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AND APPEALS

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DOCKETS

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124-07-BZ

521 Broome Street, Through lot running between Broome and Watts Streets, midblock between Thompson Street and Sixth Avenue., Block 476, Lot(s) 23, Borough of **Manhattan, Community Board: 2**. Under §72-21 – To allow the conversion of the first floor and cellar of an existing seven-story building to a (UG6) restaurant.

125-07-BZ

2075 Richmond Avenue, East side of Richmond Avenue 461.94 north feet from corner of Rockland Avenue., Block 2015, Lot(s) 28, Borough of **Staten Island, Community Board: 2**. Under §72-20 – To permit the continuance of a retail establishment (UG6) with accessory parking in open area.

126-07-BZ

555 West 42nd Street, North side of West 42nd Street at 11th Avenue., Block 1071, Lot(s) 1, Borough of **Manhattan, Community Board: 4**. Special Permit (§73-36) – To legalize the operation of a Physical Culture Establishment on a portion of the ground floor, second floor mezzanine, and on part of the second floor in a 43-story residential building. The proposal is contrary to §32-00.

127-07-BZ

19-03 75th Street, Southeast corner of hazen Street and 75th Street, Block 943, Lot(s) 1, Borough of **Queens, Community Board: 1**. Under §72-21 – Proposed addition of second floor and mezzanine in existing non-complying and non-conforming manufacturing building (UG16).

128-07-BZ

1382 East 26th Street, West side of East 26th Street between Avenue M and Avenue N (approximately 100' north of Avenue N)., Block 7661, Lot(s) 76, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) – For the enlargement of an existing single family residence. This application seeks to vary open space and floor area (§23-141); less than the minimum side yards (§23-461 & §23-48) and rear yard (§23-47) in an R-2 zoning district.

130-07-BZ

1501 Copper Avenue, Corner formed by west side of Cooper Avenue and Irving Avenue., Block 3542, Lot(s) 1, Borough of **Queens, Community Board: 5**. Under §72-21 – To permit the construction of five three story three family residences on site.

131-07-BZ

1503 Copper Avenue, Corner formed by west side of Cooper Avenue and Irving Avenue., Block 3542, Lot(s) 95, Borough of **Queens, Community Board: 5**. Under §72-21 – To permit the construction of five three story three family residences on site.

132-07-BZ

1505 Copper Avenue, Corner formed by west side of Cooper Avenue and Irving Avenue., Block 3542, Lot(s) 94, Borough of **Queens, Community Board: 5**. Under 72-21 – To permit the construction of five three story three family residences on site.

133-07-BZ

1507 Copper Avenue, Corner formed by west side of Cooper Avenue and Irving Avenue., Block 3542, Lot(s) 93, Borough of **Queens, Community Board: 5**. Under §72-21 – To permit the construction of five three story three family residences on site.

134-07-BZ

1509 Copper Avenue, Corner formed by west side of Cooper Avenue and Irving Avenue., Block 3542, Lot(s) 92, Borough of **Queens, Community Board: 5**. Under §72-21 – To permit the construction of five three story three family residences on site.

135-07-BZ

920 East 24th Street, West side of East 24th Street 140 feet south of Avenue I., Block 7587, Lot(s) 54, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) – For the enlargement of an existing single family residence. This application seeks to vary floor area and open space (§23-141(a)); less than the required side yard (§23-461) and less than the required rear yard (§23-47) in an R-2 zoning district.

136-07-BZ

1275 East 23th Street, East side of East 23 Street 160 feet north of Avenue M., Block 7641, Lot(s) 14, Borough of **Brooklyn, Community Board: 14**. Special Permit (§73-622) – For the enlargement of an existing single family residence. This application seeks to vary floor area and open space (§23-141(a)); less than the required side yards (§23-461) and less than the required rear yard (§23-47) in an R-2

DOCKET

zoning district.

137-07-A

19 Janet Lane, North side of Janet Lane 190.95' east of Beach 203rd Street., Block 16350, Lot(s) p/o 400, Borough of **Queens, Community Board: 14.** Reconstruct and enlargement of an existing single family home and the upgrade of an existing non-conforming private disposal system not fronting on a mapped street contrary to General City Law §36. R4 Zoning District.

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

CALENDAR

JUNE 19, 2007, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, June 19, 2007, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

1236-27-BZII

APPLICANT – Eric Palatnik, P.C., for Spartan Petroleum Corporation, owner; BP Products, lessee.

SUBJECT – Application February 22, 2007 – Extension of Term for a previously granted special permit of a UG 16 Automotive Service Station (BP Products North America) which expired on February 22, 2007 in a C2-2/R3-1 zoning district.

PREMISES AFFECTED – 163-01 Cross Bay Boulevard, southeast corner of 163rd Street, Block 14201, Lot 63, Borough of Queens.

COMMUNITY BOARD #10Q

704-59-BZ

APPLICANT – Peter Hirshman, for S & B Bronx Realty Associates, owner; G. R. Parking Lot, lessee.

SUBJECT – Application December 5, 2006 – Extension of Term/waiver of the rules for a previously granted variance of a UG8 Parking lot for more than five motor vehicles which expired on June 3, 2000 in an R8 zoning district.

PREMISES AFFECTED – 53 East 177th Street, northeast corner of Walton Avenue and East 177th Street, Block 2828, Lots 1, 45, 46, Borough of Bronx.

COMMUNITY BOARD #5BX

558-71-BZ, Vol. II

APPLICANT – Eric Palatnik, P.C., for George Feig, owner.

SUBJECT – Application February 20, 2007 – Amendment to permit the legalization of the change in use from the previously approved greenhouse and nursery establishment with accessory uses (UG6) to an eating and drinking establishment (UG6) located in a R3-1 zoning district.

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

COMMUNITY BOARD #2SI

APPLICANT – Deirdre Carson of Greenberg Traurig, for PPI New York, LLC, owner; Eddie Gyms LLC, lessee.

SUBJECT – Application March 23 2007 – Extension of Term/Amendment/Waiver to request a renewal of the term of a special permit granted pursuant to (Z.R. §73-36) which permits the operation of a Physical Culture Establishment located on the third and fourth stories of a building located in a C2-8/C8-4 zoning district.

PREMISES AFFECTED – 403 East 91st Street, north side of East 91st Street between 1st and York Avenues, Block 1571, Lot 5, Borough of Manhattan.

COMMUNITY BOARD #8M

81-93-BZ

APPLICANT – Rothkrug Rothkrug & Spector, for 2255 Bedford Development Assoc., LP, owner.

SUBJECT – Application November 30, 2006 – Amendment of a previous resolution to permit conversion of portions of the cellar to artist studio space and portions of the first floor to residential apartments within a building that the Board granted the re-establishment of residential use on the upper floors and the approval of a childcare center on portions of the cellar and the entire ground floor of a building located in a C8-2 zoning district.

PREMISES AFFECTED – 2255 Bedford Avenue, east side of Bedford Avenue 34' north of intersection with Snyder Avenue, Block 5107, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #17BK

APPEALS CALENDAR

55-07-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Karen & Jerry Trollo, owners.

SUBJECT – Application February 27, 2007 – Proposed reconstruction and enlargement of a single family dwelling and the upgrade of an existing private disposal system located within the bed of mapped street (Oceanside Avenue) contrary to General City Law Section 35. R4 Zoning District.

PREMISES AFFECTED – 3 Devon Walk, southeast corner of Devon Walk and Oceanside Avenue, Block 16350, Lot p/o 400, Borough of Queens.

COMMUNITY BOARD #14Q

145-92-BZ

CALENDAR

56-07-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Jacqueline & Terence Donohoe, lessees.

SUBJECT – Application February 27, 2007 – Proposed Reconstruction and enlargement of an existing single family home and the upgrade of an existing private disposal system located within the bed of a mapped street (Bayside Drive is contrary to General City Law Section 35 and Buildings Dept. Policy. R4 Zoning District.

PREMISES AFFECTED – 13 Bayside Roxbury, intersection of Mapped Bayside Drive and unmapped Roxbury Avenue, Block 16340, Lot p/o 50, Borough of Queens.

COMMUNITY BOARD #14Q

96-07-A

APPLICANT – Sheldon Lobel, P.C., for 4175 Building Corp., owner.

SUBJECT – Application April 20, 2007 – Appeal challenging Department of Buildings determination that since both buildings contain Community Facility uses, Section 24-551 of the Zoning Resolution which regulates side setbacks must be complied with. R5 Zoning District.

PREMISES AFFECTED – 41-30/34 75th Street, 41st Avenue and Woodside Avenue, Block 1494, Lots 48 & 49, Borough of Queens.

COMMUNITY BOARD #4Q

JUNE 19, 2007, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, June 19, 2007, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

215-06-BZ

APPLICANT – Vassalotti Associates Architects, LLP., for Cumberland Farms, Inc., owner.

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 1955. C1-2/R2 zoning district.

PREMISES AFFECTED – 202-06 Hillside Avenue, southeast corner of Hillside Avenue and 202nd Street, Block 10496, Lot 52, Borough of Queens.

COMMUNITY BOARD #12Q

319-06-BZ

APPLICANT– Sheldon Lobel, P.C., for 211 Service LLC., owner.

SUBJECT – Application December 8, 2006 – Special Permit pursuant to § 73-49 to allow seventy-five (75) accessory parking spaces for an automotive service establishment (UG 16) on the rooftop of an existing building. M1-1 district.

PREMISES AFFECTED – 211/283 63rd Street, located on the north side of 63rd Street, between 2nd and 3rd Avenues, Block 5798, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #7BK

71-07-BZ

APPLICANT– Walter T. Gorman, P.E., for Exxon Mobile Corporation, owner; Ted Zorbas, lessee.

SUBJECT – Application March 26, 2007 – Re-instatement for the continued use of a Variance (ZR 11-411 & 73-01(d)) which expired June 27, 2001 for the operation of a UG16 Gasoline Service Station (Exxon Mobil) in anC1-4/R-6 & R-5 zoning district.

PREMISES AFFECTED – 32-05 21st Street, south side 21st Street blockfront between Broadway and 33rd Avenue, Block 555, Lot 16, Borough of Queens.

COMMUNITY BOARD #1Q

97-07-BZ

APPLICANT– The Law Office of Fredrick A. Becker, for Atlas Park, LLC, owner; TSI Glendale Inc., dba New York Sports Club, lessee.

SUBJECT – Application April 24, 2007 – Special Permit (§73-36) to legalize the operation of a PCE on the second floor of a two-story commercial building within a commercial mall complex. The proposal is contrary to the use regulations of section 32-00. The Premises is located in a M1-1 zoning district.

PREMISES AFFECTED – 80-16 Cooper Avenue, southerly side of Cooper Avenue and the easterly side of 80th Street, Block 3810, Lot 350, Borough of Queens.

COMMUNITY BOARD #5Q

101-07-BZ

APPLICANT– Harold Weinberg, P.E., for Moshe Blumenkranz, owner.

SUBJECT – Application April 26, 2007 – Special Permit (§73-622) for the enlargement of an existing single family detached residence. This application seeks to vary open space and floor area (23-141) and side yard (23-461) in an R-2 zoning district.

PREMISES AFFECTED – 2306 Avenue M, south side, 40' east of East 23rd Street, between East 23rd and East 24th Streets, Block 7627, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #14BK

CALENDAR

104-07-BZ

APPLICANT– Lewis E. Garfinkel, R.A., for Rochelle Mandel, owner.

SUBJECT – Application April 30, 2007 – 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)); side yard (23-461) and rear yard (23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1243 East 29th Street, south side of Avenue L, Block 7647, Lot 28, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, MAY 22, 2007
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

258-90-BZ

APPLICANT – Sheldon Lobel, P.C., for John Isikli, owner.
SUBJECT – Application December 13, 2006 – Extension of
Time to obtain a Certificate of Occupancy for the operation
of a restaurant and banquet hall (UG9) in an R5 zoning
district which expired on December 7, 2006.

PREMISES AFFECTED – 2337 Coney Island Avenue, east
side, between Avenue T and Avenue U, Block 7315, Lot 73,
Borough of Brooklyn.

COMMUNITY BOARD #15BK

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 reopening and
an extension of the time to obtain a certificate of occupancy
for a restaurant and banquet hall, which expired on April 19,
2006; and

WHEREAS, a public hearing was held on this
application on January 30, 2007, after due notice by
publication in *The City Record*, with a continued hearing on
May 8, 2007, and then to decision on May 22, 2007; and

WHEREAS, the subject premises is located on the east
side of Coney Island Avenue, between Avenue T and Avenue
U, within an R5 zoning district; and

WHEREAS, on December 10, 1991, under the subject
calendar number, the Board granted a variance to permit the
legalization of the conversion of the second floor of a two-
story restaurant and residential building to a restaurant and
banquet hall, and the extension of the non-conforming eating
and drinking use into the rear yard; and

WHEREAS, on March 2, 1999, the grant was amended
to permit interior layout modifications; the grant required that a
new certificate of occupancy be obtained by March 2, 2000;
and

WHEREAS, the applicant did not secure the certificate of
occupancy and on June 7, 2005, the Board granted an
additional 18-month extension of time, to expire on December
7, 2006; and

WHEREAS, the applicant represents that an application
has been submitted to the City Planning Commission to rezone
portions of the subject block, including the subject site, the
result of which would make the subject use as of right and
permit its expansion into adjacent buildings; and

WHEREAS, the Board notes that in the event that the
rezoning is not approved, the site remains under the its
jurisdiction; and

WHEREAS, the applicant now seeks an extension of
time to obtain a certificate of occupancy; and

WHEREAS, based upon its review of the record, the
Board finds that the requested extension of time to obtain a
certificate of occupancy is appropriate with certain conditions
as set forth below.

Therefore it is Resolved that the Board of Standards and
Appeals *reopens* and *amends* the resolution, December 10,
1991, so that as amended this portion of the resolution shall
read: “to grant an extension time to obtain a certificate of
occupancy for one year from the date of this grant; *on condition*
that the use and operation of the site shall substantially conform
to BSA-approved plans; and *on condition:*

THAT a certificate of occupancy shall be obtained by
May 22, 2008;

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

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

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

(Alt. Application No. 941/89)

Adopted by the Board of Standards and Appeals, May
22, 2007.

118-95-BZ, Vol. II

APPLICANT – Windels Marx Lane & Mittendorf, LLP, for
White Castle System, Inc., owner.

SUBJECT – Application April 9, 2007 – Extension of Term
of a Special Permit for an accessory drive-through facility,
located in an C1-2/R7B zoning district, in conjunction with
an (UG6) eating and drinking establishment (White Castle)
which expired on July 25, 2006; Extension of Time to obtain
a Certificate of Occupancy which expired on June 11, 2002
and a waiver of the rules of practice and procedure.

PREMISES AFFECTED – 89-03 57th Avenue, northeast
corner of Queens Boulevard and 57th Avenue, Block 1845,
Lot 41, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Courtney M. Merriman.

ACTION OF THE BOARD – Application granted on
condition.

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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 waiver of the Rules of Practice and Procedure, a reopening, an extension of time to obtain a certificate of occupancy, and an extension of the term for a previously granted variance for a drive-through facility accessory to an existing eating and drinking establishment, which expired July 25, 2006; and

WHEREAS, a public hearing was held on this application on May 8, 2007, after due notice by publication in *The City Record*, and then to decision on May 22, 2007; and

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

WHEREAS, the site is located on the northeast corner of Queens Boulevard and 57th Avenue, within a C1-2 (R7B) zoning district; and

WHEREAS, the site is occupied by an eating and drinking establishment with an accessory drive-through; and

WHEREAS, the site is operated as a White Castle restaurant; and

WHEREAS, on July 23, 1996, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 23-243, to permit, the construction of a drive-through to be accessory to an existing eating and drinking establishment for a period of five years; and

WHEREAS, the grant was subsequently extended for a second term of five years; and

WHEREAS, the applicant now seeks an extension of time to obtain a certificate of occupancy; and

WHEREAS, additionally, the applicant seeks an additional five-year term; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to obtain a certificate of occupancy, and extension of term are appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated July 23, 1996, so that as amended this portion of the resolution shall read: “to grant a one-year extension of time to obtain a certificate of occupancy, and a five-year extension of term from the expiration of the prior grant to expire on July 25, 2011; *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 April 9, 2007”–(7) sheets; and; and *on further condition*:

THAT this grant shall expire on July 25, 2011;

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

THAT a new certificate of occupancy shall be obtained by May 22, 2008;

THAT there shall be no change in the operator of the

subject eating and drinking establishment without the prior approval of the Board;

THAT the above conditions and all relevant conditions from prior resolutions shall appear on the certificate of occupancy;

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB App. No. 402469208)

Adopted by the Board of Standards and Appeals, May 22, 2007.

201-02-BZ

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

SUBJECT – Application April 18, 2007 – Request for a waiver of Practice and Procedure and for an extension of time to complete construction and to obtain a Certificate of Occupancy.

PREMISES AFFECTED – 6778 Hylan Boulevard, southeast corner of Page Avenue, Block 7734, Lots 13 & 19, Borough of Staten Island.

COMMUNITY BOARD #3SI

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 extension of the time to complete construction and obtain a certificate of occupancy for the construction of an automotive service station with an accessory convenience store, which expired on January 28, 2007; and

WHEREAS, a public hearing was held on this application on May 8, 2007 after due notice by publication in *The City Record*, and then to decision on May 22, 2007; and

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

WHEREAS, on January 28, 2003, under the subject calendar, the Board granted a variance, pursuant to ZR § 72-21, to permit the construction of an automotive service station with an accessory convenience store; and

WHEREAS, the instant application seeks an extension of time to complete construction and obtain a certificate of

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occupancy; and

WHEREAS, based upon its review of the record, the Board finds that a four-year extension 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 28, 2003, so that as amended this portion of the resolution shall read: "to grant an extension of the time to complete construction and obtain a certificate of occupancy for a term of four years from the date of this grant; *on condition*:

THAT substantial construction shall be completed by May 22, 2011;

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. 500496643)

Adopted by the Board of Standards and Appeals, May 22, 2007.

135-67-BZ

APPLICANT – Vassalotti Associates Architects, LLP, for Avenue "K" Corp., owner.

SUBJECT – Application April 3, 2007 – Extension of Term of a gasoline service station with minor auto repairs (Exxon) for 10 years which will expire on October 11, 2007 in an R3-2 zoning district.

PREMISES AFFECTED – 2063/91 Ralph Avenue, northwest corner of Avenue K, Block 8339, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Hiram A. Rothkrug.

ACTION OF THE BOARD – Laid over to June 5, 2007, at 10 A.M., for continue hearing.

177-85-BZ

APPLICANT – Rothkrug Rothkrug & Spector, for 2025 Richmond Avenue LLC, owner.

SUBJECT – Application October 28, 2006 – Extension of Term and waiver of the rules for a Variance, granted on August 12, 1986 to permit in an R3-2 zoning district a two story building for use as a retail establishment and business offices (UG6) which does not conform with the use regulations.

PREMISES AFFECTED – 2025 Richmond Avenue, east side of Richmond Avenue, 894.75' north of Rockland Avenue, Block 2015, Lot 48, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Eric Palatnik.

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

21-91-BZ

APPLICANT – Kenwyn A. Sandy, R.A., for Hardath Latchminarain, owner.

SUBJECT – Application March 12, 2007 – Extension of Term/Waiver of the rules of practice and procedures for a previously granted Variance (72-21) to operate an automobile glass and minor establishment (UG7) with sales of used cars (UG16) and an Extension of Time to obtain a Certificate of Occupancy in an R-5 zoning district.

PREMISES AFFECTED – 2407-2417 Linden Boulevard, Block 4478, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES –

For Applicant: Kenwyn A. Sandy and Hardath Latchminarain.

For Opposition: Ronald J. Dillion.

ACTION OF THE BOARD – Laid over to June 19, 2007, at 10 A.M., for continued hearing.

90-95-BZ

APPLICANT – Cozen O'Connor by Barbara Hair, Esq., for 641 LLC, owner; Bally Total Fitness, lessee.

SUBJECT – Application November 6, 2006 – Extension of Term and waiver of the rules for a Special Permit (ZR §73-36) to allow a Physical Cultural Establishment (Bally's) in a C6-3A/C6-2A zoning district which expired on December 5, 2005.

PREMISES AFFECTED – 641 6th Avenue, southwest corner of intersection of West 20th Street and 6th Avenue, Block 795, Lot 44, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Barbara Hair.

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 June 5, 2007, at 10 A.M., for decision, hearing closed.

189-96-BZ

APPLICANT – John C. Chen, for Ping Yee, owner; Edith D'Angelo-CNandonga, lessee.

SUBJECT – Application March 14, 2007 – Extension of Term for a Special Permit (§73-244) for a UG12 eating and drinking establishment with entertainment and dancing (Flamingos) in an C2-3/R-6 zoning district; and to increase

MINUTES

the number of occupancy from 190 to 200 which will expire on May 19, 2007.

PREMISES AFFECTED – 85-12 Roosevelt Avenue, south side of Roosevelt Avenue, 58’ east side of Forley Street, Block 1502, Lot 3, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: John Chen.

ACTION OF THE BOARD – Laid over to June 19, 2007, at 10 A.M., for continued hearing.

199-00-BZ, Vol. III

APPLICANT – John C. Chen, for En Ping, Ltd., owner; Valentin E. Partner Atlantis, lessee.

SUBJECT – Application February 23, 2007 – Extension of Term of a Special Permit (§73-244) for a UG12 eating and drinking establishment (Club Atlantis) in a C2-3/R-6 zoning district which expired March 13, 2007.

PREMISES AFFECTED – 76-19 Roosevelt Avenue, northwest corner of Roosevelt Avenue and 77th Street, Block 1287, Lot 37, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: John Chen.

ACTION OF THE BOARD – Laid over to June 19, 2007, at 10 A.M., for continued hearing.

8-01-BZ

APPLICANT – Rothkrug Rothkrug & Spector, for Bruno Savo, owner.

SUBJECT – Application October 20, 2006 – Extension of Time to complete construction to a previously granted Variance (§72-21) for the construction of a single family home on a lot with less than the lot width which expired on December 18, 2005; and an amendment to the off street parking requirement to comply with provisions in an R32(LDGM) zoning district.

PREMISES AFFECTED – 352 Clifton Avenue, south side of Clifton Avenue, 125’ east of Reynolds Street, Block 2981, Lot 7, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Sanrem Ozdural.

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 June 12, 2007, at 10 A.M., for decision, hearing closed.

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

APPEARANCES –

For Applicant: Fredrick A. Becker.

For Opposition: Jonathan Gouldner, Larry List and Nick Lecakes.

ACTION OF THE BOARD – Laid over to June 12, 2007, at 10 A.M., for continued hearing.

276-06-A

APPLICANT – Rothkrug Rothkrug and Spector, for Fred Corona, owner.

SUBJECT – Application October 13, 2006 – Appeal challenging the Department of Buildings determination that the subject premises fails to comply with Section §23-711 (Minimum Distance between buildings) and Section 23-88 (Minimum Distance between Lot lines and Building Walls within in LDGMA areas). R3A zoning district.

PREMISES AFFECTED – 8 and 12 Reynolds Street, south side of Reynolds Street, 100’ west of Mary’s Avenue, Block 2989, Lots 30 and 28, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

For Administration: Janine Gaylard, 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...3

Negative:.....0

Recused: Commissioner Hinkson.....1

RESOLUTION: 1

WHEREAS, the instant appeal comes before the Board in response to a final determination of the Staten Island Borough Commissioner, dated September 21, 2006 (the “Final Determination”); and

WHEREAS, the Final Determination was issued in response to a request by the owner of 8 and 12 Reynolds Street

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

MINUTES

(the “Appellant”), for a reconsideration of a November 2, 2005 denial (the “Denial”) of the proposed building plans; and

WHEREAS, the Final Determination and the Denial both respond to a request by the Appellant asking for clarification of the required side yards and space between buildings at the site and asserting that the requirements, pursuant to ZR §§ 23-711 and 23-88, for a building wholly beyond 50 feet of the street line do not apply; and

WHEREAS, as reflected in the Denial, DOB based its decision on its determination that the provisions of ZR §§ 23-711(f) and 23-88(b) pertaining to zoning lots with multiple buildings and at least one building which is wholly beyond 50 feet of the street line are applicable; and

WHEREAS, the Denial reads in pertinent part:

“Denied. On Sept. 28, 2004 ZR 23-711 & ZR 23-88 were amended (sic) to read ‘ . . . in R1, R2, R3, . . . districts within LDGM areas . . . the provisions of this paragraph . . . shall apply to any zoning lot with two or more buildings were (sic) at least one building is located wholly beyond 50 feet of a street line . . . ’

“The one story snout, projecting from the front of the building toward the street line, serves no other purpose but to evade the applicability of the newly amended text, written as a remedy and intended to prevent the crowding of buildings onto unsuitable lots”; and

WHEREAS, on September 21, 2006, DOB simply denied Appellant’s request for a reconsideration of its November 2, 2005 determination not to permit the construction of the proposed building at the rear of the zoning lot (the “Proposed Building”); and

HEARINGS

WHEREAS, a public hearing was held on this appeal on April 24, 2007, after due notice by publication in *The City Record*, and then to decision on May 22, 2007; and

PARTIES AND SUBMITTED TESTIMONY

WHEREAS, Appellant and DOB were represented by counsel in this proceeding; and

WHEREAS, both Appellant and DOB made submissions to the Board on the applicable standards for interpretation of the Zoning Resolution; and

WHEREAS, counsel to the Department of City Planning (DCP) also submitted at DOB’s request a letter dated April 17, 2007 (the “DCP Letter”) discussing the legislative intent of the provisions of the Zoning Resolution in question, but did not take a position on the compliance of the proposed plans and building with the Zoning Resolution; and

THE SITE

WHEREAS, the subject site is rectangular, with 50 feet of frontage on Reynolds Street and a depth of approximately 140 feet; it is located within an R3A zoning district within a Lower Density Growth Management Area (LDGMA); and

WHEREAS, the site comprises two tax lots which form one zoning lot; tax lot 30 (12 Reynolds Street) is located at the front of the site and tax lot 28 (8 Reynolds Street) is located at

the rear of the site; and

WHEREAS, tax lot 30 is occupied by a three-story three-family home; and

WHEREAS, on November 9, 2004, under BSA Calendar No. 15-04-A, the Board granted a waiver to Section 36 of the General City law to permit the construction of a two-story two-family home on tax lot 28, which did not provide the required 8.0 percent of the total perimeter of the building fronting directly upon a legally mapped street; and

WHEREAS, the prior grant only addressed the question of the required street frontage and did not address the issues which are the subject of this appeal; and

WHEREAS, the Appellant now proposes to construct a two-story two-family home with a small portion of the building extending to a point less than 50 feet from the street line; and

WHEREAS, the Board notes that this small portion of the building has been described and will be described here as “the snout”; and

WHEREAS, one condition of the prior grant is that DOB ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws; and

WHEREAS, accordingly, as noted above, on November 2, 2005, DOB denied a reconsideration of its denial of Appellant’s plans to construct the Proposed Building to the rear of the existing home; and

WHEREAS, DOB has determined that the Proposed Building includes a “snout projecting toward the street line,” which, although it extends to a point within 50 feet of the street line, “serves no other purpose than to evade the applicability of the newly amended text”; and

ISSUES PRESENTED

WHEREAS, Appellant argues that because the snout is part of the Proposed Building and it is less than 50 feet from the street line, the ZR sections cited by DOB in the Denial, and the associated requirements for yards and space between buildings, do not apply; and

WHEREAS, in support of its position, Appellant cites to the plain language of ZR §§ 23-711(f) and 23-88(b), which would permit the construction of the Proposed Building because it is not wholly beyond 50 feet of the street line; and

WHEREAS, DOB agrees that the plain language of the Zoning Resolution does not prohibit approval of the Proposed Building; and

WHEREAS, however, DOB argues that even though the language of the Zoning Resolution is unambiguous, the result of literally applying that language to the Proposed Building leads to a result contrary to the intentions of the City Planning Commission and the City Council, which enacted the amendments to the relevant sections of the Zoning Resolution; and

WHEREAS, DOB relies on the proposition, set forth in its Letter Brief dated May 8, 2007 (the “DOB Letter Brief”), that “a departure from the literal construction of a statute is appropriate where the literal construction will produce results which the legislature plainly did not intend”;

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and

ZONING RESOLUTION SECTIONS 23-711 AND 23-88

WHEREAS, ZR § 23-711 – Standard Minimum Distance Between Buildings – sets forth the requirements for the distance between two or more buildings on the same zoning lot; and

WHEREAS, ZR § 23-711(f) addresses additional requirements for districts within an LDGMA in situations where there are two buildings on a zoning lot and at least one building is located wholly beyond 50 feet of a street line, it provides that “in . . . R3 . . . Districts within lower density growth management areas, the provisions of this paragraph, (f), shall apply to any zoning lot with two or more buildings where at least one building is located wholly beyond 50 feet of a street line” and includes the requirement that a minimum distance of 45 feet be provided between front and rear buildings in such instances; and

WHEREAS, the 45-ft. requirement under ZR § 23-711(f) exceeds the required distance set forth in ZR § 23-711, which the Appellant contends applies; and

WHEREAS, ZR § 23-88 – Minimum Distance between Lot Lines and Building Walls in Lower Density Growth Management Areas – provides that “[i]n . . . R3 . . . Districts within lower density growth management areas, the provisions of this paragraph, (b), shall apply to any zoning lot with two or more buildings, where at least one building is located wholly beyond 50 feet of a street line and the private road provisions do not apply”; and

WHEREAS, ZR § 23-88(b) states that, when a “rear building” is wholly beyond 50 feet of a street line, a minimum of 15 feet is required between it and the side lot line, and an open area with a minimum width of 30 feet is required between it and a rear lot line; and

WHEREAS, it is undisputed that the Appellant’s Proposed Building would be subject to -- and in noncompliance with -- these provisions for minimum distance and open area except that the “snout” of the rear building is within 50 feet of the street line and the Proposed Building is therefore explicitly exempted by the plain language of the Zoning Resolution from these requirements; and

DOB’S ARGUMENT ON STATUTORY CONSTRUCTION

WHEREAS, in its Denial, DOB disregards the snout because it deems that the snout’s sole purpose is to exempt the Proposed Building from the requirements set forth in ZR §§ 23-711(f) and 23-88(b); and

WHEREAS, therefore, because DOB finds that the Proposed Building’s snout undermines the intent of specific LDGMA requirements, it takes the position that “literal construction of a statute is not appropriate where the literal construction will produce results which the legislature plainly did not intend” (DOB Letter Brief at 1); and

WHEREAS, DOB contends that the Board “should look beyond the plain meaning of the New York City Zoning Resolution to the legislative intent of the creation of the LDGMA text in order to uphold the Department’s denial

of appellant’s proposed construction” (Letter Brief at 1); and

WHEREAS, DOB relies on *City of Schenectady v. Helsby*, 57 Misc. 2d 91, 292 N.Y.S.2d 141 (N.Y. Sup. Ct., 1968) (looking to legislative history to vary procedural, rather than substantive, provision of NY Civil Service Law); *State v. J.S. Garlick Parkside Memorial Chapels, Inc.*, 55 Misc. 2d 797, 287 N.Y.S. 2d 159, affirmed 30 A.D. 2d 829 (1968) (statute enacted following extensive consumer fraud investigation by State Attorney General construed expansively to address specific abuse that was a focus of investigation); and *Kiley v. Kennedy*, 16 Misc. 2d 969, 190 N.Y.S. 2d 53 (N.Y. Sup. Ct. 1958) (interpreting NYC Admin. Code to resolve conflict with Federal Old-Age Law); and

WHEREAS, the Board finds each of the cases relied upon by DOB to be distinguishable from the present matter on their facts; and

WHEREAS, DOB has not addressed the relevance of the threshold determination required by ZR §§ 23-711(f) and 23-88(b) that the rear building on a lot with multiple buildings within a LDGMA be “wholly beyond fifty feet of the street line” in order for the minimum distance and open area requirements to apply; and

WHEREAS, DOB also relies on the DCP Letter; and

WHEREAS, the DCP Letter offers no opinion as to the compliance of the Proposed Building with the Zoning Resolution on what it describes as a “large irregular lot”; and

WHEREAS, the DCP Letter explains that the LDGMA text amendments adopted by DCP and the City Council were intended “in part to assure adequate spacing of multiple residential buildings on deep, irregularly shaped lots”; and

WHEREAS, the DCP Letter further quotes the Commission Report as noting that, at the time the LDGMA amendments were enacted, “the existing zoning regulations fail[ed] to ensure adequate yards and open space on the large and irregular lots that are often found on Staten Island”; and

WHEREAS, the DCP Letter further cites the Commission’s “Consideration” that, “[t]hese changes address a wide range of problems created by large and irregular lots”; and

WHEREAS, thus, the Board notes that the legislative intent expressed by the DCP Letter is to remedy concerns about providing adequate open space and avoiding overcrowding on lots which have the potential to be developed with multiple buildings; and

WHEREAS, the Board also notes that the plain meaning of the Zoning Resolution with respect to the application of Sections 23-711 and 23-88 to the Proposed Building is unambiguous; and

WHEREAS, the Board is also aware that it must presume that the framers of the Zoning Resolution deliberately drafted the relevant zoning text amendments with a specific purpose; and

WHEREAS, for the reasons stated, the Board agrees with Appellant that the legislative history cited by DOB does not conclusively indicate an intent on the part of the

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framers to impose requirements that in any way differ from those imposed by the plain language of ZR §§ 23-711 and 23-88; and

WHEREAS, the Board notes that the plain language of ZR §§ 23-711 and 23-88 – which is the best indication of the intent of the framers - does not apply to the Proposed Building; and

WHEREAS, the Board declines to engage in speculation as to the legislative intent underlying ZR §§ 23-711 and 23-88 in the absence of a clear expression of that intent; and

WHEREAS, the Board takes the position that “where statutory language is clear and unambiguous, the court should construe it so as to give effect to the plain meaning of the words used,” *Patrolmen’s Benevolent Assn. v. City of New York*, 41 N.Y. 2d 205, 208, 391 N.Y.S. 2d 544, 359 N.E. 2d 1338 (1976); and

CONCLUSION

WHEREAS, the Board has considered all of the arguments made by Appellant and DOB in light of the entire record; and

WHEREAS, based on the submitted site plan, the Board has determined that the Proposed Building is not wholly beyond 50 feet of the street line; and

WHEREAS, further, the Board notes that DOB does not disagree with Appellant’s argument that the plain meaning of ZR §§ 23-711(f) and 23-88(b) fails to provide a basis for the Final Determination; and

WHEREAS, additionally, the Board does not find that DOB has offered a convincing rationale to read the relevant sections of the Zoning Resolution in a way contrary to the plain meaning of their language; and

WHEREAS, in the absence of ambiguity in the language of the relevant provisions, the Board gives effect to the plain language of ZR §§ 23-711(f) and 23-88(b); and

WHEREAS, thus, the Board concludes that because the Proposed Building is not wholly beyond 50 feet of the street line and because effect is given to the plain language of ZR §§ 23-711(f) and 23-88(b), the requirements therein do not apply; and

WHEREAS, accordingly, the Board disagrees with DOB’s Final Determination; and

WHEREAS, however, the Board notes that its decision is limited to the questions raised in this appeal about whether the snout should be considered to exempt the Proposed Building from the requirements of ZR § 23-711(f) and 23-88(b), and whether effect is given to the plain meaning of these sections; and

WHEREAS, therefore, the plans for the Proposed Building are subject to DOB review to ensure compliance with all other relevant provisions of the Zoning Resolution, the Administrative Code, or any other laws; and

Therefore it is Resolved that the instant appeal, seeking a reversal of the Final Determination of the Staten Island Borough Office of the Department of Buildings, dated September 21, 2006, is hereby granted.

Adopted by the Board of Standards and Appeals, May

22, 2007.

317-06-A

APPLICANT – John Dydland-NYCDEP, for Department of Environmental Protection, owner.

SUBJECT – Application December 7, 2006 – Proposed construction of a Groundwater Remediation System at a NYCDEP owned site (Station 24) which is located in the bed of mapped street 109th Avenue which is contrary to General City Law Section 35 .R3X Zoning District.

PREMISES AFFECTED – 180th Street and 106th Road, premises is situated at the following intersections – 176th Street and 109th Avenue and Fern Place, 177th Street and Watson, Block 10343, Lots 300, 32, 12, 1, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Donald K. Cohen.

ACTION OF THE BOARD – Appeal 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 November 6, 2006, acting on Department of Buildings Application No. 402382248, reads in pertinent part:

“Obj. #6 “Proposed structure for the groundwater remediation system is in the bed of mapped street. Secure approval from BSA.”; and

WHEREAS, a public hearing was held on this application on April 24, 2007 after due notice by publication in the *City Record*, and then to decision on May 22, 2007; and

WHEREAS, the New York City Department of Environmental Protection (DEP) proposes to construct a Groundwater Remediation System at the DEP-owned site of the former Station 24 water facility located at 180th Street and 106th Road (the northeast corner) and 176th Street and 109th Avenue (the southeast corner) in Jamaica, Queens; and

WHEREAS, by letter dated February 21, 2007, the Fire Department states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated February 20, 2007, the DEP states that it has reviewed the application and has no objections; and

WHEREAS, by letter dated March 19, 2007, the Department of Transportation (DOT) states that it has reviewed the application and has no objections; and

WHEREAS, the Board notes that DOT did not indicate that it intends to include the site in its ten-year capital plan; and

WHEREAS, Community Board 12, Queens, submitted a letter in support to this application; and

WHEREAS, a Negative Declaration has been issued

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under CEQR. No. 07DEP041Q; and

WHEREAS, the Board notes that in addition to seeking waiver of General City Law Section 35 from the Board, the DEP also seeks a Mayoral override to permit the proposed use (water treatment) which is not permitted in an R4 zoning district, and to waive setback requirements in the R4 zoning district; and

WHEREAS, the applicant represents that the majority of the construction is proposed to take place in paved areas at the southern portion of the site, within the bed of 109th Avenue between 176th Street and 178th Street and that the work within the bed of 109th Avenue would include the installation of a new metal enclosure around the existing Recovery Well #1 and the installation of a new Recovery Well #2 with a new enclosure; and

WHEREAS, additionally, the construction and installation of the granular activated carbon water treatment units, a concrete pad, fencing, bollards and a new sump are proposed for within the central portion of the site within the bed of 177th Street between 108th Road and 109th Avenue; and

WHEREAS, the Board notes that this application only addresses the waiver of General City Law Section 35; and

WHEREAS, the applicant represents that the Mayoral override will be obtained shortly after the date of this grant; and

WHEREAS, based upon its review of the record, the Board finds that the applicant has submitted adequate evidence to warrant this approval.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated August 2, 2006, acting on Department of Buildings Application No. 402382248, 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 March 2, 2007"-one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

THAT a Mayoral override shall be obtained prior to the issuance of any permits;

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, May 22, 2007.

81-07-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Christine & James Pastore, lessee.

SUBJECT – Application April 17, 2007 – Reconstruction and enlargement of an existing single family dwelling and the upgrade of an existing non-conforming private disposal system not fronting on a mapped street which is contrary to Article 3, Section 36 of the General City Law. R4 Zoning district.

PREMISES AFFECTED – 10 Courtney Lane, south side of Courtney Lane, 177.31' east of Beach 203rd Street, Block 16350, Lot p/o 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD – Appeal granted.

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 29, 2007, acting on Department of Buildings Application No. 402531998, reads in pertinent part:

“A1- The street giving access to the existing building to be replaced is not duly placed on the map of the City of New York.

a) A Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law;

b) Existing Dwelling to be replaced does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street or frontage space is contrary to Section 27-291 of the Administrative Code.

A-2 - The proposed upgrade of the private disposal system is contrary to the Department of Buildings policy.”; and

WHEREAS, a public hearing was held on this application on May 22, 2007, after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated April 23, 2007, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, based upon its review of the record, the Board finds that the applicant has submitted adequate evidence to warrant this approval, approval under certain conditions.

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated March 29, 2007, acting on Department of Buildings Application No. 402531998, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked "Received April 17, 2007"-(1) sheet; that the proposal shall comply with all applicable zoning district requirements;

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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, May 22, 2007.

83-07-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Joseph Adinolfi, lessee.

SUBJECT – Application April 17, 2007 – Reconstruction and enlargement of an existing single family home not fronting on a mapped street is contrary to Article 3, Section 36 of the General City Law. R4 Zoning District.

PREMISES AFFECTED – 134 Ocean Avenue, west side of Ocean Avenue, 143.88’ south of mapped 8th Avenue, Block 16350, Lot p/o400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD – Appeal granted.

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 29, 2007, acting on Department of Buildings Application No. 402546624, reads in pertinent part:

“A1- The street giving access to the existing building to be replaced is not duly placed on the map of the City of New York. And

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

WHEREAS, a public hearing was held on this application on May 22, 2007, after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated April 23, 2007, the Fire Department states that it has reviewed the above project and

has no objections; and

WHEREAS, based upon its review of the record, the Board finds that 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 March 29, 2007, acting on Department of Buildings Application No. 402546624, is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received April 17, 2007”-(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, May 22, 2007.

142-06-A thru 148-06-A

APPLICANT – Sheldon Lobel, P.C., for Ideal Development Group, Ltd., lessee.

SUBJECT – Application July 6, 2006 – Proposed construction of four two- family homes and three three-family homes located partially within the bed of an unnamed mapped street which is contrary to General City Law Section 35. R5 Zoning District.

PREMISES AFFECTED – 3209 Tiemann Avenue, t/b/k/a 1651, 1655, 1661, 1665, 1671, 1675 Burke Avenue, 3215 and 3225 Tiemann Avenue, Block 4752, Lots 173, 175, 182, t/b/k/a New Lots 170, 171, 172, 174, 176, 177, 178 & 180, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Zara F. Fernandes.

For Opposition: Fr. Richard Gorman.

ACTION OF THE BOARD – Laid over to June 19, 2007, at 10 A.M., for continued hearing.

326-06-A

APPLICANT – David L. Businelli, R.A., for Oleg Amayev, owner.

SUBJECT – Application December 20, 2006 – An appeal seeking a determination that the owner of said premises has acquired a common law vested right to continue

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development commenced under the R1-2 district regulations in effect prior to the zoning text change on September 9, 2004. R1-2 zoning district.

PREMISES AFFECTED – 1523 Richmond Road, north side of Richmond Road, 44.10' west of Forest Road and Richmond Road, Block 870, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: David L. Businelli and Oleg Amayeu.

For Administration: Lisa Orrantia, Department of Buildings.

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

45-07-A

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

SUBJECT – Application February 8, 2007 – For a determination that the owner of the premises has acquired a common-law vested right to continue development commenced under the prior R6 zoning district.

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.

For Opposition: Mark J. Kurzmann.

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 July 10, 2007, at 10 A.M., for decision, hearing closed.

Jeffrey Mulligan, Executive Director

Adjourned: 12:45 P.M.

REGULAR MEETING

TUESDAY AFTERNOON, MAY 22, 2007

1:30 P.M.

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

ZONING CALENDAR

87-05-BZ

CEQR #05-BSA-119K

APPLICANT – Eric Palatnik, P.C., for Tri-Boro Properties, LLC, owner.

SUBJECT – Application April 8, 2005 – Zoning Variance under (§72-21) to allow a four (4) story residential building containing seventeen (17) dwelling units in an M1-1D district. Proposal is contrary to use regulations (§42-10).

PREMISES AFFECTED – 216 26th Street, between Fourth and Fifth Avenues, Block 658, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Eric Palatnik.

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, May 22, 2007.

159-05-BZ

CEQR #06-BSA-002R

APPLICANT – Vito J. Fossella, P.E., for Antonio Ciccotto, owner.

SUBJECT – Application July 7, 2006 – Variance under ZR §72-21 to allow a three (3) story mixed-use building containing residential use on the upper floors and retail use (UG 6) on the ground and cellar levels on a site zoned R3X and R3X/C2-1; contrary to ZR §22-00.

PREMISES AFFECTED – 880 Annadale Road, located on the west of the corner formed by the intersection of Annadale Road and South Railroad Avenue, Block 6249, Lot 436T, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Sameh EI Meniawy.

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, May 22, 2007.

65-06-BZ

APPLICANT – Eric Palatnik, P.C., for Lee Zhen Xiang, owner.

SUBJECT – Application April 11, 2006 – Zoning variance under §72-21 to allow a proposed residential building containing three (3) dwelling units to violate applicable front yard (§23-45(a)) and side yard requirements (§23-462(a)). R5 zoning district.

PREMISES AFFECTED – 72-45 43rd Avenue, corner of 43rd Avenue and 74th Street, Block 1357, Lot 46, Borough of

MINUTES

Queens.

COMMUNITY BOARD #4Q

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 September 18, 2006, acting on Department of Buildings Application No. 402424827, reads in pertinent part:

- “1. Required two side yard min. 8’-0” in R5 district as per section 23-462(a) Z.R.
2. Required two min. 10’-0” front yard for corner lot building in R5 district per section 23-45(a) Z.R.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R5 zoning district, the proposed construction of a three-story three-family home that does not provide one of the two required front yards and one of the two required side yards, contrary to ZR §§ 23-45(a) and 23-462(a); and

WHEREAS, a public hearing was held on this application on April 10, 2007, after due notice by publication in *The City Record*, to continued hearing on May 8, 2007, and then to decision on May 22, 2007; and

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

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

WHEREAS, the site is located on the northwest corner of 74th Street and 43rd Avenue, in an R5 zoning district; and

WHEREAS, the site has a width of approximately 25 feet, a depth of approximately 95.1 feet, and a total lot area of approximately 2,377.5 sq. ft.; and

WHEREAS, the applicant represents that the site has existed in its current configuration since before 1961; and

WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct a three-story, three-family home with three off-street parking spaces; and

WHEREAS, the proposed home will have the following complying parameters: 2,970 sq. ft. of floor area (1.25 FAR), an open space of 1,387.5 sq. ft., a wall height and total height of 30’-0”, one side yard of 35.6 feet, one front yard of 10’-0”, and three parking spaces; and

WHEREAS, however, the applicant proposes to provide a second front yard of 2.25 feet (two front yards of 10’-0” each are the minimum required) and a second side yard of 5’-0” (two side yards of 8’-0” each are the minimum required); and

WHEREAS, the applicant states that yard relief is necessary, for reasons stated below; thus, the instant application was filed; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the subject corner lot is narrow; and

WHEREAS, the applicant represents that the subject lot is the only vacant corner lot within a 400-ft. radius; and

WHEREAS, the applicant represents that there are two other vacant lots of comparable size within the radius, but neither of them are corner lots and therefore do not have the same front yard requirements; and

WHEREAS, the applicant has submitted a 400-ft. radius diagram that supports these assertions; and

WHEREAS, the applicant represents that the requested yard waivers are necessary to develop the site with a habitable home; and

WHEREAS, specifically, the applicant represents that the pre-existing dimensions of the lot - 25 ft. wide and 95.1 ft. deep - cannot feasibly accommodate as of right development; and

WHEREAS, in support of this statement, the applicant submitted plans for a complying building, which would have an exterior width of only 7’-0” and a length of 77’-1 3/16” if yard regulations were complied with fully; and

WHEREAS, accordingly, the applicant represents that the yard waivers are necessary to create a home of a reasonable width, while still providing a side yard that would accommodate sufficient distance between the proposed home and the adjacent home on 74th Street; and

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

WHEREAS, the Board has determined that because of the subject lot’s unique physical condition, there is no reasonable possibility that compliance with applicable zoning regulations will result in a habitable home; and

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

WHEREAS, the applicant states that a complying 10’-0” front yard will be provided along 74th Street where there is more of a context for front yards; and

WHEREAS, further, the applicant states that a second front yard of 2.25 feet will be provided along 43rd Avenue, which does not have an established context for front yards on this block; and

WHEREAS, the applicant initially proposed to provide a 2.25-ft. side yard along the northern lot line and a 5’-0” front yard along 43rd Avenue; and

WHEREAS, in the interest of providing more space between the subject home and the adjacent home on 74th Street, the Board directed the applicant to provide a 5’-0” side yard along the northern lot line and a 2.25-ft. front yard along 43rd Avenue; and

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WHEREAS, the Board agrees that the location of the home on the lot and the non-complying front yard are compatible with the context along 43rd Avenue; and

WHEREAS, therefore, 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 a result of the historical lot dimensions; and

WHEREAS, as noted above, the applicant complies with all R5 zoning district regulations except for one of the required front yards and one of the required side yards; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21, to permit, within an R5 zoning district, the proposed construction of a three-story three-family home that does not provide one of the two required front yards and one of the two required side yards, contrary to ZR §§ 23-45(a) and 23-462(a); *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 May 10, 2007"– five (5) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: 2,970 sq. ft. of floor area (1.25 FAR), an open space of 1,387.5 sq. ft., a wall height and total height of 30'-0", one side yard of 35.6 feet, one side yard of 5'-0", one front yard of 10'-0", one front yard of 2.25 feet, and three parking spaces, as per the BSA-approved plans; and

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

THAT there shall be no habitable room in the cellar;

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, May 22, 2007.

253-06-BZ

APPLICANT – Law Office of Fredrick A. Becker, for

Jamila Maleh and Asian Azrak, owners.

SUBJECT – Application September 15, 2006 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary side yard (§23-461) and rear yard (§23-47) in an R4 zoning district.

PREMISES AFFECTED – 2243 Homecrest Avenue, east side of Homecrest Avenue between Avenue V and Gravesend Neck Road, Block 7373, Lot 70, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra J. Altman.

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 August 17, 2006, acting on Department of Buildings Application No. 302213085, reads in pertinent part:

“The proposed enlargement of the existing two family residence to be changed to a one family in an R4 zoning district:

1. Creates non-compliance with respect to the side yards by not meeting the minimum requirements of Section 23-461 of the Zoning Resolution.
2. Creates non-compliance with respect to the rear yard by not meeting the minimum requirements of Section 23-47 of the Zoning Resolution.”; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R4 zoning district, the proposed enlargement of a two-family home and its conversion into a one-family home, which does not comply with the zoning requirements for side and rear yards, contrary to ZR §§ 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on April 10, 2007, after due notice by publication in *The City Record*, with a continued hearing on May 8, 2007, and then to decision on May 22, 2007; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board, including Vice-Chair Collins, Commissioner Hinkson, and Commissioner Ottley-Brown; and

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

WHEREAS, the subject site is located on the east side of Homecrest Avenue, between Avenue V and Gravesend Neck Road; and

WHEREAS, the subject site has a total lot area of 3,000 sq. ft., and is occupied by a 2,356 sq. ft. (0.79 FAR) two-family home; and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,356 sq. ft. (0.79 FAR) to 3,670 sq. ft. (1.22 FAR); the maximum floor area permitted is 4,050 sq. ft. (1.35 FAR), under the predominantly built-up regulations; and

WHEREAS, the proposed enlargement will maintain the existing non-complying front yard of 7'-10" (a front yard with a minimum depth of 18'-0" is required), and one side yard of 3'-6" (side yards with a minimum width of 5'-0" each are required); and

WHEREAS, the proposed enlargement will provide a 20'-0" rear yard (a minimum rear yard of 30'-0" is required); and

WHEREAS, the enlargement of the building is not located within 20'-0" of the rear lot line; and

WHEREAS, at hearing, the Board asked the applicant to provide information in support of the assertion that the site is within an area which meets the predominantly built-up standard; and

WHEREAS, in response, the applicant provided the requested analysis and supporting documentation; and

WHEREAS, additionally, the Board asked the applicant to confirm the compliance of the following conditions: (1) the new front wall; (2) the new roof; and (3) the proposed bay windows and chimney; and

WHEREAS, the applicant received positive preconsiderations from DOB stating the following: (1) that the demolition of the straight pre-existing on-complying front wall and its replacement with a curved wall with the same non-complying front yard in the middle will decrease the degree of non-compliance on the sides where the wall curves; (2) the vertical extension of the front wall, which will provide a pitched roof above the attic, is permitted; and (3) the proposed bay windows and chimney are permitted obstructions into the side yards; and

WHEREAS, the Board also asked the applicant to clearly identify which portions of the existing building would remain; and

WHEREAS, the Board notes that the applicant proposes to maintain the perimeter wall and total heights and to extend the pitched roof, which is more compatible with the streetscape, for the length of the home; and

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

WHEREAS, 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, within an R4 zoning district, the proposed enlargement of a two-family home and its conversion into a one-family home, which does not comply with the zoning requirements for side and rear yards, contrary to ZR §§ 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received February 28, 2007"-(10) 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 772 sq. ft.;

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

THAT the following shall be the bulk parameters of the building: a total floor area of 3,670 sq. ft., a total FAR of 1.22, a perimeter wall height of 24'-0", total height of 35'-0", a front yard of 7'-10", side yards of 3'-6" and 6'-5", and a rear yard of 20 ft., as illustrated on the BSA-approved plans;

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

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

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

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

Adopted by the Board of Standards and Appeals, May 22, 2007.

279-06-BZ

APPLICANT– Gerald J. Caliendo, R.A., AIA, for Richard N. Seemungal, owner.

SUBJECT – Application October 17, 2006 – Variance (§72-21) to construct a two story, two family residential building on a corner lot that does not comply with the front yard requirement (§23-45) and is less than the minimum required side yard (§23-461(b)) in an R4 zoning district.

PREMISES AFFECTED – 144-29 South Road, corner formed by the southeast side of South Road and Inwood

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Street, Block 10045, Lot 18, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Sandy Anagnostou.

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 September 18, 2006, acting on Department of Buildings Application No. 402424827, reads, in pertinent part:

“Minimum required front yards do not comply with 23-45 Z.R.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R4 zoning district, the proposed construction of a two-story two-family home that does not provide one of the two required front yards for a corner lot, contrary to ZR § 23-45; and

WHEREAS, a public hearing was held on this application on April 17, 2007, after due notice by publication in *The City Record*, and then to decision on May 22, 2007; and

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

WHEREAS, Community Board 12, Queens, recommends approval of this application; and

WHEREAS, the site is located on the southwest corner of South Road and Inwood Street, in an R4 zoning district; and

WHEREAS, the site has a width of approximately 25 feet, a depth of approximately 100 feet, and a total lot area of approximately 2,503 sq. ft.; and

WHEREAS, the applicant represents that the site has existed in its current configuration since before 1961; and

WHEREAS, the site is currently vacant; records indicate that a home was demolished sometime between 1973 and 1982; and

WHEREAS, the applicant represents that the prior home at the site had two and one-half stories and yard conditions comparable to those proposed; and

WHEREAS, the applicant proposes to construct a two-story, two-family home with two off-street parking spaces; and

WHEREAS, the proposed home will have the following complying parameters: 1,944 sq. ft. of floor area (0.78 FAR), an open space of 1,531 sq. ft., a wall height of 21'-0", a total height of 26'-5", side yards of 5'-0" and 12.96 feet, one front yard of 10'-0", and two parking spaces; and

WHEREAS, however, the applicant proposes to provide a second front yard of 2'-0" (two front yards of 10'-0" each are the minimum required); and

WHEREAS, the applicant states that front yard relief is

necessary, for reasons stated below; thus, the instant application was filed; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the subject corner lot is narrow; and

WHEREAS, the applicant represents that the subject lot is the only vacant corner lot within a 400-ft. radius; and

WHEREAS, the applicant represents that there are other vacant lots of comparable size within the radius, but none of them are corner lots and therefore do not have the same front yard requirements; and

WHEREAS, the applicant has submitted a 400-ft. radius diagram that supports these assertions; and

WHEREAS, the applicant represents that the requested front yard waiver is necessary to develop the site with a habitable home; and

WHEREAS, specifically, the applicant represents that the pre-existing dimensions of the lot - 25 ft. wide and 100 ft. deep - cannot feasibly accommodate as of right development; and

WHEREAS, in support of this statement, the applicant submitted plans for a complying building, which would have an exterior width of only 10'-0" if front yard regulations were complied with fully; and

WHEREAS, accordingly, the applicant represents that the front yard waiver is necessary to create a home of a reasonable width, while still providing a side yard that would accommodate sufficient distance between the proposed home and the neighboring home to the southwest; and

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

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

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

WHEREAS, the applicant states that a complying 10'-0" front yard will be provided along South Road where there is an established context for front yards; and

WHEREAS, further, the applicant states that a second front yard of two ft. will be provided along Inwood Street, which does not have an established context for front yards; and

WHEREAS, the applicant initially proposed to provide a two-ft. side yard along the southwestern lot line and a five-ft. front yard along Inwood Street; and

WHEREAS, in the interest of providing more space between the subject home and the adjacent home on South Road, the Board directed the applicant to provide a five-ft. side yard along the southwestern lot line and a two-ft. front yard along Inwood Street; and

WHEREAS, additionally, in the interest of maintaining privacy between the subject home and the adjacent home on

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South Road, the Board directed the applicant to reverse the interior layout so that the bedrooms are located along the Inwood Street side of the building and the corridors are along the shared lot line; and

WHEREAS, the Board agrees that the location of the home on the lot and the non-complying front yard are compatible with the context along Inwood Street; and

WHEREAS, therefore, 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 a result of the historical lot dimensions; and

WHEREAS, the Board notes that by revising the plans, during the hearing process, the applicant was able to eliminate a side yard waiver and only requires a single front yard waiver; and

WHEREAS, as noted above, the applicant complies with all R4 zoning district regulations except for one of the required front yards; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21, to permit, within an R4 zoning district, the proposed construction of a two-story two-family home that does not provide one of the two required front yards for a corner lot, contrary to ZR § 23-45; *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 May 8, 2007”– (2) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: 1,944 sq. ft. of floor area (0.78 FAR), an open space of 1,531 sq. ft., a wall height of 21’-0”., a total height of 26’-5”, side yards of 5’-0” and 12.96 feet, one front yard of 10’-0”, one front yard of 2’-0”, and two parking spaces, as per the BSA-approved plans;

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

THAT there shall be no habitable room in the cellar;

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, May 22, 2007.

318-06-BZ

APPLICANT– Eric Palatnik, P.C., for Sun Company, Inc., owner.

SUBJECT – Application September 27, 2006 – Special Permit (§11-411) seeking to re-instate a previous BSA approval issued to the premises permitting the continued use as an automotive service station (use group 16) located in a R-4 zoning district.

PREMISES AFFECTED – 49-05 Astoria Boulevard, northeast corner of Astoria Boulevard and 49th Street, Block 1000, Lot 35, Borough of Queens.

COMMUNITY BOARD #1Q

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, August 31, 2006, acting on Department of Buildings Application No. 402437617, reads in pertinent part:

“Proposed extension of term, which expired February 19, 1992, is contrary to BSA Calendar Number 516-56-BZ and therefore must be referred to the Board of Standards and Appeals.”; and

WHEREAS, this is an application for a reinstatement of a prior Board approval to permit an automotive service station, pursuant to ZR § 11-411; and

WHEREAS, a public hearing was held on this application on February 27, 2007, after due notice by publication in the *City Record*, with continued hearings on April 17, 2007 and May 15, 2007, and then to decision on May 22, 2007; and

WHEREAS, Community Board 1, Queens, recommends disapproval of this application, citing concerns about (1) the extended amount of time the site has been operated with an expired variance; (2) the buffer has not been maintained with the adjacent residential use; (3) opposition to the proposed curb cut size and its location; and (4) insufficient screening of the restroom area; and

WHEREAS, the premises is located on the northeast corner of Astoria Boulevard and 49th Street, within an R4 zoning district; and

WHEREAS, the subject zoning lot has a total lot area of approximately 13,234 sq. ft.; and

WHEREAS, the site is currently occupied by a 1,660 sq. ft. automotive service station building with a small convenience

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store, and four gasoline pump islands; and

WHEREAS, on February 19, 1957, under BSA Cal. No. 576-56-BZ, the Board granted a variance to permit the reconstruction of a gasoline service station with accessory uses for a term of 15 years; and

WHEREAS, subsequently, the grant was amended several times to permit site modifications and to extend the term; and

WHEREAS, most recently, on September 8, 1982, the grant was extended for a period of ten years, to expire on February 19, 1992; and

WHEREAS, the applicant states that a new certificate of occupancy has not been obtained since the February 19, 1982 expiration; and

WHEREAS, the applicant represents that the term was not extended due to an oversight when the business was sold; and

WHEREAS, the applicant now seeks to reinstate the original variance, granted under BSA Cal. No. 576-56-BZ; 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; and

WHEREAS, the applicant states that the following site modifications have been made since the last grant: (1) the curb cut on 49th Street has been enlarged from 20 feet to 74 feet; (2) the number of gasoline pump islands has increased from two to four; and (3) the configuration of underground storage tanks has changed pursuant to updated federal regulations; and

WHEREAS, initially, the applicant proposed to legalize all of the noted site modifications; and

WHEREAS, at hearing, the Board expressed concern about the size of the curb cuts and the proximity of the 49th Street curb cut to the intersection; and

WHEREAS, accordingly, the Board directed the applicant to reduce the 74 ft. curb cut on 49th Street to 30 ft. and the 33.8 ft. curb cut on Astoria Boulevard to 30 ft. so that all three curb cuts are limited to widths of 30 ft.; and

WHEREAS, the Board directed the applicant to install and maintain opaque fencing of a height of six feet along the rear property line; and

WHEREAS, the applicant agreed to maintain additional screening of a height of six feet surrounding the restroom area and to adjust the door on the restroom so that it closes automatically; and

WHEREAS, the applicant also agreed to provide fencing along the perimeter of the site; and

WHEREAS, the applicant revised the plans to reflect the reduced curb cuts and the required screening; and

WHEREAS, additionally, the Board directed the applicant to remove all debris and excess vehicles parked at the site; and

WHEREAS, the applicant submitted photographs of the site reflecting that these conditions had been remedied and that a proper buffer was being provided with the adjacent residential use; and

WHEREAS, the Board has determined that evidence in

the record supports the findings required to be made under ZR § 11-411; and

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 under ZR §11-411, for a reinstatement of a prior Board approval of an automotive service station; *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 May 1, 2007"-(4) sheets; and *on further condition*:

THAT this grant shall be for a term of 5 years, to expire on May 22, 2012;

THAT landscaping and fencing, including fencing around the perimeter of the site, shall be installed and maintained as per the BSA-approved plans;

THAT a sign instructing that only right turns are permitted be posted at the 49th Street exit;

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

THAT the site shall be brought into compliance with the BSA-approved plans and all conditions of this grant, and a new certificate of occupancy shall be obtained within six months of the date of this grant, on November 22, 2007;

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

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

THAT all signage shall comply with C1 zoning district 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, May 22, 2007.

31-06-BZ

APPLICANT– Sheldon Lobel, P.C., for Frank Falanga, owner.

SUBJECT – Application February 24, 2006 – Zoning variance (§72-21) to allow the legalization of an automotive collision repair shop (Use Group 16) in an R3-1/C1-2 district; proposed use is contrary to ZR §§22-00 and 32-00. PREMISES AFFECTED – 102-10 159th Road, south side of 159th Road near the intersection of 192nd Street and 159th Road, Block 14182, Lot 88, Borough of Queens.

COMMUNITY BOARD #10Q

MINUTES

APPEARANCES –

For Applicant: Josh Rinesmith.

ACTION OF THE BOARD – Laid over to July 10, 2007, at 1:30 P.M., for continued hearing.

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

APPEARANCES –

For Applicant: Eric Palatnik and Lewis Garfinkel.

ACTION OF THE BOARD – Laid over to July 10, 2007, at 1:30 P.M., for continued hearing.

119-06-BZ

APPLICANT – Harold Weinberg, P.E., for Jack Erdos, owner.

SUBJECT – Application June 9, 2006 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary open space, lot coverage and floor area (§23-141) and side yard (§23-461) in an R4(OP) zoning district.

PREMISES AFFECTED – 444 Avenue W, south side 70'-0" east of East 4th Street, between Avenue R and S, Block 7180, Lot 4, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg, P.E.

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 June 5, 2007, at 1:30 P.M., for decision, hearing closed.

161-06-BZ

APPLICANT– Eric Palatnik, P.C., for Webster Affordable Solutions, LLC, owner.

SUBJECT – Application July 24, 2006 – Variance (§72-21) on behalf of the Doe Fund to permit the creation of two (2), eight (8)-story structures at the Premises located in a C8-2 zoning district. The proposal is contrary to Section 32-10.

PREMISES AFFECTED – 3349 and 3365 Webster Avenue, Webster Avenue South of Gun Hill Road, Block 3355, Lot 121, Borough of Bronx.

COMMUNITY BOARD #7BX

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to July 10, 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: 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 June 5, 2007, at 1:30 P.M., for decision, hearing closed.

MINUTES

254-06-BZ

APPLICANT – Eric Palatnik, P.C., for Sarah Weiss, owner.
SUBJECT – Application September 18, 2006 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary open space and floor area (§23-141(a)) and side yard (§23-461) in an R-2 zoning district.

PREMISES AFFECTED – 1327 East 21st Street, corner of Avenue L and East 21st Street, Block 7639, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to July 10, 2007, at 1:30 P.M., for continued hearing.

265-06-BZ

APPLICANT – Sheldon Lobel, P.C., for Rev. Heung C. Rha, owner.

SUBJECT – Application September 28, 2006 – Variance (§72-21) to allow accessory use to U.G. 2 (multiple dwellings) on an R2 portion of a zoning lot split by district boundaries (R2 and R6); R6 portion of the lot will be developed with an as-of-right multiple dwelling and house of worship; contrary to use regulations (§ 22-00 and § 22-12).

PREMISES AFFECTED – 141-48 33rd Avenue, south side of 33rd Avenue between Parsons Boulevard and Union Street, Block 4981, Lot 37, 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 June 5, 2007, at 1:30 P.M., for decision, hearing closed.

314-06-BZ

APPLICANT – Eric Palatnik, P.C., for Mikhail Kremerman, owner; Yana’s Spa, lessee.

SUBJECT – Application December 6, 2006 – Special Permit (§73-36) to permit the proposed Physical Culture Establishment (a/k/a spa) at the cellar level of the proposed structure.

PREMISES AFFECTED – 2565 East 17th Street, Block 7438, Lot 51, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

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 June 19, 2007, at 1:30 P.M., for decision, hearing closed.

321-06-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Park Towers South Company LLC, owner; Yelo, LLC, owner.

SUBJECT – Application December 13, 2006 – Special Permit (§73-36) to allow the operation of a Physical Culture Establishment in a portion of the first floor of a multi-story mixed use building.

PREMISES AFFECTED – 315 West 57th Street, north side of West 57th Street, 200’ west of Eighth Avenue, Block 1048, Lot 20, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Fredrick A. Becker and Michael Hazel.

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 June 5, 2007, at 1:30 P.M., for decision, hearing closed.

43-07-BZ

APPLICANT – Kramer Levin Naftalis & Frankel, LLP, for Covenant House, owner; Hampshire House Hotels & Resorts, lessee.

SUBJECT – Application February 8, 2007 – Zoning variance under § 72-21 to allow a proposed twelve (12) story mixed-use development containing seventy-four (74) apartment hotel rooms (U.G. 2), two-hundred and seventy (270) transient hotel rooms (U.G. 5) and retail use (U.G. 6) and/or a physical culture establishment (PCE) on the ground and cellar levels. Proposed commercial uses (transient hotel, retail and PCE) are contrary to use regulations (§ 22-00). Proposed apartment hotel rooms exceed maximum number of dwelling units (§ 23-22) and are contrary to recreation requirements of the Quality Housing Program (§ 28-32). Proposed development would also violate regulations for floor area (§ 23-145), lot coverage (§ 23-145), rear yard for interior portion of lot (§ 23-47), rear yard equivalent for through lot portion (§ 23-533), height and setback (§ 23-633), and location requirements for outdoor swimming pool (§ 12-10).

PREMISES AFFECTED – 346-360 West 17th Street, a/k/a 351-355 West 16th Street, Block 740, Lot 55, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Paul Selver, Elise Wagner, Melanie LaRocca of Council Speaker Quinn, Frank Fusaro, Jack Freeman, Chi Chan, Lisa Lau and George Fontas.

MINUTES

ACTION OF THE BOARD – Laid over to July 10, 2007 at 1:30 P.M., for continued hearing.

57-07-BZ

APPLICANT – Omnipoint Communications, Inc., for Wagner College, owner.

SUBJECT – Application March 5, 2007 – Special Permit (§73-30) for a non-accessory radio tower, which is a public utility wireless communications facility and will consist of a 70-foot monopole/light-post, together with antennas (and stadium flood-lights).

PREMISES AFFECTED – 636 Howard Avenue, 75' east of Highland Avenue and Howard Avenue, Block 597, Lot 65, Borough of Staten Island.

COMMUNITY BOARD # 1SI

APPEARANCES –

For Applicant: Robert Guardioso.

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 June 19, 2007, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.