve Sinacori and Mitchell Ross.
For Opposition: Frances Tuccio and Donald J. Murphy, Jr..

ACTION OF THE BOARD – Laid over to January 23, 2007, at 1:30 P.M., for continued hearing.

Jeffrey Mulligan, Executive Director

Adjourned: 10:40 A.M.

MINUTES

REGULAR MEETING
TUESDAY AFTERNOON, DECEMBER 12, 2006
1:30 P.M.

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

ZONING CALENDAR

290-04-BZ
APPLICANT – Stuart A. Klein, Esq., for Alex Lokshin – Carroll Gardens, LLC, owner.
SUBJECT – Application August 20, 2004 – under Z.R. §72-21 to permit, in an R4 zoning district, the conversion of an existing one-story warehouse building into a six-story and penthouse mixed-use residential/commercial building, which is contrary to Z.R. §§22-00, 23-141(b), 23-631(b), 23-222, 25-23, 23-45, and 23-462(a).
PREMISES AFFECTED – 341-349 Troy Avenue (a/k/a 1515 Carroll Street), Northeast corner of intersection of Troy Avenue and Carroll Street, Block 1407, Lot 1, Borough of Brooklyn.
COMMUNITY BOARD #9BK
APPEARANCES – None.
ACTION OF THE BOARD – Application withdrawn.
THE VOTE TO WITHDRAW –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0
Adopted by the Board of Standards and Appeals, December 12, 2006.

359-05-BZ
APPLICANT – Sheldon Lobel, P.C., for Cumberland Farms, Inc., owner.
SUBJECT – Application December 15, 2006 – Special Permit under Z.R. §73-211 – to allow an existing gasoline service station with accessory convenience store in an R5/C2-2 zoning district.
PREMISES AFFECTED – 1927-1933 Flatbush Avenue, northeast corner of Flatbush Avenue and Kings Highway, Block 7819, Lots 20 and 25, Borough of Brooklyn.
COMMUNITY BOARD #18BK
APPEARANCES –
For Applicant: Jordan Most.
ACTION OF THE BOARD – Application granted on condition.
THE VOTE TO GRANT –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0
THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated November 17, 2005, acting on Department of Buildings Application No. 300167682, reads in pertinent part:

"Continued use of the gasoline service station with accessory uses at the premises is not permitted as-of-right in a C2-2 (R5) zoning district as per section 32-00 of the Zoning Resolution."; and

WHEREAS, this is an application under ZR § 73-211, to permit the legalization of an existing automotive service station within a C2-2 (R5) zoning district; a portion of the site is the subject of a prior variance; and

WHEREAS, a public hearing was held on this application on November 14, 2006, after due notice by publication in the *City Record*, and then to decision on December 12, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 18, Brooklyn, recommends approval of this application on the condition that the sale of alcoholic beverages be prohibited at the site and, citing concerns about traffic congestion, that the site not be used for "dollar van" (independently-owned passenger vans) parking; and

WHEREAS, the Board notes that the Community Board's request that no alcoholic beverages be sold at the site is beyond the scope of the Board's authority to impose; and

WHEREAS, the premises is located on the northeast corner of Flatbush Avenue and Kings Highway; and

WHEREAS, the subject site has a total lot area of 11,047.5 sq. ft., and comprises two lots (Lots 20 and 25); and

WHEREAS, the site is currently occupied by a gasoline service station with an accessory building for the attendant station and a small sales area; and

WHEREAS, on July 16, 1940, under BSA Cal. No. 407-40-BZ, the Board granted a variance to permit, partly in a residence and partly in a business district, the reconstruction of a gasoline service station with accessory uses on lot 20; and

WHEREAS, subsequently, at various times, the grant was amended and extended; and

WHEREAS, most recently, on August 10, 1993, the Board granted an amendment to permit certain site modifications including the conversion of an accessory building to a convenience store, and to permit an extension of term for a term of ten years, which expired on March 19, 2002; and

WHEREAS, the applicant now seeks a ten-year extension of term; and

WHEREAS, however, in September 2003, the owner purchased the adjacent lot (lot 25) and modified the site to incorporate the new lot into the existing gasoline service station use; and

WHEREAS, the applicant represents that lot 25 has 1,250 sq. ft. of lot area and is used for accessory parking and to improve the traffic flow at the site; and

WHEREAS, the applicant now seeks to legalize the enlargement of the site to include lot 25 and to legalize the associated site modifications; and

WHEREAS, because the applicant has enlarged the site, a

new special permit is required; and

WHEREAS, the required findings for the special permit for gasoline service stations in certain districts, pursuant to ZR § 73-211, include the following: (1) that the site has a minimum lot area of 7,500 sq. ft., (2) that any facilities for auto repair and washing be located within an enclosed building, (3) that five reservoir parking spaces be provided, (4) that means of ingress and egress are designed so as to cause minimum obstruction, (5) that screening be provided along lot lines adjoining residential districts, and (6) that signage comply with applicable district regulations; and

WHEREAS, based upon its review of the record, the Board finds that the gasoline service station, as currently operating, complies with these requirements for the special permit, except as to two outstanding issues that merited further attention; and

WHEREAS, first, at hearing and in response to the Community Board's concern, the Board asked the applicant whether passenger vans impermissibly used the site as a base of operation and thereby negatively impacted the site and surrounding area; and

WHEREAS, the applicant responded that the site owner does not permit the vans to use the site and will forbid them from using accessory parking spaces; and

WHEREAS, the applicant submitted a letter from the owner stating that he is taking measures to remedy the problem of vans misusing the site; the applicant also submitted a photograph of a sign posted at the site indicating that the vans are not permitted there; and

WHEREAS, second, the Board asked the applicant to confirm that the signage on the canopy was permitted; and

WHEREAS, the applicant responded that the signs would be removed from the canopy and that all signage remaining at the site would match the approved signage; and

WHEREAS, accordingly, the applicant has submitted sufficient evidence that the findings set forth at ZR § 73-211 have been met; and

WHEREAS, the Board notes that the legalization of the gasoline service station 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 requisite findings pursuant to ZR §§ 73-211 and 73-03; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 07BSA016K, dated August 23, 2006; and

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

WHEREAS, the Board has determined that the operation of the gasoline service station will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-211 and 73-03, to permit in a C2-2 (R5) zoning district the legalization of an existing gasoline service station, contrary to ZR § 32-00; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received January 19, 2006"-five (5) sheets; and *on further condition*:

THAT the term of this grant shall be for ten years from the expiration of the prior grant, under BSA Cal. No. 407-40-BZ, expiring on March 19, 2012;

THAT signage shall comply with C2-2 zoning district regulations and be limited to that indicated on the BSA-approved plans;

THAT the accessory parking shall not be used for commercial passenger van operations;

THAT a sign shall be posted at the site stating that commercial passenger vans are not permitted to use the accessory parking spaces for business operations;

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

THAT the site shall be maintained clean and free of debris and graffiti;

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

Adopted by the Board of Standards and Appeals, December 12, 2006.

51-06-BZ
APPLICANT– Sheldon Lobel, P.C., for Rivoli Realty Corp., owner.
SUBJECT – Application March 31, 2006 – Variance under Z.R (§72-21) on a lot consisting of 20,100 SF, and improved with a 13,384 SF one-story commercial structure, in a C1-2/R2 district, permission sought to legalize dance studio and to permit the operation of a physical culture establishment in a portion of the cellar. No parking provided on the premises. Sections: 32-18 dance studio (UG 9); and 32-00 PCE.
PREMISES AFFECTED – 188-02/22 Union Turnpike, south side of Union Turnpike of 188th and 189th Streets, Block 7266, Lot 1, Borough of Queens.
COMMUNITY BOARD #8Q
APPEARANCES –
For Applicant: Jordan Most.
ACTION OF THE BOARD – Application granted on condition.
THE VOTE TO GRANT –
Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson...4
Negative:.....0
THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated March 14, 2006, acting on Department of Buildings Application No. 402279495, reads in pertinent part:

"1. Dance School (Use Group 9) is not permitted in a C1-2 in R2 zoning district and is contrary to 32-18 ZR
2. Physical Culture Establishment is not permitted in a C1-2 in R2 zoning district and is contrary to 32-00 ZR."; and

WHEREAS, this is an application under ZR § 72-21, to permit, in a C1-2 (R2) zoning district, the operation of a Physical Culture Establishment (PCE), contrary to ZR § 32-00, and the legalization of an existing dance studio (Use Group 9), contrary to ZR § 32-18; and

WHEREAS, a public hearing was held on this application on November 21, 2006, after due notice by publication in the *City Record*, and then to decision on December 12, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 8, Queens, recommends approval of the application and suggests that there be a seven-year term associated with the variance; and

WHEREAS, the site is located on the south side of Union Turnpike between 188th Street and 189th Street, with 201 feet of frontage along Union Turnpike and 100 feet of frontage along both 188th Street and 189th Street; and

WHEREAS, the subject site has a total lot area of approximately 20,139.5 sq. ft.; and

WHEREAS, the site is currently improved upon with a 13,384 sq. ft. one-story commercial building with an additional 16,331 sq. ft. of floor space in the cellar; and

WHEREAS, the building is occupied with several commercial uses which occupy, in total, the 13,384 sq. ft. of floor area on the first floor; and

WHEREAS, the portions of the building that are the subject of this application are: (1) the existing dance school, which occupies 1,198 sq. ft. of floor area on the first floor and 3,472.85 sq. ft. of space in the cellar, and (2) the vacant former bowling alley, which occupies 8,646.81 sq. ft. of space in the cellar; and

WHEREAS, the two subject cellar areas are adjacent to each other and are located on the Union Turnpike/189th Street side of the building; and

WHEREAS, the applicant now seeks a variance to legalize the dance studio located in the cellar and on the first floor and to permit the proposed operation of a PCE in the former bowling alley space; and

WHEREAS, the dance studio, which has been operating in its present location for 30 years, would not be enlarged; and

WHEREAS, the applicant states that the proposed PCE space will require a complete renovation and will have one entrance on Union Turnpike and one entrance on 189th Street; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in compliance with applicable regulations: (1) the existing building is obsolete, (2) the cellar space does not have street frontage, and (3) the majority of the cellar space was designed to be income-generating; and

WHEREAS, as to the obsolescence of the building, the applicant states that the building was constructed in 1939 and the cellar space was designed to be operated as a bowling alley; and

WHEREAS, the applicant represents that a bowling alley operated in the cellar for more than 50 years, however, in recent years, the small bowling facility was unable to compete with new larger bowling facilities; and

WHEREAS, as to the limitations of the cellar space, the applicant states that the space is not appropriate for office or retail use as it does not have any windows or street frontage; and

WHEREAS, the applicant represents that the owner has engaged in a number of unsuccessful marketing efforts to rent the space, but that it has remained vacant for seven years since the bowling alley's departure; and

WHEREAS, as to the intended use of the space, the applicant asserts that the feasibility plan for the entire building when it was built relied on the use of the subject cellar space as a bowling alley; and

WHEREAS, specifically, the applicant represents that the cellar was designed to be income generating and, in support of that claim, notes that utilities were installed in the cellar and substantial resources have been invested towards improving the space in order to secure it as a viable source of income rather than as standard accessory storage space; and

WHEREAS, the applicant represents that there is no viable as of right use of the subject cellar space because, as noted above, it cannot be marketed for office or retail space given its

lack of commercial presence on the street, and it is not configured so as to be accessible from the other first floor retail uses; and

WHEREAS, further, the applicant asserts that even if the space was renovated and made accessible from the first floor retail uses, these retail uses do not require such large accessory storage spaces and any additional rental income would be minimal; and

WHEREAS, the Board agrees that the cellar was designed as an integral component of the overall building and that the loss of income generated by its use has a significant impact on the building's feasibility; and

WHEREAS, therefore, the applicant has determined that a PCE is the only viable tenant that would be able to use the irregular sub-grade space and provide the building owner with a feasible amount of rental income, as was contemplated with the bowling alley; and

WHEREAS, as to the dance studio, the applicant similarly asserts that the space which has been used as a dance school for the past 30 years has become an integral part of the overall building program; and

WHEREAS, the applicant notes that the majority of the dance school space is located in the cellar, which, as already noted, has proven to be unmarketable to an office or retail user; and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in using the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that because of its unique physical conditions, there is no possibility that the development of the property in conformance with the applicable use regulations will bring a reasonable return to the owner; and

WHEREAS, the applicant submitted a feasibility study analyzing a conforming commercial use, which includes the retrofitting of the first floor dance studio to accommodate a conforming retail use and the conversion of the entire cellar space to accessory retail storage; and

WHEREAS, the applicant concluded that the commercial scenario would not realize a reasonable return; and

WHEREAS, at hearing, the Board asked the applicant to explain the rental assumptions about the first floor space versus the cellar space; and

WHEREAS, the applicant responded that that the figures provided for the cellar reflect actual use, not accessory use, because it is assumed that accessory commercial use would not provide significant additional income; and

WHEREAS, the applicant also reiterates that until the bowling alley vacated the cellar, revenue had always been derived from use of the cellar space, since it was designed to be revenue-producing; and

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

WHEREAS, the applicant represents that the proposed use will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, specifically, the applicant states that the dance studio use has proven compatible with the commercial uses that have existed in the building since its inception, and that both the dance studio and the PCE are consistent with other commercial uses on Union Turnpike; and

WHEREAS, further, the applicant represents that there will be only minor changes to the exterior of the building; and

WHEREAS, the Fire Department stated that if the PCE and dance school use are permitted, it recommends that those spaces be fully sprinkle red and that a full interior fire alarm and smoke detection system be installed; and

WHEREAS, the applicant agrees to these conditions; and

WHEREAS, additionally, the Board asked the applicant to identify a second means of egress from the proposed PCE space as it appeared that one means of egress was through the cellar-level coatroom, which is not permitted; and

WHEREAS, in response, the applicant submitted revised drawings reflecting the removal of the coatroom, and the creation of an acceptable second means of egress for the PCE; and

WHEREAS, also, the applicant indicated that a handicapped accessible lift would be provided for access to the cellar PCE space; and

WHEREAS, at hearing, the Board asked the applicant if the billboards on the sides of the building were permitted; and

WHEREAS, the applicant responded that the billboards were illegal and have been removed; and

WHEREAS, the applicant submitted photographs of the building reflecting the removal of the billboards; 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 a function of the pre-existing unique physical conditions cited above; and

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

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 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. 06-BSA-091Q; 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, in a C1-2 (R2) zoning district, the operation of a PCE, contrary to ZR § 32-00, and the legalization of an existing dance studio (Use Group 9), contrary to ZR § 32-18, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 12, 2006"- (4) sheets; and *on further condition*:

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

THAT the term of this grant shall be limited to ten years, and shall expire on December 12, 2016, subject to further renewal;

THAT, the hours of the physical culture establishment shall be limited to 5:00 a.m. until 11:00 p.m., daily;

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

THAT a new certificate of occupancy be obtained within two years from the date of this grant;

THAT Local Law 58/87 compliance shall be as reviewed and approved by DOB;

THAT means of egress from the cellar shall be as reviewed and approved by DOB;

THAT fire safety measures, including full sprinkle ring, shall be installed and/or maintained as shown on the Board-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 of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 12, 2006.

104-06-BZ

APPLICANT– Eric Palatnik, P.C., for Martin Menashe, owner.

SUBJECT – Application May 23, 2006 – Pursuant to ZR §73-622 Special Permit to partially legalize and partially alter a long standing enlargement to an existing single family residence which is contrary to ZR 23-141 for floor area and open space and ZR 23-46 for side yard requirement. The premise is located in an R-2 zoning district. This current application filing has a previous BSA Ca. #802-87-BZ.

PREMISES AFFECTED – 3584 Bedford Avenue, north of Avenue "O", Block 7678, Lot 84, Borough of Brooklyn.

COMMUNITY BOARD # 14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated December 11, 2006, acting on Department of Buildings Application No. 302072049, reads in pertinent part:

"Proposed enlargement of existing home is contrary to:

1. ZR Section 23-141 (Floor Area)
2. ZR Section 23-141 (Open Space)
3. ZR Section 23-46 (Side Yards)
4. ZR Section 23-47 (Rear Yard)."; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03 to permit, in an R2 zoning district, the proposed legalization of an enlargement to a single-family dwelling, which does not comply with the zoning requirements for floor area, open space, and side and rear yards, contrary to ZR §§ 23-141, 23-46, and 23-47; and

WHEREAS, a public hearing was held on this application on September 12, 2006, after due notice by publication in *The City Record*, with continued hearings on October 17, 2006 and November 21, 2006, and then to decision on December 12, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

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

WHEREAS, the subject lot is located on the west side of Bedford Avenue, north of Avenue O; and

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

WHEREAS, however, the applicant enlarged the previously existing home without first obtaining the special permit; and

WHEREAS, further, the owner of the subject premises enlarged the existing home illegally without the requisite DOB permits; and

WHEREAS, initially, the applicant brought a variance application, under BSA Cal. No. 802-87-BZ, to legalize the enlargement in its entirety; and

WHEREAS, on January 17, 1989, the Board denied the variance application; the application is now for a home enlargement under the special permit; and

WHEREAS, the existing enlarged building at the site is a two-story with attic single-family home with a perimeter wall height of 22'-6" and a total height of 35'-1"; and

WHEREAS, the applicant proposes to legalize the existing two-story enlargement (10'-0" by 19'-1 ¼") at the front of the home and to modify the existing one-story enlargement (7'- ½" by 9'-9") at the rear of the home so that it complies with the requirements for a greenhouse, as defined by DOB; and

WHEREAS, the subject lot has a total lot area of 4,000 sq.ft., and is occupied by a 2,915.47 sq. ft. (0.7289 FAR) home; the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant did not submit complete information about the parameters of the building prior to the pre-1987 enlargement; and

WHEREAS, the enlargement of the home increased the degree of non-compliance as to side yards; one side yard of 3'-1 ¼" and one side yard of 10'-10 ¾" are provided (side yards with a total width of 13 feet and a width of 5 feet for one yard are the minimum required); and

WHEREAS, additionally, the existing home provides open space of 2,840.26 sq. ft. (3,000 sq. ft. is the minimum required) and an open space ratio of 85.1 percent (150 percent is the minimum required); and

WHEREAS, before the subject enlargement, the rear of the home was irregularly shaped with a 16'-3" wide portion extending further into the rear yard, which resulted in a 17'-9 ¼" rear yard along that portion of the home; historically, there was also a 9'-9" wide notch along the rear of the home, which resulted in a 24'-9 ¾" rear yard along that portion of the home (a rear yard with a depth of 30 ft. is the minimum required); and

WHEREAS, as built, the enlargement at the rear fills in the notch and creates a straight line across the rear of the home, which results in a 17'-9 ¼" rear yard for the width of the home; and

WHEREAS, in the initial submission, the applicant proposed to maintain the rear enlargement as built; and

WHEREAS, the Board directed the applicant that, as per the special permit, it could not approve any new development that encroached into the required 20'-0" rear yard; the Board notes that the 17'-9 ¼" rear yard along the 16'-3" wide portion of the home is an existing non-complying condition; and

WHEREAS, the applicant asserts that the enlargement at the rear of the home could be categorized as a greenhouse and was therefore a permitted obstruction into the required rear yard; and

WHEREAS, at hearing, the Board expressed concern about the characterization of the rear enlargement as a greenhouse, as it appeared to be built of masonry; and

WHEREAS, further, the Board noted that the required 20'-0" rear yard could be provided for a portion of the rear of the home if a portion of the rear enlargement were eliminated; and

WHEREAS, the Board notes that the applicant filed plans with DOB to legalize the front enlargement and modify the rear enlargement so as to meet the definition of a greenhouse and that DOB denied the plans; and

WHEREAS, the Board directed the applicant to remove the portion of the rear enlargement which encroached into the required rear yard from the plans because a determination as to whether or not the enlargement could be classified as a greenhouse was not appropriately before the Board and would have to be sought at DOB; and

WHEREAS, in response, the applicant removed the portion of the rear enlargement that encroached into the required 20'-0" rear yard and provided a 20'-0" rear yard along that portion of the home; and

WHEREAS, the applicant notes that the portion of the enlargement which is sought to be defined as a greenhouse occupies approximately 21.74 sq. ft. of floor area and that even if the rear enlargement is deemed a permitted obstruction, its floor area would be included in the total floor area of the home; and

WHEREAS, further, the applicant notes that with the removal of this portion of the enlargement, the total floor area of the home would be reduced from 2,915.47 sq. ft. to 2,893.73; and

WHEREAS, however, the applicant requests that the Board approve a total floor area for the home of 2,915.47 sq. ft. so that there will not be a conflict between the approved floor area with and without the greenhouse, if the greenhouse is approved by DOB; and

WHEREAS, the Board agreed to approve a total floor area of 2,915.47 on the condition that if DOB determines that the rear enlargement does not qualify as a greenhouse, then the 21.74 sq. ft. of floor area associated with it cannot be allocated to any other enlargement to the home and must be subtracted from the total floor area; 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 in the subject

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

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

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

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II 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 legalization of an enlargement to a single-family dwelling, which does not comply with the zoning requirements for floor area, open space, and side and rear yards, contrary to ZR §§ 23-141, 23-46, 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 November 8, 2006"–(9) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the floor area of the attic shall be limited to 76.02 sq. ft.;

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

THAT the following shall be the parameters of the building: a total floor area of 2,915.47 sq. ft., a total FAR of 0.7289, a perimeter wall height of 22'-6", a total height of 35'-1", an open space ratio of 85.1 percent, one side yard of 3'-1 ¼", one side yard of 10'-10 3/4", a front yard of 19'-11", and a rear yard of 17'-9 ¼" along a 16'-3" wide portion of the rear of the home and a rear yard of 20'-0" along a 9'-9" wide portion of the rear of the home, all as illustrated on the BSA-approved plans;

THAT any greenhouse shall be as approved by DOB;

THAT if DOB does not approve a greenhouse at the rear of the house, the floor area associated with it must be eliminated and the total floor area of the home shall be 2,893.73;

THAT any porches 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, December 12, 2006.

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: Richard lobel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Bronx Borough Commissioner, dated May 16, 2006, acting on Department of Buildings Application No. 201049926, reads in pertinent part:

> "Continued use of the gasoline service station with accessory uses at the premises is not permitted as-of-right in R7-1 zoning district and is contrary to the prior BSA grant 868-59-BZ."; and

WHEREAS, this is an application for a reinstatement of a prior Board approval, pursuant to ZR § 11-411, and a legalization of certain site modifications, pursuant to ZR § 11-412; and

WHEREAS, a public hearing was held on this application on October 24, 2006, after due notice by publication in the *City Record*, with a continued hearing on November 21, 2006, and then to decision on December 12, 2006; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

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

WHEREAS, the premises is located on the northwest corner of 180th Street and Bathgate Avenue, and is within an R7-1 zoning district; and

WHEREAS, the subject zoning lot has a total lot area of approximately 8,160 sq. ft.; and

WHEREAS, the site is currently occupied by a 1,638 sq. ft. gasoline service station, with accessory parking for vehicles awaiting service; and

WHEREAS, on June 28, 1960, under BSA Cal. No. 868-59-BZ, the Board granted a variance to permit the reconstruction of the subject gasoline service station; and

WHEREAS, subsequently, the variance was amended and extended by the Board at various times; and

WHEREAS, most recently, on November 18, 1986, the Board permitted an extension of term for a term of ten years, expiring on June 28, 1995; and

WHEREAS, the applicant represents that the subject use has been located at the site on a continuous basis since the expiration noted above; and

WHEREAS, the applicant now proposes to reinstate the prior grant, legalize the existing use, and obtain a new ten-year term; and

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

WHEREAS, the applicant represents that there has been no enlargement to the zoning lot or the building, and the only changes to the site since the last grant are the removal and relocation of underground storage tanks, the installation of fencing, the relocation of two of the three curb cuts, the replacement of the single fuel dispenser island with two smaller islands, and the installation of a wider sidewalk along the entrance to the office/sales area; and

WHEREAS, pursuant to ZR § 11-412, the Board may grant a request for alterations to the site; and

WHEREAS, however, at hearing, the Board asked the applicant if the fence along the northeast corner of the site encroached onto the sidewalk; and

WHEREAS, the applicant submitted a revised site plan indicating that the fence would be relocated entirely within the property line; and

WHEREAS, the Board has determined that evidence in the record supports the findings required to be made under ZR §§ 11-411 and 11-412; and

WHEREAS, the project is classified as an Unlisted action pursuant to 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. 06BSA097X, dated June 5, 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, during the April 1998 removal of fifteen underground petroleum storage tanks (USTs), it was determined through field screening that there was evidence of contamination on the site. The New York State Department of Environmental Conservation (DEC) assigned a spill number to this case (Spill No. 97-13712). A subsurface investigation (which included taking soil boring and groundwater samples) was conducted on April 29, 2003, to determine the extent of this contamination. All soil boring locations were selected with the concurrence of DEC; and

WHEREAS, a Remediation Stipulation Agreement sent to the Applicant on June 30, 2003 was signed in August 2003 by the applicant (Getty Properties Corporation) and the DEC. Remediation using a Dual Phase Extraction System started in early 2006 and is continuing; 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 §§ 11-411 and 11-412, for a reinstatement of a prior Board approval, an extension of term, and a legalization of site modifications; *on condition* that any and all use shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received November 8,m 2006"-(5) sheets; and *on further condition*:

THAT this grant shall be for a term of ten years, to expire on December 12, 2016;

THAT the lot shall be kept free of dirt and debris;

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

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

THAT remediation activities on the site shall continue on the site in accordance with the Stipulation Agreement and with any subsequent directives from the DEC;

THAT the layout of the property, location and size of the fence shall be as approved by the Department of Buildings;

THAT all signage shall comply with C1 zoning regulations;

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, December 12, 2006.

132-06-BZ

APPLICANT– Fried Frank Harris Shriver & Jacobson, LLP, for 122 Greenwich Owner, LLC, owner.

SUBJECT – Application June 23, 2006 – Variance pursuant to Z.R. §72-21 to allow an eleven (11) story residential building with ground floor retail and community facility uses on a site zoned C6-2A and C1-6. The proposed building would contain 36 dwelling units and would be non-complying with respects to floor area, lot coverage, rear yard, height and setback, inner court, and elevator bulkhead requirements; contrary to Z.R. §§ 23-145, 35-31, 23-47, 35-24, 23-633, 23-851 and 33-42.

PREMISES AFFECTED – 122-136 Greenwich Avenue, northeast corner of Greenwich Avenue and 8th Avenue, Block 618, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Paulina Williams.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated September 21, 2006, acting on Department of Buildings Application No. 104328130, reads:

"1. 23-145, 35-31 & 77-22 – Exceeds residential floor area permitted in C1-6 zone and exceeds residential maximum permitted floor area calculation for overall site.
2. 23-145, 35-20, & 77-24 – Exceeds permitted lot coverage in C1-6 zone on corner lot and on interior lot and adjust maximum lot coverage on overall site.
3. 23-47 and 35-20 – Does not provide 30' rear yard for interior lot.
4. 35-24(b)(3) – Recesses exceed 30% in base in C6-2A zone and located within 30' of the corner.
5. 23-633(b) and 35-20 – Does not provide rear setback on interior lot portion at maximum base height.
6. 35-24(d), Table A and B – Exceeds maximum building height in C6-2A and C1-6 zones.
7. 35-24(c)(1) – Provides shallower setback than required fronting on a narrow street.
8. 23-851 and 35-20 – Does not provide minimum dimension of 30' for inner court.
9. 33-42 – Aggregate width of street walls of elevator bulkhead exceeds 30' width and aggregate width times height exceeds four times the width of the building street wall.";

and

WHEREAS, this is an application under Z.R. § 72-21, to permit, on a site partially within a C6-2A zoning district and partially within a C1-6 zoning district, the proposed development of a 5.88 Floor Area Ratio (FAR), seven and eleven-story mixed-use retail/community facility/residential building, with ground floor commercial space, a small community facility space, and 36 dwelling units, which is non-complying as to floor area and FAR, lot coverage, rear yard, height and setback, inner court, street wall location and elevator bulkhead requirements, contrary to Z.R. §§ 23-145, 35-31, 35-20 23-47, 35-24, 23-633, 23-851, 33-42, 77-22 and 77-24; and

WHEREAS, a public hearing was held on this application on October 17, 2006 after due notice by publication in the *City Record*, with a continued hearing on November 14, 2006, and then to decision on December 12, 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 Collins, and Commissioners Hinkson and Ottley-Brown; and

WHEREAS, Community Board 2, Manhattan, recommends disapproval of this application, and contends that the site does not suffer a financial hardship; this argument is discussed below; and

WHEREAS, Borough President Stringer, Council Member Quinn, Assembly Member Glick, the Greenwich Village Society for Historic Preservation, the Greenwich Village Community Task Force, and certain individual neighbors all opposed this application or certain aspects of it; and

WHEREAS, certain neighbors and area residents supported the application; and

WHEREAS, the premises is located at the northeast corner of Greenwich Avenue and 8th Avenue, with 54 feet of frontage on 8th Avenue and 155 feet of frontage on Greenwich Avenue, with a depth of 73'-2", measured perpendicularly from Greenwich to the parallel portion of the rear lot line, and a depth of 80'-0", measured perpendicularly from 8th to the parallel portion of the rear lot line; and

WHEREAS, the total lot area is 10,697 sq. ft., with approximately 5,424 sq. ft. within the C6-2A district, and approximately 5,273 sq. ft. within the C1-6 district; and

WHEREAS, because of the site's configuration at an intersection, part of the site is considered an interior lot, and part is considered a corner lot; and

WHEREAS, the site is also located within the Greenwich Village Historic District, and the proposed development has received a Certificate of Appropriateness from the City's Landmarks Preservation Commission, dated September 6, 2006; and

WHEREAS, the site is currently used as a parking lot, and has been for the past 60 to 70 years; and

WHEREAS, the site has been the subject of two past Board actions; and

WHEREAS, in 1981, under BSA Cal. No. 428-81-BZ, the Board granted a variance to allow the construction of a mixed-use building that exceeded applicable FAR, open

space, lot area, sky exposure, and rear yard obstruction requirements; and

WHEREAS, in 1985, this grant was amended to accommodate a purely residential building with a new massing scheme; and

WHEREAS, the 1985 grant allowed for a 14-story, 145 feet high building element at the north end of the site; and

WHEREAS, the applicant represents that the approved building was not constructed due to financial reasons; and

WHEREAS, in the C6-2A portion of the site, the proposed building has the following bulk parameters: eleven stories, a residential floor area of 32,257.84 sq. ft., a residential FAR of 5.95, a community facility floor area of 124.80 sq. ft., a community facility FAR of 0.02, a commercial floor area of 2,836.80 sq. ft., a commercial FAR of 0.52, a total floor area of 6.49, 75 percent lot coverage, 18 dwelling units, a maximum wall height of 85'-0", a total height of 128.36 ft., one 10 ft. setback, and an inner court of 15'-4"; and

WHEREAS, of these parameters, the following are non-compliant: total height (the maximum height permitted is 120'-0"); setbacks (a setback of 15'-0" is required at 85 feet); and interior court (an interior court of 30 ft. in depth is required); and

WHEREAS, in addition, the proposed building will provide approximately 34 feet of recess along the 8th Avenue frontage, with variations in the amount and location of recesses at each level of the street wall, for a total recess of approximately 63 percent of the 8th Avenue frontage and 100 percent for the band directly above the storefront; however, the maximum recess permitted is 30 percent above the height of 12 feet and within 30 feet of the corner; and

WHEREAS, finally, the dimensional limit of the mechanical roof bulkhead along the 8th Avenue frontage (40'-3" long and 15'-10" tall) violates the permitted dimensions for a bulkhead in the C6-2A district; and

WHEREAS, in the C1-6 portion, the proposed building has the following bulk parameters: seven stories, a residential floor area of 22,984.12 sq. ft., a residential FAR of 4.36, a community facility floor area of 105.60 sq. ft., a community facility FAR of 0.02, a commercial floor area of 4,583.04 sq. ft., a commercial FAR of 0.87, a total floor area of 5.25, 96 percent lot coverage on the corner lot portion, 78 percent lot coverage on the interior lot portion, 18 dwelling units, a maximum wall height of 60'-0", a total height of 83.71 ft., a rear yard of 24'-0", a setback of 10'-0" and no rear setback; and

WHEREAS, of these parameters, the following are non-compliant: the residential floor area and FAR (a residential floor area of 18,139 sq. ft. and a residential FAR of 3.44 are the maximums permitted); lot coverages (80 percent is the maximum on a corner lot, and 65 percent is the maximum on an interior lot); total height (a total height of 75'-0" is the maximum permitted); rear yard (a rear yard of 30'-0" is required); and setback (a setback of 15'-0" is required, and a 10 ft. rear setback is required at or below 60 ft.); and

WHEREAS, because the site is mapped within two zoning districts, certain provisions concerning such sites are also violated; and

WHEREAS, specifically, over the entire site, the following parameters are non-compliant: the total residential floor area of 55,241 sq. ft. (50,791.60 sq. ft. is the maximum permitted); the total residential FAR of 5.16 (4.73 is the maximum permitted); and the lot coverages of 84 percent (corner) and 68 percent (interior) (80 percent and 66 percent are the maximums permitted); and

WHEREAS, because of the various non-compliances, the instant variance application was made; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in compliance with underlying district regulations: (1) the site is situated directly over the 8th Avenue subway tunnel for much of its area, with a subway tunnel easement only 11'-6" below grade, and the water table is only 18'-0" below grade; (2) the site is shallow, with varying depths of 73 and 80 feet; (3) the site is irregularly shaped; and (4) the site is split by two zoning districts; and

WHEREAS, the applicant states that the combination of the presence of the subway easement and the high water table compromises complying development, in that the conditions result in increased construction costs; and

WHEREAS, the applicant also notes that the location of the subway easement constrains the location of the vertical circulation core because it must be located outside of the tunnel footprint in the C6-2A portion of the site in order to provide access to all residential levels and the below grade levels; and

WHEREAS, the applicant notes that in a complying scheme, this results in a building with highly inefficient floor plates on the residential floors; and

WHEREAS, the applicant states that this inefficiency and the afore-mentioned construction costs can only be overcome with the additional residential FAR; and

WHEREAS, the applicant states that these conditions also allow for only one very short below grade level at the front portion of the site, which limits the amount of below grade space for mechanical systems, storage and amenities, requiring some of the mechanical spaces to be placed below the second floor slab in the commercial space, and contributing to the needed height waivers; and

WHEREAS, at the first hearing and in a subsequent letter, the applicant's expert provides more detail on the sub-grade hardships, explaining that no gain could be achieved by shifting the bulk of the building away from the portion of the site directly above the subway easement, since the structure is still prohibited from applying lateral forces on the top and the sides of the subway structure; and

WHEREAS, thus, a deep caisson foundation system and a thickened mat are required regardless of the building's location on the site; and

WHEREAS, the expert's letter also explains that the caissons must be installed in bedrock, utilizing rock bearing foundations, which further increases costs; and

WHEREAS, in any event, the Board observes that the underlying zoning requires placement of the building on the

streetline, which means that an alternative placement would still require a variance; and

WHEREAS, such a design would likely not be approvable by LPC; and

WHEREAS, further, at the request of the Board, the applicant explained in greater detail how the limited height of the cellar affects the ability to locate certain mechanical elements below grade; and

WHEREAS, specifically, one of the applicant's experts submitted a letter that explained that because of the location of the subway easement, the vertical clearance in the cellar is too low to permit rerouting of various building services, and these services therefore must be installed in the ground floor ceiling space; and

WHEREAS, the letter also explains that for this reason, certain equipment also must be located in the mechanical bulkhead on the roof, thus necessitating the need for the bulkhead dimension variance; and

WHEREAS, finally, the applicant also established the uniqueness of the subway easement condition at the first hearing and in a subsequent submission, showing that on the subject block and within the subject neighborhood, only the subject site and the two sites adjacent to it (which are already developed) are located directly above the subway tunnel; and

WHEREAS, more specifically, the applicant explained that the subway easement is directly below the subject site for its full width, but then changes direction and only runs partially underneath other sites; and

WHEREAS, the Board notes that the subject site is the most significantly affected site in this regard, largely because of its corner location; and

WHEREAS, as to the shallow depths, the applicant notes that in combination with the required court yard and rear yard dimensions, the required 10 and 15 ft. setbacks from 8th Avenue to Greenwich Avenue, the rear setback, and the required lot coverages, these depths constrain the creation of floor plates such that they would be unable to sustain practical, marketable units; and

WHEREAS, the applicant notes that the required elevator cores, hallways and stairwells further constrain the floor plates; and

WHEREAS, the applicant concludes that the floor area and dimensional waivers reduce design inefficiencies by allowing for improved apartment layouts; and

WHEREAS, the Board observes from the submitted land use map that the site is one of the few in the area with such a shallow depth; and

WHEREAS, as to the irregular shape of the site, the Board observes that in addition to the curved frontage on the corner, the site has four other angles; and

WHEREAS, the applicant states that many of the units are irregularly shaped as well, which reduces efficiency, in terms of design, sell-out value and construction costs; and

WHEREAS, finally, as to the split zoning, the applicant notes that this exacerbates the irregular shape of the site, and also that the irregular massing attributable to the split zoning generates a high ratio of exterior perimeter wall to usable floor area, increasing the cost of exterior cladding by approximately 10 percent from a typical site; and

WHEREAS, at hearing, the Board asked for further clarification as to why the street wall recess waiver was necessary; and

WHEREAS, in a subsequent letter, the applicant explained that the recesses were necessary to: (1) create an architectural design that would be approved by LPC as contextual with its surroundings; and (2) create a cohesive, sensitively detailed design that provides the building with an architectural character sufficient to sustain successful marketing at the projected rates reflected in the feasibility analysis; and

WHEREAS, specifically, the applicant notes that the waiver is only needed in the C6-2A portion of the site, where such recesses exceed the maximum permitted, in order to preserve the continuity of the recess design as provided on the C1-6 portion of the site; and

WHEREAS, the applicant concludes, and the Board agrees, that this design cohesiveness plays a fundamental role in the feasibility of the proposal; and

WHEREAS, the Board observes that the applicant has established each of the bases of uniqueness and justified the requested waivers through the submission of expert testimony, all of which the Board finds credible and persuasive; and

WHEREAS, accordingly, the Board finds that the unique conditions mentioned above, when considered in the aggregate, create practical difficulties and unnecessary hardship in developing the site in strict compliance with applicable zoning regulations; and

WHEREAS, the applicant submitted an initial feasibility study that analyzed a fully complying scenario, consisting of a seven and eleven story building, with retail and community facility on the first floor level and 33 residential condominium units on floors two through eleven; and

WHEREAS, the complying scenario provided 44,503 sq. ft. of residential floor area, 7,420 sq. ft. of retail floor area, and 230 sq. ft. of community facility floor area; and

WHEREAS, the applicant concluded that a complying development would not realize a reasonable return due to the site's constraints; and

WHEREAS, specifically, the applicant has identified significant premium costs related to the site's unique features that render a complying development infeasible; and

WHEREAS, at hearing, the Board questioned why the construction costs for an as-of-right building would be greater than the costs for the proposal, given that the proposal contemplates more floor area and greater height; and

WHEREAS, in response, the applicant submitted a letter from its contractor, which states that foundation, concrete, exterior façade, and labor costs are reduced under the proposed scenario, as the proposal avoids a core placement that exacerbates all of these cost items; and

WHEREAS, the opposition contends that the comparable land sales used in the feasibility analysis to establish site valuation, as well as the comparable retail rents used to establish sell out value, were improper in that they

were not truly comparable; and

WHEREAS, in a submission dated November 28, 2006, the applicant explained that the site valuation was appropriately established by legitimate comparables, and that the sell out value was appropriate established by a review of retail rents in the vicinity of the subject property; and

WHEREAS, the Board has reviewed the submitted feasibility study and the subsequent submissions, and concludes that the comparables are credible, and that the methodology used to arrive at the site valuation and sell out value comports with accepted real estate valuation practice; 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 with the specified zoning provisions will provide a reasonable return; and

WHEREAS, the applicant states that the proposed variances, if granted, will not negatively affect the character of the neighborhood nor impact adjacent uses; and

WHEREAS, the applicant notes that the scale and character of the proposed building have been found to be appropriate by LPC; and

WHEREAS, additionally, the applicant notes that the proposed building is substantially shorter than the 17-story residential buildings directly south across Jackson Square, and the 20-story building at 8th Avenue and West 14th Street; and

WHEREAS, the applicant further notes that the front setbacks will be at complying heights; and

WHEREAS, moreover, in the C1-6 zone, the setback will relate to the cornice of the adjacent MTA substation; and

WHEREAS, finally, the applicant's expert notes that the bulkhead, though non-complying, is still compact for a building of this size, and will not negatively impact any adjacent uses; and

WHEREAS, the Board has reviewed the map and photos submitted with this application, and has also conducted its own site visit, and concludes that the proposed bulk and height of the building will be compatible with the existing conditions in the immediate neighborhood; 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 instead results from the above-mentioned unique physical conditions; and

WHEREAS, as to minimum variance, the applicant states that without the dimensional variances, the vertical circulation core would have to be located over the subway tunnel, increasing construction costs and decreasing revenue due to unreasonably shallow floor plates; and

WHEREAS, without the FAR wavier, construction costs could not be overcome, and the floor plates would be less efficient and therefore less marketable; and

WHEREAS, without the height waivers, the floor to ceiling heights would be reduced, diminishing revenue; and

WHEREAS, the recess waivers were deemed necessary by LPC and are required to sustain the overall viability of the project; and

WHEREAS, finally, the bulkhead waiver is necessary to accommodate the bare minimum of building systems that cannot be located in the cellar; and

WHEREAS, nevertheless, at hearing, the Board questioned the need for the additional FAR, and asked the applicant to analyze a scenario that maintained the height and setback waivers, but eliminated the additional FAR; and

WHEREAS, the applicant submitted two different lesser variance scenarios, one that maximized the amount of units in the tower and one that maximized the amount of units in the base; and

WHEREAS, the applicant concluded that neither scenario would realize a reasonable return, and concluded that the FAR waiver was necessary; and

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

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

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617.4; 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. 06BSA102M, dated June 23, 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; Construction Impacts and Public Health; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type I Negative Declaration, with the condition stipulated below and prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.4, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings under Z.R. § 72-21, to permit, on a site partially within a C6-2A zoning district and partially within a C1-6 zoning district, the

proposed development of a 5.88 Floor Area Ratio (FAR), seven and eleven-story mixed-use retail/community facility/residential building, with ground floor commercial space, a small community facility space, and 36 dwelling units, which is non-complying as to floor area and FAR, lot coverage, rear yard, height and setback, inner court, street wall location and elevator bulkhead requirements, contrary to Z.R. §§ 23-145, 35-31, 35-20 23-47, 35-24, 23-633, 23-851, 33-42, 77-22 and 77-24; *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 31, 2006" – seventeen (17) sheets and marked "Received December 11, 2006" - one (1) sheet; and *on further condition*:

THAT the total FAR of the development is limited to 5.88, with a residential FAR of 5.16, a community facility FAR of 0.02, and a commercial FAR of 0.70;

THAT the other bulk parameters of the building shall be as indicated on the BSA-approved plans;

THAT the interior layout and all exiting requirements shall be as reviewed and approved by the Department of Buildings;

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

Adopted by the Board of Standards and Appeals, December 12, 2006.

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

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated June 23, 2006, acting on Department of Buildings Application No. 301188184, reads:

> "The proposed enlargement of a legal conforming manufacturing use located in a M1-1 zoning district is not allowed and requires a special permit from the Board of Standards and Appeals pursuant to Section 73-53 of the Zoning Resolution"; and

WHEREAS, this is an application made pursuant to ZR §§ 73-53 and 73-03, to allow, within an M1-1 zoning district, the proposed enlargement of a legal conforming Use Group 17b manufacturing building, which does not comply with requirements related to floor area, wall height, number of stories, setback, and sky exposure plane, contrary to ZR §§ 43-12 and 43-43; and

WHEREAS, a public hearing was held on this application on November 21, 2006 after due notice by publication in *The City Record* and then to decision on December 12, 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 Vice-Chair Collins; and

WHEREAS, Community Board 5, Brooklyn, recommends approval of this application; and

WHEREAS, the subject zoning lot is located on the east side of Belvidere Street between Broadway and Beaver Street, within an M1-1 zoning district; and

WHEREAS, the lot is approximately 9,500 square feet and is improved upon with a 18,525.5 square feet, 1.95 Floor Area Ratio (FAR) four-story manufacturing building constructed in 1922; and

WHEREAS, the proposed enlargement will add an additional 8,332.2 square feet in floor area, and will be located adjacent to the existing building, with enclosed parking and loading on the first floor; and

WHEREAS, the enlargement will result in the following non-compliances: an FAR of 2.83 (the maximum FAR is 1.0); a wall height of 48'-2" (the maximum wall height is 30'-0"; four stories (the maximum is two stories); no setbacks (a setback of 20'-0" is required); and non-compliance with the sky exposure plane; and

WHEREAS, the current owner purchased the property in 2000, and has used it since then for the manufacturing of custom decorative hardware; and

WHEREAS, as to the prerequisites, the applicant, through testimony and submission of supporting documentation, has demonstrated that: the use of the premises is not subject to termination pursuant to ZR § 52-70; the use for which the special permit is being sought has lawfully existed for more than five years; there has not been residential use on the site during the past five years; the subject building has not received an enlargement pursuant to ZR §§ 11-412, 43-121 or 72-21; and that the subject use is listed in Use Group 17b, not Use Group 18; and

WHEREAS, the applicant also demonstrated that the requested proposal is for an enlargement that results in less than 45% of the floor area occupied by the UG 17b use on December 17, 1987, and does not exceed 10,000 square feet; and

WHEREAS, in support of the above, the applicant has submitted plans, an owner's affidavit, Sanborn maps, and a history of the listing in the telephone directory; and

WHEREAS, the applicant represents that the enlargement is an entirely enclosed building, and that there will be no open uses of any kind; and

WHEREAS, the applicant represents, and the Board agrees, that that the requirements set forth at ZR § 73-53(b)(4),(5),(6),(7),(8), and (9) are either satisfied, or are inapplicable to the instant application; and

WHEREAS, the applicant notes that the enlargement will result in the hiring of approximately 5 to 15 new employees, which is below the number which will generate significant increases in vehicular or pedestrian traffic; and

WHEREAS, as to potential parking impacts, the applicant states there will be adequate parking, both on-site and on-street, to accommodate projected parking need; and

WHEREAS, further, all parking and loading will be enclosed; and

WHEREAS, accordingly, the record indicates and the Board finds that the subject enlargement will not generate significant increases in vehicular or pedestrian traffic, nor cause congestion in the surrounding area, and that there is adequate parking for the vehicles generated by the enlargement, and that loading will be inside the building; and WHEREAS, the Board notes that there are no required side yards; and

WHEREAS, as to the general impact on the essential character of the neighborhood and nearby conforming uses, the Board notes that the proposed enlargement will be constructed entirely within the subject M1-1 zoning district; and

WHEREAS, the Board observes that immediately to the north and west of the site are two large warehouses and a factory, and that the subject block is developed with many commercial uses; and

WHEREAS, thus, the neighborhood in which the site is located in characterized by a significant manufacturing and commercial presence; and

WHEREAS, accordingly, the Board finds that the proposed enlargement will not alter the essential character of the surrounding neighborhood nor will it impair the future use and development of the surrounding area; and

WHEREAS, the Board notes that the grant of the special permit will facilitate the enlargement of a viable UG 17 use, which provides jobs and tax revenue, on a site where such use is appropriate and legal; and

WHEREAS, based upon the above, 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 are outweighed by the advantages to be derived by the community; and

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

WHEREAS, therefore, the Board determines that the evidence in the record supports the findings required to be made under ZR §§ 73-53 and 73-03.

WHEREAS, the project is classified as an Unlisted action pursuant to 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. 07BSA001K, dated July 11, 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 under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR §§ 73-53 and 73-03 for a special permit to allow, within an M1-1 zoning district, the proposed enlargement of a legal conforming use Group 17b manufacturing building, which does not comply with requirements related to floor area, wall height, number of stories, setback, and sky exposure plane, contrary to ZR §§ 43-12 and 43-43, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received December 11, 2006"–(5) sheets; and *on further condition*;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT there shall be no open uses on the site;

THAT the above conditions shall appear on any issued certificate of occupancy;

THAT all applicable fire safety measure will be complied with;

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

Adopted by the Board of Standards and Appeals December 12, 2006.

175-05-BZ

APPLICANT – Eric Palatnik, P.C. for 18-24 Luquer Street Realty LLC, owner.

SUBJECT – Application July 28, 2005 – Zoning variance pursuant to Z.R. §72-21 to allow the construction of a proposed four (4) story multi-family dwelling containing sixteen (16) dwelling units and eight (8) accessory parking spaces. Project site is located in an M1-1 zoning district and is contrary to Z.R. §42-00.

PREMISES AFFECTED – 18-24 Luquer Street, Between Hicks Street and Columbia Street, Block 520, Lot 13, 16, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Eric Palatnik.

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

302-05-BZ

APPLICANT– Sheldon Lobel, P.C., for 262-272 Atlantic Realty Corp., owner.

SUBJECT – Application October 12, 2005 – Variance under 72-21 to allow a transient hotel (UG 5) in an R6A/C2-4 (DB) zoning district. Proposal is contrary to ZR sections 32-14 (use), 33-121 (FAR), 101-721 and 101-41(b) (street wall height), 101-351 (curb cut), and 35-24 (setback).

PREMISES AFFECTED – 262-276 Atlantic Avenue, south side of Atlantic Avenue, 100' east of the corner of Boerum Place and Atlantic Avenue, Block 181, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Laid over to February 6, 2007, at 1:30 P.M., for an adjourned hearing.

128-06-BZ

APPLICANT– Juan D. Reyes III, Esq., for Atlantic Walk, LLC, owner.

SUBJECT – Application June 16, 2006 – Zoning variance pursuant to ZR §72-21 to allow a nine-story residential building in an M1-5 district (Area B-2 of Special Tribeca Mixed Use District). Twenty Six (26) dwelling units and twenty six (26) parking spaces are proposed. The development would be contrary to use (Z.R. §111-104(d) and §42-10), height and setback (Z.R. §43-43), and floor area ratio regulations (Z.R. §111-104(d) and §43-12). The number of parking spaces exceeds the maximum allowed is contrary to Z.R. §13-12.

PREMISES AFFECTED – 415 Washington Street, west side of Washington Street, corner formed by Vestry Street and Washington Street, Block 218, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Juan Reyes, Joe Lombardi, Greg Boudeci and Peter Host.

For Opposition: Jack Lester and Richard Herschlag, P.E.

ACTION OF THE BOARD – Laid over to January 23, 2007, at 1:30 P.M., for continued hearing.

252-06-BZ

APPLICANT – Randolph Croxton, for Mount Hope Community Center, owner.

SUBJECT – Application September 15, 2006 – Variance pursuant to Z.R. §72-21 to permit the construction of a four-story Use Group 4 community center facility. The premises is located in an R8 zoning district and is currently a vacant lot. The proposal is seeking waivers of Z.R. §24-36 and §24-393 (proposed portion of the new building located in the rear yard is not a permitted obstruction per Z.R. §24-33 (b) paragraph (3)). A waiver of §24-382 is also requested relating to the proposed portion of the new building on a through lot exceeding 110 feet in depth which requires a rear yard equivalent.

PREMISES AFFECTED – 55 East 175th Street, between Townsend Avenue and Walton Avenues, Lot 2850, Lot 38, Borough of The Bronx.

COMMUNITY BOARD #5BX

APPEARANCES –

For Applicant: Jean Hahn.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

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

151-04-BZ

APPLICANT– Philips Nizer, LLP, for Fred M. Schildwachter & Son, Inc., c/o Dan Schildwachter, owner; Adriana A. Salamone, lessee.

SUBJECT – Application April 9, 2004 – Special Permit (§73-36) to permit the legalization of an existing physical culture establishment (Star Fitness) in an M3-1 Zoning District.

PREMISES AFFECTED – 1385 Commerce Avenue, southwest corner of Butler Place, Block 1385, Lot 13, Borough of The Bronx.

COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Phillips Nizer and Keven McGrath.

THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4
Negative:.....0

ACTION OF THE BOARD – Laid over to January 23, 2007, at 1:30 P.M., for decision, hearing closed.

378-04-BZ
APPLICANT– Sheldon Lobel, P.C., for Hieronima Rutkowska, owner.
SUBJECT – Application November 29, 2004 – Variance (§72-21) to permit the construction of a four-story residential building and a four-car garage. The Premise is located on a vacant lot in an M1-1 zoning district. The proposal is contrary to Section 42-00.
PREMISES AFFECTED – 94 Kingsland Avenue, northeast corner of the intersection between Kingsland Avenue and Richardson Street, Block 2849, Lot 1, Borough of Brooklyn.
COMMUNITY BOARD #1BK
APPEARANCES –
For Applicant: Jordan Most.
For Opposition: Jose Leon.

ACTION OF THE BOARD – Laid over to February 6, 2007, at 1:30 P.M., for continued hearing.

111-06-BZ
APPLICANT– Sheldon Lobel, P.C., for Alex Lyublinskiy, owner.
SUBJECT – Application June 5, 2005 – Special Permit (73-622) for the in-part legalization of an enlargement to a single family residence. This application seeks to vary open space and floor area (23-141); side yard (23-48) and perimeter wall height (23-631) regulations. R3-1 zoning district.
PREMISES AFFECTED – 136 Norfolk Street, west side of Norfolk Street, between Shore Boulevard and Oriental Boulevard, Block 8756, Lot 14, Borough of Brooklyn.
COMMUNITY BOARD #15BK
APPEARANCES –
For Applicant: Richard Lobel and Ed Eisenberg.
For Opposition: Susan Klapper and Mark Fleishchen.

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

115-06-BZ
APPLICANT– Harold Weinberg, for Saul Mazor, owner.
SUBJECT – Application June 7, 2006 – Special Permit (73-622) for the enlargement of a single family detached residence. This application seeks to vary open space, floor area and lot coverage (23-141); side yard (23-461) and rear yard (23-47) in an R3-2 zoning district.
PREMISES AFFECTED – 1820 East 28th Street, west side 140' south of Avenue R, between Avenue R and S, Block 6833, Lot 13, Borough of Brooklyn.
COMMUNITY BOARD #15BK
APPEARANCES –
For Applicant: Harold Weinberg, Ed Eisenberg and Ed Nuquez.
For Opposition: Wadih J. Pharaon and Ed Jaworski
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4
Negative:.....0

ACTION OF THE BOARD – Laid over to January 23, 2007, at 1:30 P.M., for decision, hearing closed.

124-06-BZ
APPLICANT– Law Office of Fredrick A. Becker, for Nasanel Gold, owner.
SUBJECT – Application June 13, 2004 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space and floor area (§23-141); side yard (§23-48) and rear yard (§34-47) regulations. R-2 zoning district.
PREMISES AFFECTED – 1078 East 26th Street, East 26th Street between Avenue J and Avenue K, Block 7607, Lot 83, Borough of Brooklyn.
COMMUNITY BOARD #14BK
APPEARANCES –
For Applicant: Lyra Altman.
THE VOTE TO CLOSE HEARING –
Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson....4
Negative:.....0

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

138-06-BZ
APPLICANT– Law Office of Fredrick A. Becker, for RH Realty LLC NY by Ralph Herzka, owner.
SUBJECT – Application July 5, 2006 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space and floor area (§23-141(a)) and rear yard (§23-47) in an R-2 zoning district.
PREMISES AFFECTED – 3447 Bedford Avenue, between Avenue M and N, Block 7661, Lot 31, Borough of Brooklyn.
COMMUNITY BOARD #14BK
APPEARANCES –
For Applicant: Lyra Altman, David Shteirman, R.A., Herschel Langner and Daniel Weiss.

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

214-06-BZ
APPLICANT– Walter T. Gorman, P.E., for Sidney Esikoff & Norman Fieber, owners.
SUBJECT – Application August 24, 2006 – Special Permit (§11-411) for the re-establishment and extension of term for an existing gasoline service station, which has been in continuous operation since 1953. R3-2 zoning district.

PREMISES AFFECTED – 196-25 Hillside Avenue, northwest corner of 197th Street, Block 10509, Lot 265, Borough of Queens.
COMMUNITY BOARD #8Q
APPEARANCES –
For Applicant: John Ronan.

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

216-06-BZ
APPLICANT– Sheldon Lobel, P.C., for Leemilt's Petroleum, Inc., owner.
SUBJECT – Application August 28, 2006 – Special Permit (§11-411 and §11-412) for the re-establishment and extension of term for an existing automotive service station , which has been in continuous operation since 1961 and legalization of certain minor amendments to previously approved plans. C1-4/R6-A zoning district.
PREMISES AFFECTED – 35-17 Junction Boulevard, east side of Junction Boulevard between 35th and 37th Avenues, Block 1737, Lot 49, Borough of Queens.
COMMUNITY BOARD #4Q
APPEARANCES –
For Applicant: Joshua Rinesmith.

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

Jeff Mulligan, Executive Director

Adjourned: 4:20 P.M.