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AND APPEALS

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215-07-BZ

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216-07-BZ

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218-07-BZ

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219-07-BZ

11 West 36th Street, 2nd Floor, Located on the North side of West 36th Street, between 5th and 6th Avenues., Block 838, Lot(s) 35, Borough of **Manhattan, Community Board: 5**. (SPECIAL PERMIT) 73-36 – To legalize the operation of a Physical Culture Establishment on the second floor of a building located in an M1-6 zoning district.

220-07-BZ

847 Kent Avenue, East side of Kent Avenue distant 300' north of intersection of Kent Avenue and Myrtle Avenue., Block 1898, Lot(s) 10, Borough of **Brooklyn, Community Board: 3**. Under 72-21 – Proposed Multiple Dwelling (UG2). There are no applicable bulk, parking or yard regulations.

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

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

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

SPECIAL ORDER CALENDAR

390-61-BZ

APPLICANT – Peter Hirshman, for Rapid Park Industries, owner.

SUBJECT – Application September 7, 2007 – ZR 11-411 for the Extension of Term of a previously granted variance for a UG8 parking garage (Rapid Park Industries) in an R8B zoning district which will expire on March 3, 2008

PREMISES AFFECTED – 148-150 East 33rd Street, southside of East 33rd Street, east of East 33rd Street and Lexington Avenue, Block 888, Lot 51, Borough of Manhattan.

COMMUNITY BOARD #6M

197-05-BZ

APPLICANT – New York City Board of Standards and Appeals.

OWNER: B & E 813 Broadway, LLC and Broadway Realty Associates, LLC.

SUBJECT – Application August 17, 2006 – To consider dismissal for lack of prosecution – Proposed 11-story residential building with ground floor retail to violate regulations for FAR (§ 23-145), height and setback (§ 35-24), and maximum number of dwelling units (§ 23-22). C6-1 district.

PREMISES AFFECTED – 813-815 Broadway, East 12th Street and East 11th Street, Block 563, Lots 33 & 34, Borough of Manhattan.

COMMUNITY BOARD # 2M

109-06-BZ

APPLICANT – New York City Board of Standards and Appeals.

OWNER: Vincent Mazzone

SUBJECT – Application June 2, 2006 – To consider dismissal for lack of prosecution – Proposed three-story enlargement to an existing one-story building; contrary to bulk regulations. R5 district.

PREMISES AFFECTED – 1201 Avenue Z, north east corner of East 12th Street, Block 7433, Lot 148, Borough of Brooklyn.

COMMUNITY BOARD # 15BK

233-06-BZ

APPLICANT – New York City Board of Standards and Appeals.

OWNER: Syful Islam.

SUBJECT – Application September 11, 2006 – To consider dismissal for lack of prosecution – Proposed variance (§72-21) for the legalization of an enlargement to a single family home, which required front yard 23-47 and less than the required side yard 23-461 in an R-5 zoning district; and also to change the occupancy from a one family to a two family home.

PREMISES AFFECTED – 2342 Haviland Avenue, Haviland Avenue bounded by Zerega Avenue and Havemeyer Avenue, Block 3827, Lot 51, Borough of Bronx.

COMMUNITY BOARD # 9BX

293-06-BZ

APPLICANT – New York City Board of Standards and Appeals.

OWNER: Veronica Nicastro.

SUBJECT – Application November 6, 2006 – To consider dismissal for lack of prosecution – Proposed variance (§72-21) for the enlargement of an existing one-family dwelling which exceeds the permitted floor area and does not provide the required open space (23-141) in an R1-2 zoning district.

PREMISES AFFECTED – 54-07 254th Street, east side of 254th Street, 189' north of Horace Harding Expressway, Block 8256, Lot 11, Borough of Queens.

COMMUNITY BOARD #11Q

299-06-BZ

APPLICANT – New York City Board of Standards and Appeals.

OWNER: Three Partners, LLC.

SUBJECT – Application November 3, 2006 – To consider dismissal for lack of prosecution – Proposed legalization of a public parking facility (garage and lot); contrary to use regulations (§ 22-10). R7-1 district..

PREMISES AFFECTED – 1976 Crotona Parkway, east side of Crotona Parkway, 100' north of Tremont Avenue, Block 3121, Lots 10 and 25, Borough of Bronx

COMMUNITY BOARD # 6BX

304-06-BZ

APPLICANT – New York City Board of Standards and Appeals.

OWNER: Khan Shahnawaz.

SUBJECT – Application November 21, 2006 – To consider dismissal for lack of prosecution – Proposed variance (§72-21) for the construction of a detached single family home on a vacant corner lot which does not provide the required

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front yard (23-45(a)) located in an R3-2 zoning district.
PREMISES AFFECTED – 106-02 Astoria Boulevard,
southeast corner of Astoria Boulevard and 106th Street,
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COMMUNITY BOARD # 3Q

APPEALS CALENDAR

347-05-A
APPLICANT – NYC Board of Standards and Appeals
OWNER: Douglaston Realty Associates, owners.
SUBJECT – To consider dismissal for lack of prosecution.
PREMISES AFFECTED – Vacant Lot, 242-22 61st
Avenue, south side of 61st Avenue, Block 8266, Lot 186,
Borough of Queens.
COMMUNITY BOARD #11Q

324-06-A
APPLICANT – NYC Board of Standards and Appeals
OWNER: Al Muhammad & Deborah Muhammad, owners.
SUBJECT – To consider dismissal for lack of prosecution.
PREMISES AFFECTED – 1449 Rosedale Avenue, a/k/a
1447 Cross Bronx and Rosedale Avenue, Block 3895, Lot
77, Borough of Bronx.
COMMUNITY BOARD #9BX

105-07-A thru 108-07-A
APPLICANT – Paul Bonfilio Architect, P.C., for Tom and
Angelika Davis, owners.
SUBJECT – Application May 2, 2007 – Proposed
construction of four two family semi detached dwellings
located within the bed of mapped street (199th) contrary to
General City Law Section 35. R3-2 Zoning district.
PREMISES AFFECTED –
198-24 47th Avenue, south side of 47th Avenue, 165.37'
west of Francis Lewis Boulevard, Block 5618, Lot 49.
198-28 47th Avenue, south side of 47th Avenue, 165.37'
west of Francis Lewis Boulevard, Block 5619, Lot 20.
47-17 199th Avenue, south side of 47th Avenue, 165.37'
west of Francis Lewis Boulevard, Block 5618, Lot 49.
47-18 199th Street, south side of 47th Avenue, 165.37' west
of Francis Lewis Boulevard, Block 5618, Lot 49, Borough
of Queens
COMMUNITY BOARD #11Q

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

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

ZONING CALENDAR

48-07-BZ
APPLICANT – Alfonso Duarte, for Jerry Trianafillou,
owner.
SUBJECT – Application February 20, 2007 – Variance
(\$72-21) for the enlargement of an existing single family
residence on an undersized lot which seeks to vary (23-47)
less than the required rear yard and (23-141(b)) for lot
coverage in an R2A zoning district.
PREMISES AFFECTED – 7-12 126th Street, west side 90'
south of 7th Avenue, Block 3970, Lot 11, Borough of
Queens.
COMMUNITY BOARD #7Q

110-07-BZ
APPLICANT – Sheldon Lobel, P.C., for Crosby
Landmark Corporation, owner.
SUBJECT – Application May 3, 2007– Special Permit
under § 73-63 to allow the enlargement of a non-residential
building. M1-5B district.
PREMISES AFFECTED – 53 Crosby Street, east side of
Crosby Street between Spring Street and Broome Street,
Block 482, Lot 7, Borough of Manhattan.
COMMUNITY BOARD #2M

152-07-BZ
APPLICANT – Eric Palatnik, P.C., for 8701 Fourth Avenue,
LLC, owner.
SUBJECT – Application June 8, 2007 – Special Permit
(\$73-36) to allow the legalization of a Physical Culture
Establishment on the second floor of a two-story commercial
building. The proposal is contrary to section 32-00 of the
Zoning Resolution. C4-2A zoning district.
PREMISES AFFECTED – 8701 Fourth Avenue, southeast
corner of Fourth Avenue and 87th Street, Block 6050, Lot 8,
Borough of Brooklyn.
COMMUNITY BOARD #8BK

CALENDAR

159-07-BZ

APPLICANT – Eric Palatnik, P.C., for Stillwell Sports Center, Inc., owner.

SUBJECT – Application June 12, 2007 – Special Permit (§73-36) to allow the legalization of a Physical Culture Establishment on the second floor of a two-story commercial building. The proposal is contrary to 32-00. C8-2 district.

PREMISES AFFECTED – 2402 86th Street, south corner of 86th Street and 24th Avenue, Block 6864, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #11BK

211-07-BZ

APPLICANT – Eric Palatnik, P.C., for Dave Weiss, owner.

SUBJECT – Application September 7, 2007 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary open space and floor area (§23-141); side yard (§23-461) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1149 East 22nd Street, north of Avenue K, south of Avenue J, Block 7604, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

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**REGULAR MEETING
TUESDAY MORNING, SEPTEMBER 25, 2007
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

517-68-BZ

APPLICANT – Alfonso Duarte, for 1667 Rental Depot Incorporated, owner.

SUBJECT – Application November 15, 2006 – Extension of Term/Amendment/Waiver of a variance previously granted pursuant to §72-21 permitting in an R3-2 district open automobile sales (UG 16A) with accessory office and automobile repairs on cars for sale. The application seeks to legalize the rental of automobiles and trucks (UG 8C). The term of the variance expired on October 7, 2005.

PREMISES AFFECTED – 1667 East Gun Hill Road, East side 175' south of Tiemann Avenue, Block 4802, Lot 21, Borough of the Bronx.

COMMUNITY BOARD #12BX

APPEARANCES – None.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, and a reopening to legalize the addition of automobile and truck rental (Use Group 8C) to the permitted use of car sales (Use Group 16A), and to extend the term which expired on October 5, 2005; and

WHEREAS, a public hearing was held on this application on August 7, 2007, after due notice by publication in the *City Record*, with a continued hearing on September 11, 2007, and then to decision on September 25, 2007; and

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

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

WHEREAS, the site is located on the north side of East Gun Hill Road between Tiemann and Barton Avenues, within an R3-2 zoning district; and

WHEREAS, the subject site has a total lot area of 4,979 sq. ft.; and

WHEREAS, the site is currently occupied by an accessory office and auto repair building and a car sales area with parking for cars for sale and accessory customer parking; and

WHEREAS, on May 27, 1975, under the subject

calendar number, the Board granted a variance to permit the change in occupancy from a store and parking lot to an open auto sales lot and accessory office; and

WHEREAS, on October 7, 1980, under the subject calendar number, the Board granted an amendment to permit a change in use to minor auto repair shop accessory to auto sales and office, and to grant an extension of five years; and

WHEREAS, the grant was subsequently extended twice for terms of five years and once for a term of ten years, which expired on October 5, 2005; and

WHEREAS, the applicant now seeks an amendment to permit auto and truck rental and to extend the term for a period of ten years; and

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

WHEREAS, pursuant to ZR § 11-413, the Board may grant a request for a change in use; and

WHEREAS, at hearing, the Board directed the applicant to address the following conditions: (1) signage must comply with C1 zoning district regulations; (2) the site is overcrowded and has an inefficient traffic flow; and (3) the fencing and landscaping around the site must be compatible with adjacent residential uses; and

WHEREAS, as to the signage, the applicant removed any non-complying signage to bring the signage into compliance with C1 zoning district regulations; and

WHEREAS, the applicant also presented evidence that the site had been cleaned up and that the fencing is in good repair; and

WHEREAS, accordingly, the Board has determined that evidence in the record supports the findings required to be made under ZR §§ 11-411 and 11-413; and

Therefore it is Resolved, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens, and 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 and 11-413, to permit the legalization of automobile and truck rental (UG 8C) at the premises in addition to sale of cars (UG 16A), and grants an extension of term for a period of ten (10) years, to expire on October 5, 2015; *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 July 10, 2007"-(2) sheets; and *on further condition*:

THAT this grant shall be for a term of ten (10) years, to expire on October 5, 2015;

THAT landscaping and fencing shall be installed and maintained as per the BSA-approved plans;

THAT all exterior lighting shall be directed away from adjacent residential uses;

THAT all signage shall comply with C1 zoning district regulations;

THAT the hours of operation shall be limited to Monday through Saturday, 8:00 a.m. to 5:30 p.m. and Sunday, 8:00 a.m. to 1:00 p.m.;

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

THAT construction shall be completed and a new certificate of occupancy obtained within six months of the date of this grant, by March 25, 2008;

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

THAT the parking layout 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 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, September 25, 2007.

244-97-BZ

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP, for Parkwood Realty Assoc., LLC, owner; AGT Crunch New York, lessee.

SUBJECT – Application July 6, 2007 – Extension of Term/Time/Amendment/Waiver for a Physical Cultural Establishment "Crunch Fitness" filed pursuant to §§ 73-11 and 73-36 to reopen the resolution for a special permit for a physical culture establishment "Crunch Fitness" adopted November 4, 1998, amended December 21, 1999, and corrected January 20, 2000: for a waiver for an extension of term which expires November 4, 2008; for the extension of time to obtain the Certificate of Occupancy; and for an amendment to the Resolution for an enlargement of the total PCE floor area within an existing two story commercial building, which the PCE will fully occupy, located in a C2-5/R-8B zoning district.

PREMISES AFFECTED – 162 West 83rd Street, south side of West 83rd Street, between Columbus and Amsterdam Avenues, Block 1213, Lot 58, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES –

For Applicant: Ellen Hay.

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 waiver of the Rules of Practice and Procedure, a reopening and amendment for an enlargement of floor area, an extension of

time to obtain a certificate of occupancy, and an extension of the term for a previously granted special permit for a Physical Culture Establishment (PCE), which expires on November 4, 2008; and

WHEREAS, a public hearing was held on this application on September 11, 2007, after due notice by publication in *The City Record*, and then to decision on September 25, 2007; and

WHEREAS, Community Board 7, Manhattan, recommends approval of the application; and

WHEREAS, the subject premises is located on the south side of West 83rd Street between Columbus Avenue and Amsterdam Avenue; and

WHEREAS, the site is located within a C2-5 (R8-B) zoning district, and is occupied by a two-story commercial building; and

WHEREAS, the PCE occupies a total of 14,998 sq. ft. on the cellar level, first floor, and second floor of the premises; and

WHEREAS, the PCE is operated as Crunch Fitness; and

WHEREAS, on November 4, 1998, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to permit the existing PCE in the cellar and first floor of the subject building; and

WHEREAS, on December 21, 1999, under the subject calendar number, the Board amended the resolution to permit the legalization of PCE use on the second floor of the building; and

WHEREAS, under BSA Cal. No. 243-07-BZ, the Board granted a new special permit to allow a PCE to occupy 6,852 sq. ft. of space in the adjacent building at 150 West 83rd Street, connected to the subject PCE; and

WHEREAS, however, the lease for the space in the adjacent building will be terminated in September 2007, and the PCE space will be vacated; therefore no application has been filed with respect to extending the term of the special permit in effect at 150 West 83rd Street; and

WHEREAS, to compensate for the loss of space at 150 West 83rd Street, the applicant proposes to expand into the remainder of the building at 162 West 83rd Street, so that it will occupy the entire building, totaling 18,279 sq. ft. of floor space (6,093 sq. ft. in the cellar, 6,093 sq. ft. on the first floor, and 6,093 sq. ft. on the second floor); and

WHEREAS, the instant application seeks to amend the special permit to reflect the new configuration of the PCE, occupying the entire building (cellar and two stories) at 162 West 83rd Street; and

WHEREAS, the instant application also seeks to extend the time to obtain a certificate of occupancy and to extend the term of the special permit for an additional ten years; and

WHEREAS, the applicant proposes no change in operating hours of the PCE, which will be from 5:30 a.m. to 11:00 p.m. Monday through Thursday, 5:30 a.m. to 10:00 p.m. Friday, and 8:00 a.m. to 9:00 p.m. Sunday; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time to obtain a

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Certificate of Occupancy and extension of term are appropriate with certain conditions as set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated November 4, 1998, so that as amended this portion of the resolution shall read: "to grant an extension of the special permit for a term of ten years from the expiration of the prior grant to expire on November 4, 2018; *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 July 6, 2007"- (5) sheets and "September 5, 2007"-(1) sheet; and *on further condition*:

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

THAT this grant shall expire on November 4, 2018;

THAT a Certificate of Occupancy shall be obtained within one year of this grant;

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

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

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted. (DOB Application No. 104813613)

Adopted by the Board of Standards and Appeals, September 25, 2007.

196-58-BZ

APPLICANT – Sheldon Lobel, P.C., for Leemilt's Petroleum Corp., owner.

SUBJECT – Application April 11, 2007 – Extension of Term/Time pursuant to (§11-411) to extend the term of the previously granted variance permitting the operation of an automotive service station in an R6 zoning district. The application seeks an extension of time to obtain a certificate of occupancy and a waiver of the rules of practice and procedure to permit the filing of the application over one year prior to the expiration of term.

PREMISES AFFECTED – 2590 Bailey Avenue, located on the northeast corner of the intersection of Bailey Avenue and Heath Avenue, Block 3239, Lot 1, Borough of Bronx.

COMMUNITY BOARD #7BX

APPEARANCES –

For Applicant: Ron Mandel.

ACTION OF THE BOARD – Laid over to October 30, 2007, at 10 A.M., for continued hearing.

844-86-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, for Fred Lynn Associates, owner; Pyramida Billiards, lessee.

SUBJECT – Application February 12, 2007 – Extension of Term of a previously granted Special Permit (§73-50) for the enlargement of a one (1) story building, in a C8-2 zoning district, that encroaches into the open area required along a district boundary which expired on April 28, 1997; an Amendment to legalize the change in use from an auto repair shop (UG16) and custom clothing manufacturer (UG11) to a billiard parlor (UG12) and eating and drinking establishment (UG6) and to permit the addition of a 979. sq. ft. mezzanine in the UG6 portion of the building; an Extension of Time to obtain a Certificate of Occupancy which expired on May 4, 1999 and a Waiver of Rules of Practice & Procedure.

PREMISES AFFECTED – 1828/1836 McDonald Avenue, west side of McDonald Avenue, between Avenue P and Quentin Road, Block 6632, Lots 17 & 20, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES –

For Applicant: Adam Rothkrug.

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 October 23, 2007, at 10 A.M., for decision, hearing closed.

223-90-A

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for Frank A. Burton, Jr., owner.

SUBJECT – Application April 3, 2007 – Amendment of a previous grant under the General City Law Section 36 to remove a Board condition requiring that no permanent Certificate of Occupancy shall be issued until a Corporation Counsel Opinion of Dedication has been obtained for Kresicher Street and to approve the enlargement of the site and building. M1-1 Zoning district.

PREMISES AFFECTED – 114 Kreischer Street, west side of Kreischer Street, 140.8' north of Androvette Street, Block 7408, Lot 8, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to October 16, 2007, at 10 A.M., for continued hearing.

16-92-BZ

APPLICANT – Stadtmauer Bailkin, LLP, for High Teck Park, Inc., owner.

SUBJECT – Application May 18, 2007 – Pursuant to Z.R §§72-01 & 72-22 to permit a waiver of the rules of practice and procedure, a re-opening, an amendment, and an extension of the term of the variance. The requested application would permit the legalization from the change in use from auto repair and warehouse to a charity auto

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donation facility (Use Group 16 automotive storage), container storage (Use Group 16), a woodworking and metal working company (Use Group 16) and a legalization of a 2,420 square foot mezzanine addition. The premises is located in a R5/C1-1 zoning district.

PREMISES AFFECTED – 115 King Street/78 Sullivan Street, lot front King Street and Sullivan Street, between Richardson and Van Brunt Street, Block 556, Lot 15, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Opposition: Michael Goodall, Molly Hash Rouzie, Amy Helfard, Adam Armstrong, Jorsec Keindl, Richa Horig, Louis Sones, Harrieg Zvakar, Maria Mackin and John McGettrick.

ACTION OF THE BOARD – Laid over to October 30, 2007, at 10 A.M., for continued hearing.

8-05-BZ

APPLICANT – Sheldon Lobel, P.C., for James Pi, owner.
SUBJECT – Application January 18, 2005 – To consider dismissal for lack of prosecution – propose use, bulk and parking variance to allow a 17 story mixed-use building in R6/C1-2 and R5 zoning districts.

PREMISES AFFECTED – 85-15 Queens Boulevard, a/k/a 51-35 Reeder Street, entire frontage on Queens Boulevard between Reeder Street and Broadway, Block 1549, 41 (a/k/a 41 & 28), Borough of Queens.

COMMUNITY BOARD # 4Q

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Laid over to October 16, 2007, at 10 A.M., for continued hearing.

APPEALS CALENDAR

323-06-A

APPLICANT – Vito J. Fossella, P.A., for Michael Sidnam, owner.

SUBJECT – Application December 14, 2006 – Proposed enlargement of an existing one family dwelling located within the bed of mapped street (North Avenue) which is contrary to Section 35 of the General City Law. R3X Zoning.

PREMISES AFFECTED – 389 College Avenue, Northside of College Avenue; 140.08' east of the corner formed by the intersection of College Avenue and Lockwood Place, running thence east 111.38', thence north 168.99', thence s/w 82.20', thence west 64.92', thence south 89.27'. Block 391, Lot 93, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Sameh M. El-Meniawy.

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 Staten Island Borough Commissioner, dated December 12, 2006, acting on Department of Buildings Application No. 500855693, reads in pertinent part:

“Objection #1 – The proposed extension of detached residential building in R3-X Zoning District is located within the bed of a mapped street contrary to Section 35 of General City Law and therefore referred to the Board of Standards and Appeals for approval”; and

WHEREAS, this application requests permission to build a two-bay garage with a loft within the bed of a mapped street (North Avenue); and

WHEREAS, a public hearing was held on this application on August 21, 2007 after due notice by publication in the *City Record*, and then to decision on September 25, 2007; and

WHEREAS, by letter dated April 18, 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 applicant’s property in its ten-year capital plan; and

WHEREAS, by letter dated January 17, 2007, the Fire Department states that it has reviewed the above application and states that all proposals to build in the bed of a mapped street be disapproved due to the increasing burden of overdevelopment on the Fire Department; and

WHEREAS, by letter dated March 24, 2007, in response to the Fire Department’s concerns, the applicant has submitted a revised site plan which provides for a 38’-0” wide portion of the mapped portion of North Avenue to be maintained free of any permanent obstructions in the event that the portion of said street will be opened in the future; and

WHEREAS, by letter dated April 5, 2007, the Fire Department states that it has reviewed the applicant’s revised submission and has no further comments; and

WHEREAS, by letter dated April 26, 2007, the Department of Environmental Protection (DEP) states that it reviewed the above application and advises the Board that there is an adopted Drainage Plan #PRD-1B & 2B, which calls for a future 10-in. diameter sanitary sewer and a 12-in. diameter storm sewer starting in North Avenue, north of College Avenue; and

WHEREAS, DEP also states that there are two 20-in. diameter pipe drains crossing the mapped street (North Avenue), between College Avenue and the northwestern portion of North Avenue; and

WHEREAS, therefore, DEP asked that the applicant conduct a televised inspection of the referenced drains in the presence of a DEP representative to see if they are active; if yes

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then DEP requires a minimum 34'-0" corridor north of College Avenue for the purpose of installation, maintenance, and/or reconstruction of these existing two 24-in. diameter pipe drains; and

WHEREAS, in response to DEP's request, the applicant proposes a 42'-0" wide corridor (which includes space for a 38'-0" road and a 4'-0" sidewalk) on North Avenue already being provide at the request of the Fire Department for access and maintenance; and

WHEREAS, by letter dated August 22, 2007, DEP states that it has reviewed the applicant's proposal and states that, while the July 17, 2007 proposal will provide for a 38'-0" wide sewer corridor in the bed of the southeasterly portion of North Avenue, north of College Avenue for the installation and maintenance of the future 10-in. diameter sanitary sewer and 12-in. diameter storm sewer, DEP still requires the applicant to provide a televised inspection to confirm the existence of the two 20-in. or 24-in. drains crossing the property; and

WHEREAS, if these pipes exist, DEP will require an access corridor north of College Avenue for the purpose of maintaining them; and

WHEREAS, on September 15, 2007, the applicant provided a revised site plan which reflects a future easement north of College Avenue for purposes of maintaining the two pipe drains; and

WHEREAS, by letter dated September 22, 2007, DEP states that it has reviewed the revised site plan finds it acceptable; and

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

Therefore it is Resolved that the decision of the Staten Island Borough Commissioner, dated December 12, 2006, acting on Department of Buildings Application No. 500855693, 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 September 24, 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 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 a 42'-0" wide portion of the mapped portion of North Avenue be maintained free of any permanent obstructions, as reflected on the BSA-approved plans;

THAT a sewer corridor/easement with a width from 26'-2" to 33'-8" for DEP access be provided north of College Avenue, as reflected on the BSA-approved plans;

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, September 25, 2007.

190-07-A

APPLICANT – Gary Lenhart, R.A., for The Breezy Point Cooperative, owner; Patricia & John Dalton, lessees.

SUBJECT – Application August 7, 2007 – Reconstruction and enlargement of an existing one family house not fronting on a mapped street contrary to General City Law Section 36. R4 Zoning District.

PREMISES AFFECTED – 7 Chester Walk, east side of Chester Walk, 44', south of Oceanside Avenue, Block 16350, Lot p/o 400, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Gary Lenhart.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated July 26, 2007, acting on Department of Buildings Application No. 402582399, reads in pertinent part: "The street giving access to the existing building to be reconstructed and enlarged is not duly placed on the official map of the City of New York, Therefore :

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

B) the existing dwelling to be reconstructed and enlarged 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 upgraded private disposal system is in the bed of a service road contrary to Department of Buildings Policy"; and

WHEREAS, a public hearing was held on this application on September 25, 2007, after due notice by publication in the *City Record*, and then to decision on that same date; and

WHEREAS, by letter dated August 13, 2007, the Fire Department states that it has reviewed the application and has no objections; and

WHEREAS, based upon the above, 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 July 26, 2007, acting on Department of Buildings Application No. 402582399, is

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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 August 7, 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, September 25, 2007.

105-06-A

APPLICANT – Rothkrug Rothkrug and Spector, for Yafa Development, LLC, owner.

SUBJECT – Application May 23, 2006 – Proposed development of a single family home which will lie partially in the bed of a mapped street (Hook Creek Boulevard contrary to General City Law Section 35. Premises is located within an R2 zoning district.

PREMISES AFFECTED – 240-23 128th Avenue, corner of 128th Avenue and Hook Creek Boulevard, Block 12866, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Adam Rothkrug.

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

162-06-A

APPLICANT – Adam Rothkrug, Esq., for Edgewater Developers & Builders, Inc., owner.

SUBJECT – Application July 25, 2006 – Proposed construction of a single family home located partially within the bed of a mapped street (Egdewater Road) contrary to General City Law Section 35. R2 Zoning district.

PREMISES AFFECTED – 2852 Faber Terrace, intersection of Faber Terrace and Proposed Edgewater Road, Block 15684, Lot 161, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Adam Rothkrug.

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

165-06-A

APPLICANT – Adam Rothkrug, Esq., for Edgewater Developers & Builders, Inc., owner.

SUBJECT – Application July 25, 2006 – Proposed construction of a single family home located partially within the bed of a mapped street (Egdewater Road) contrary to General City Law Section 35. R2 Zoning district.

PREMISES AFFECTED – 2848 Faber Terrace, intersection of Faber Terrace and Proposed Edgewater Road, Block 15684, Lot 61, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Adam Rothkrug.

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

320-06-A

APPLICANT – Rothkrug, Rothkrug and Spector, for Furman LLC, owner.

SUBJECT – Application December 11, 2006 – An appeal challenging DOB's interpretation of their DOB Memo 9/21/86 in which compliance with the special provisions of §23-49 (a) & (c) are applicable to the current design of the proposal when the party walls are utilized or shared for 50% or more of the depth of the building. R5 zoning district.

PREMISES AFFECTED – 4368 Furman Avenue, between East 236th and East 237th, Block 5047, Lot 12, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Adam Rothkrug.

ACTION OF THE BOARD – Laid over to October 16, 2007, at 10 A.M., for deferred decision.

157-07-BZY

APPLICANT – Sheldon Lobel, P.C., for Blue Diamond Development, LLC, owner.

SUBJECT – Application June 11, 2007 – Extension of time (11-332) to complete construction of a minor development commenced prior to the amendment of the zoning district regulations on May 11, 2005. M1-2/R6A, M1-2/R6B and MX-8.

PREMISES AFFECTED – 55 Eckford Street, western side of Eckford Street, between Driggs Avenue and Engert Avenue, Block 2698, Lot 32, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Ron Mandel.

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 October

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23, 2007, at 10 A.M., for decision, hearing closed.

Jeffrey Mulligan, Executive Director

Adjourned: A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, SEPTEMBER 25, 2007
1:30 P.M.**

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

ZONING CALENDAR

154-05-BZ

CEQR 05-BSA-142M

APPLICANT – Kenneth K. Lowenstein, for Broome Thompson, LLC, owner.

SUBJECT – Application June 28, 2005 – Variance (§72-21) to permit the construction of a nine-story mixed-use building which will contain 51 residential units, 7,340 square feet of ground retail uses and a 280-space public parking garage. The premises is located in an M1-5B zoning district. The proposal is contrary to §42-10 (Commercial (Use Group 6) and Residential (Use Group 2) uses are not permitted in a M1-5B zoning district, §42-13 (There are no residential bulk regulations in a M1-5B zoning district), and §13-12 (The proposed public parking garage is not permitted in a residential development.)

PREMISES AFFECTED – 520-528 Broome Street and 530-532 Broome Street/55 Sullivan Street, north side of Broome Street, between Thompson and Sullivan Streets, Block 489, Lots 1 and 41, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Ken Lowenstein.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated June 24, 2005, acting on Department of Buildings Application No. 104129890, reads in pertinent part:

“ZR 42-10 – Commercial (Use Group 6) and Residential (Use Group 2) use are not permitted in an M1-5B district

ZR 42-13 – There are no residential bulk regulations in an M1-5B district”; and

WHEREAS, this is an application under ZR § 72-21, to

permit, within an M1-5B zoning district, the construction of a nine-story, 39-unit residential building with ground floor retail use, which is contrary to ZR §§ 42-10 and 42-13; and

WHEREAS, a public hearing was held on this application on April 24, 2007, after due notice by publication in the *City Record*, to continued hearings on June 19, 2007 and August 14, 2007, and then to decision on September 25, 2007; and

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

WHEREAS, Community Board 2, Manhattan, provided recommendations for two iterations of the proposal: (1) 51 residential units and 280 parking spaces and (2) the current proposal; in both instances, the Community Board recommends disapproval of the application, citing concerns about neighborhood character, potential threats to nearby buildings during construction, the demolition of the pre-existing buildings at the site, and that the bulk is not compatible with neighborhood character; and

WHEREAS, additionally, if the application is approved, the Community Board recommends (1) that the ground floor use be restricted to Use Group 6 and that no eating and drinking establishment be permitted, (2) that every effort be made to minimize the impacts of construction on nearby buildings, and (3) that pile foundations be drilled and not hammered and that the underpinning of the surrounding buildings be carefully monitored; and

WHEREAS, City Council Speaker Christine Quinn provided testimony in opposition to this application and in support of the Community Board’s recommendation; and

WHEREAS, certain neighbors, some of whom were represented by counsel or neighborhood organizations, (the “Opposition”) appeared and made submissions in opposition to this application; the Opposition contends that (1) the subsurface conditions are insufficient to support a uniqueness finding and are not evident on both portions of the zoning lot, (2) the building plans and floor area calculations are unclear and do not accurately reflect the proposal, (3) the financial calculations are arbitrary and lack support, (4) the applicant should have analyzed the feasibility of retaining the pre-existing parking garage, (5) the proposed construction will endanger nearby buildings, and (6) the building is not compatible with neighborhood character; and

WHEREAS, the site is located on the north side of Broome Street, between Sullivan Street and Thompson Street, with frontage on all three streets, and is within an M1-5B zoning district; and

WHEREAS, the site comprises two tax lots, Lot 1 and Lot 41, which form a single zoning lot; and

WHEREAS, Lot 1 is a small L-shaped lot at the west of the site, with 21 feet of frontage on Sullivan Street and 80 feet of frontage on Broome Street; and

WHEREAS, Lot 41 has 120 feet of frontage on Broome Street and 100 feet of frontage on Thompson Street; and

WHEREAS, the zoning lot has a total lot area of 14,024

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sq. ft.; and

WHEREAS, the site was formerly occupied by a two-story garage and a one-story automotive repair building, which have been or will be demolished; and

WHEREAS, the site has a stepped rear lot line which results in varying depths; and

WHEREAS, the Board notes that the application was revised several times throughout the hearing process; and

WHEREAS, at the time of the first hearing, the applicant proposed a nine-story building with 5.0 FAR, 51 dwelling units, and four cellar levels to accommodate public and accessory parking for 280 vehicles; the proposal included 10,000 sq. ft. of recreational space that was erroneously deducted from floor area calculations; and

WHEREAS, an interim iteration provided for a nine-story 5.0 FAR building with 41 dwelling units, 41 accessory parking spaces, and a wing at the corner of Broome Street and Sullivan Street reduced to three stories; and

WHEREAS, the Board notes that iterations which included public parking required an additional waiver for that use; and

WHEREAS, the current proposal is for a building with a total floor area of 70,120 sq. ft. (5.0 FAR), a residential floor area of 59,662 sq. ft. (4.3 FAR), a commercial floor area of 10,458 sq. ft. (0.70 FAR), a maximum street wall height of 80'-5", a total height of 101'-11", without bulkheads, a total height of 118'-11", with bulkheads (all heights are measured from the average base plane); 39 dwelling units, and no parking; and

WHEREAS, the building will have two parts, (1) a portion with sections which are one, six, seven, and nine stories at the corner of Thompson Street and Broome Street (the "Main Building") and (2) a three-story wing on the narrow portion of the lot at the corner of Sullivan Street and Broome Street (the "Sullivan Wing"); and

WHEREAS, as to the Main Building, (1) the cellar level will be occupied by storage and accessory use, (2) the first floor will be occupied by retail use and a residential entrance on Thompson Street, and (3) the second through ninth floors will be occupied by a total of 38 residential units; and

WHEREAS, further, the first floor will occupy the entire site, except for a partially-enclosed garden connecting the two wings, and will provide a rear yard of at least 30 feet on the second through sixth floors of the Main Building; the Main Building will provide a setback above the sixth floor at its northern property line and 15'-0" setbacks at a height of 80'-5" (above the seventh floor) on both the Thompson Street and Broome Street frontages and will reach a total height of 101'-11" above the ninth floor; and

WHEREAS, as to the Sullivan Wing, it will be occupied by one triplex unit; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the site is characterized by a combination of unique subsurface conditions including a high water table, deep bedrock due to a location on the edge of a small bowl-shaped

depression in the bedrock, a location along the edge of marshlands, a location within a flood plain, and poor soil conditions; and (2) the site is adjacent to several full lot buildings, which are historic in nature and require extra measures for protection during construction, including underpinning; and

WHEREAS, as to the water table, the applicant represents that groundwater was found at approximately 8.4 feet below grade; and

WHEREAS, the applicant represents that a dewatering system will be required to stabilize this condition and protect the subject building and those around it during construction; and

WHEREAS, as to the bedrock, the applicant represents that the bedrock is at a depth of 100 to 110 feet; and

WHEREAS, further, the applicant represents that the site is located within a small bowl-shaped depression in the bedrock; and

WHEREAS, the applicant represents that this is the deepest measured bedrock within the district and submitted a geotechnical map reflecting the location of the bowl-shaped depression; and

WHEREAS, the applicant represents that the site is situated at the edge of a marsh, which means that there are marsh and non-marsh conditions, which may need to be accommodated by different construction methods; and

WHEREAS, the applicant submitted a geotechnical report which reflects that the marsh does not extend north of Broome Street and is not a typical condition of the SoHo neighborhood; and

WHEREAS, as to the flood plain, the applicant represents that the site is located within 100-year and 500-year flood zones; and

WHEREAS, the applicant submitted a geotechnical report which reflects that most of SoHo is not in either of the flood zones; and

WHEREAS, as to the soil conditions, the applicant represents that there is a level of fill materials five to eight feet below the surface containing organic silt consistent with marsh deposits; and

WHEREAS, throughout the hearing process, the applicant submitted additional evidence supporting its assertions about the noted subsurface conditions and documenting that significant tests were made to analyze the subsurface conditions, which reflect that the site is unique when compared to the majority of sites within the area; and

WHEREAS, the applicant's geotechnical consultant provided testimony at hearing and in writing which states that the combination of all the noted conditions at the site is highly unusual and distinguished this site from others in the area; and

WHEREAS, specifically, the consultant represents that areas to the north, east, and west of the site do not share these subsurface conditions and the conditions in these areas may be characterized as favorable for construction; and

WHEREAS, the applicant notes that sites located to the south of the subject site have some of the same noted

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subsurface conditions present, but distinguishes those because they do not have the confluence of factors described above; and

WHEREAS, the applicant has identified premium construction costs associated with the noted conditions, namely the extraordinary foundation requirements; and

WHEREAS, the Opposition has raised the concern that the noted site conditions are not unique, however it has not provided any evidence into the record to support the claim that these conditions are more common or to refute the applicant's evidence that the conditions are unique to this site; and

WHEREAS, the Board notes that the court in Douglaston Civic Association v. Klein, 51 N.Y.2d 963 (1980) does not require that a site be the only one affected by the condition which creates the hardship in order to meet the uniqueness finding, but rather that "the hardship condition be not so generally applicable throughout the district as to require the conclusion that if all parcels similarly situated are granted variances the zoning of the district would be materially changed"; and

WHEREAS, notwithstanding the absence of a requirement that a site be the only one so situated in order to meet the standard for uniqueness, the Board notes that the applicant has submitted evidence to support the assertion that the combination of the noted site conditions is in fact unique to this site; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant also claimed that the safety measures and construction considerations required to protect the five adjacent buildings – four with frontage on Sullivan Street (57, 59, 61, and 63 Sullivan Street) and one with frontage on Thompson Street (57 Thompson Street) - represented additional unique conditions and hardship on the site; and

WHEREAS, specifically, the applicant represents that without additional measures, not present at all construction sites, the five buildings, which are all approximately one-hundred years old, could potentially be damaged; and

WHEREAS, the applicant represents that construction practices such as drilling piles rather than driving piles must be employed and careful underpinning of adjacent buildings must be performed; and

WHEREAS, the applicant has also agreed to follow construction protection plans approved by the Landmarks Preservation Commission (LPC) even though the noted buildings are not designated landmarks; and

WHEREAS, the applicant has identified premium costs associated with this condition; and

WHEREAS, the Board notes that the applicant has agreed to follow the Construction Protection Plan and that there are premium construction costs associated with its methods, but it has determined that the noted adjacent building conditions are common conditions associated with development in New

York City and has not considered them in its analysis of unique site conditions; and

WHEREAS, the Opposition has raised a concern that the site comprises two lots and that there is no evidence that Lot 1 (the small lot at the corner of Sullivan Street and Broome Street) is subject to the same unique conditions and hardship as Lot 41; and

WHEREAS, the applicant responded that the geotechnical report reflects that there is no significant difference between the subsurface conditions present at Lot 1 and those present at Lot 41, as described above; and

WHEREAS, further the applicant notes that Lot 1 is L-shaped and has a lot area of 2,520 sq. ft. with a 21'-0" by 60'-0" horizontal portion at the corner of Sullivan Street and Broome Street and a 20'-0" by 62'-0" portion in the midblock running perpendicular to Broome Street; and

WHEREAS, the applicant asserts that the small size and unusual configuration of the lot would not support a complying building for a conforming commercial or manufacturing use; and

WHEREAS, specifically, the applicant notes that the required core and two means of egress would constrain the use of the building to the point of being impractical, given the unique shape of the site; and

WHEREAS, the Board agrees that the hardship from Lot 41 is not being spread to Lot 1, but rather that unique conditions are present at both sites and that they are both constrained when merged, as well as individually; and

WHEREAS, the applicant submitted a feasibility study analyzing (1) a conforming office development, (2) a conforming hotel, and (3) the earlier iteration of a non-conforming 51-unit residential building with 280 parking spaces; and

WHEREAS, the Board notes that the two conforming uses could have the same 5.0 FAR, 70,120 sq. ft. of floor area, and total building height as the proposed; and

WHEREAS, the applicant concluded that the two conforming scenarios would result in a loss, due to the premium construction costs associated with the unique site conditions; and

WHEREAS, the applicant concluded that the iteration of a non-conforming 51-unit residential building with 280 parking spaces would result in a sufficient return, but the Board disagreed with the assertion that it represented the minimum variance necessary to overcome the hardship at the site; and

WHEREAS, as to the feasibility study, the Opposition asserted that the parking garage which was in prior operation at the site was a viable use of the site and the applicant should have analyzed the economic feasibility of continuing to operate it; and

WHEREAS, the Board disagrees and states that it reviewed the applicant's conforming development scenarios and is not required to analyze the pre-existing business, which was non-conforming in the zoning district; and

WHEREAS, the Board cites to William Israel's Farm v. Board of Standards and Appeals, Index No. 110133/2004, Slip.

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Op. at 5 (Sup. Ct. NY Co. 2004), in which the court limits the required analysis, noting that “the language of ZR § 72-21(b)...requires that it be demonstrated that a reasonable rate of return cannot be had from a conforming use” not an existing non-conforming one; and

WHEREAS, the Board notes that the site at issue in William Israel’s Farm was also within an M1-5B zoning district and formerly occupied with a parking garage, and in its analysis, the court noted that a parking garage is a non-conforming use and, as noted above, need not be analyzed under ZR § 72-21(b); and

WHEREAS, the Board also notes that a case cited by the Opposition, Fayetteville v. Jarrold, 53 N.Y.2d 254, 258 (1981), actually states that “dollars and cents evidence must show that no permissible use will yield a reasonable return” and supports the conclusion in William Israel’s Farm that only conforming uses must be analyzed; and

WHEREAS, further, the Board notes that the garage was underbuilt and did not use all of the available floor area at the site and that a property owner is not prohibited from developing a site just because an existing (in this case, non-conforming) use at the site may generate revenue; and

WHEREAS, the applicant also represents that the garage was in a deteriorated condition and required costly structural repairs, including the replacement of the roof structure, in order to continue to be safely occupied; and

WHEREAS, the applicant submitted a statement from an engineer, which supports this representation; and

WHEREAS, additionally, the Opposition questioned the applicant’s comparables and claimed that they were not legitimate, but did not provide any evidence to discredit them; and

WHEREAS, accordingly, the Board accepted the comparables which are similar to those the Board has accepted in other cases; and

WHEREAS, the Opposition also claimed that the comparable price for the unit in the Sullivan Wing should be that of a townhouse; and

WHEREAS, the applicant represents that the single unit in the Sullivan Wing may have certain aesthetic characteristics of an individual townhouse but it is incorporated into the total development of the site; lacks a rear yard, among other conditions associated with townhouses; and functions as an apartment; and

WHEREAS, therefore, the applicant asserts that a comparison to a standard townhouse is erroneous; and

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

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

detrimental to the public welfare; and

WHEREAS, the applicant represents that the immediate area is a mix of residential and commercial uses; and

WHEREAS, the applicant states that the proposed residential use, with ground floor retail use, is consistent with the character of the area, which includes many other such uses; and

WHEREAS, in support of the above statements, the applicant submitted a land use map, showing the various uses in the immediate vicinity of the site; and

WHEREAS, the Board agrees that the character of the area is mixed-use, and finds that the introduction of 39 dwelling units and ground floor retail use will not impact nearby conforming uses; and

WHEREAS, as to floor area, the applicant notes that the proposed 5.0 FAR is within the zoning district parameters and that no bulk waivers are requested; and

WHEREAS, the applicant submitted an FAR table which reflects that within the immediate vicinity, there are eight buildings which have an FAR of 5.0 or higher and that includes two buildings immediately across Broome Street and a new hotel across the street on Thompson Street; and

WHEREAS, the Board notes that the permitted FAR in the zoning district is 5.0 and that the City Planning Commission special permit for the SoHo Historic District (one block away) contemplates new residential development at the underlying 5.0 FAR; and

WHEREAS, as to height, the applicant states that there is a 12-story building and a seven-story building across Thompson Street from the site; there are also a number of buildings with seven to ten stories in the vicinity; and

WHEREAS, the Board notes that the applicant proposes to provide a three-story portion of the building at the Sullivan Wing in order to be more compatible with the low-rise historic buildings with frontage on Sullivan Street; and

WHEREAS, the applicant also proposes to step the building down to six stories at the north property line on Thompson Street so as to match the height of the adjacent six-story buildings; and

WHEREAS, the Board notes that the applicant has provided a 15’-0” setback above the seventh floor on both the Broome Street and Thompson Street frontages so as to limit the street wall to a maximum height of 80’-5”;

WHEREAS, in response to the opposition, the applicant reduced the number of stories to nine and the total building height, without bulkheads, to 101’-11”;

WHEREAS, further, the Board notes that the applicant reduced the height of the mechanical bulkhead from 130’-0” to 118’-11” and removed the rooftop water tower; and

WHEREAS, as to the Opposition’s claim that the building plans and floor area calculations are unclear, the Board notes that the applicant has revised the plans and clarified any purported inconsistency in the floor area calculations to its satisfaction; and

WHEREAS, as to parking, at the Board’s direction, the

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applicant eliminated the public parking from the site in order to be more compatible with neighborhood character; the applicant ultimately eliminated all parking from the site in order to meet the minimum required variance finding; and

WHEREAS, finally, the Board notes that the applicant has agreed to provide the level of protection during construction that the LPC requires for landmark buildings for the noted adjacent buildings, pursuant to two construction protection plans, which will be approved by LPC and DOB prior to the issuance of any building permits; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, as noted above, the Opposition contends that the applicant created the hardship by (1) demolishing the garage, which was a viable business; and (2) merging the two lots and spreading the unique conditions purportedly present on Lot 41 to Lot 1; and

WHEREAS, as to the demolition of the garage, the Board disagrees with the Opposition and notes, as above, that the garage was a non-conforming use which is not permitted as of right in the zoning district, in a building that the applicant represents was deteriorated, and the applicant did not create a hardship by demolishing it in anticipation of developing the site; and

WHEREAS, as to the lot merger, the Board disagrees with the Opposition and has determined that the applicant has submitted sufficient evidence to reflect that both lots have unique conditions, individually and as merged, which create a hardship in developing the site in conformance with the ZR; and

WHEREAS, accordingly, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is due to the unique conditions of the site; and

WHEREAS, the Board observes that the proposed building with 39 dwelling units is limited in scope and compatible with nearby development; and

WHEREAS, further, the Board notes that the applicant modified the application so as to eliminate (1) a waiver request for public parking, (2) accessory parking, (3) the 10,000 sq. ft. of recreation space initially not included in floor area calculations, and also (4) redistributed the bulk by shifting it away from adjacent buildings; and

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

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

WHEREAS, the project is classified as a Unlisted action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05BSA142M, dated

February 12, 2007; and

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

WHEREAS, the New York City Department of Environmental Protection's (DEP) Bureau of Environmental Planning and Assessment has reviewed the following submissions from the Applicant: July 7, 2006 Phase II Subsurface Investigation Workplan, Health and Safety Plan (HASP), and the October 2006 Environmental Assessment Statement (EAS); and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials impacts; and

WHEREAS, DEP approved of the Phase II Workplan and the Health and Safety Plan on July 18, 2006; and

WHEREAS, the New York City Department of Transportation's (DOT) Division of Traffic Planning reviewed the October 2006 EAS and traffic submissions and noted and determined the following:

- (1) The Applicant identified traffic improvement measures for the proposed project at the intersection of Broome Street and Sullivan Street for the 2008 Build Year. The proposed improvement measures involve parking regulation modifications which would address traffic issues at this intersection; and
- (2) DOT will investigate the feasibility of implementing the proposed improvement measures when the project is built and occupied. The Applicant shall inform DOT six months prior to the opening of the proposed project; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance, to permit, within an M1-5B zoning district, the construction of a nine-story, 39-unit residential building with ground floor retail use, which is contrary to ZR §§ 42-10 and 42-13, *on condition* that any and all work shall substantially conform to drawings as

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they apply to the objections above noted, filed with this application marked "Received September 21, 2007"–(13) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed building: a maximum of nine stories; a maximum street wall height of 80'-5"; a total height of 101'-11", without bulkheads; a total height of 118'-11", with bulkheads (all heights are measured from the average base plane); 70,120 sq. ft. (5.0 FAR); a residential floor area of 59,662 sq. ft. (4.3 FAR); 39 dwelling units; and a commercial floor area of 10,458 sq. ft. (0.70 FAR);

THAT the use on the first floor shall exclude eating and drinking establishments and shall be limited to retail use (Use Group 6);

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

THAT prior to the issuance of building permits, LPC and DOB shall review and approve the construction protection plans - (1) the LPC protection plan for 57 Sullivan Street and (2) the protection plan for 57 Thompson Street and 59, 61, and 63 Sullivan Street – which describe the protection measures for the adjacent buildings during construction;

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 this grant is contingent upon final approval from the Department of Environmental Protection before an issuance of construction permits other than permits needed for soil remediation; 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, September 25, 2007.

156-06-BZ

APPLICANT – Alfonso Duarte, for Ally Basheer, owner.
SUBJECT – Application July 13, 2006 – Variance (§72-21) for the legalization to a single family home for the enlargement on the second floor which does not comply with front yard (§23-45) zoning requirements in an R-2 zoning district.

PREMISES AFFECTED – 267-04 83rd Avenue, southeast corner of 267th Street, Block 8779, Lot 41, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Alfonso Duarte.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated July 6, 2006, acting on Department of Buildings Application No. 401086285, reads in pertinent part:

"1. Construction of portion of second floor projects into front yard and is contrary to Section 23-45 Z.R."; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R2 zoning district, the legalization of an enlargement to a single-family home, which 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 March 6, 2007 after due notice by publication in *The City Record*, with continued hearings on May 8, 2007, July 10, 2007, and August 21, 2007, and then to decision on September 25, 2007; and

WHEREAS, Community Board 13, Queens, recommends disapproval of this application; and

WHEREAS, Queens Borough President Helen Marshall recommends approval of this application; and

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

WHEREAS, the site is located on the southeast corner of 83rd Avenue and 267th Street; and

WHEREAS, the site has a lot area of 4,000 sq. ft., with a width of 40 feet and a depth of 100 feet; and

WHEREAS, the applicant states that the lot has existed in its present configuration since before 1961; and

WHEREAS, the site is currently occupied by a 1,889 sq. ft. (0.47 FAR) two-story single-family home (the "Current Home"); and

WHEREAS, the legal floor area of the home, which was built in approximately 1947, is approximately 922 sq. ft. (0.23 FAR) (the "Original Home"); and

WHEREAS, the applicant proposes to legalize the as-built condition which includes a full second floor; and

WHEREAS, the Current Home complies with all R2 zoning district regulations except for one required front yard; and

WHEREAS, prior to the enlargement, the one and one-half-story Original Home had a pre-existing legal non-complying front yard depth of 5'-3" on 267th Street; and

WHEREAS, the Current Home, with the subject enlargement maintains the non-complying 5'-3" front yard on 267th Street; and

WHEREAS, the Current Home maintains the two complying side yards of 36.39 feet and ten feet and the complying front yard with a depth of 26'-0" on 83rd Avenue (two complying front yards with depths of 15'-0" are the minimum required); and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties

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and unnecessary hardship in developing the subject site in compliance with underlying district regulations: (1) the narrow width of the lot in combination with its location as a corner lot; (2) the pre-existing non-complying front yard on 267th Street; and (3) the underbuilt character of the 60-year-old Original Home; and

WHEREAS, as to lot width and corner location, the applicant analyzed 74 lots within a 400-ft. radius of the site; and

WHEREAS, the applicant represents that of the 74 lots, 13 are corner lots, seven of which have widths of 40 feet or less; and

WHEREAS, further, the applicant represents that only three of the seven sites with widths of 40 feet or less are occupied by homes with only one story; the remaining four have two stories; and

WHEREAS, accordingly, the Board notes that other homes on similarly situated lots, have distributed available floor area onto a second floor; and

WHEREAS, as to the pre-existing non-complying front yard on 267th Street, the applicant notes that due to the location of the Original Home on this narrow corner lot, any vertical enlargement of the building would have required a setback of approximately 9'-9" from the 267th Street frontage; and

WHEREAS, the applicant represents that since the Original Home had a width of 24.77 feet, a setback of 9'-9" at the second floor would have resulted in a second floor with a width of only approximately 15 feet; and

WHEREAS, further, the applicant notes that a second floor built with a setback in compliance with zoning district regulations would require new load-bearing columns and structural support because it could not rest on the exterior walls; and

WHEREAS, this new wall would be in the middle of the home, would disrupt the design of the first floor, and would require the relocation of the staircase; and

WHEREAS, the applicant submitted plans for an as of right development which support this assertion; and

WHEREAS, accordingly, the applicant asserts that this requirement would make a second-floor addition impractical and prohibitively expensive; and

WHEREAS, additionally, due to the size and corner location of the lot, a new home built in strict compliance with front yard regulations would be narrow in width; and

WHEREAS, specifically, the applicant represents that the redevelopment of the site would restrict the width of the home to a maximum of 25 feet, if both required side yards and both required front yards were provided; and

WHEREAS, as to the underbuilt character of the Original Home, the applicant claims that the existing 60-year-old 922 sq. ft. home was very small and did not meet modern standards of habitability; and

WHEREAS, as noted above, the setback scenario is impractical and would also not be able to accommodate the available floor area (2,000 sq. ft. is the maximum permitted floor area); and

WHEREAS, based upon the above, the Board finds that the cited unique physical conditions, when considered in the

aggregate, create 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 conditions, 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 all yards have been maintained; and

WHEREAS, specifically, a complying 26'-0" front yard has been maintained along 83rd Avenue, a complying 10'-0" side yard has been maintained along the eastern property line, and a complying 36.39 ft. side yard has been maintained along the southern property line; and

WHEREAS, the applicant notes that the non-complying front wall at the second floor on 267th Street extends the legally non-complying front yard with a depth of 5'-3" feet along 267th Street; and

WHEREAS, the applicant represents that all except one of the 11 single family homes occupying corner sites located at the intersection of 83rd Avenue and 266th Street, 267th Street, or 268th Street have at least one non-complying front yard; one site has two non-complying front yards; and

WHEREAS, the applicant submitted a land use map which supports the above representations; and

WHEREAS, additionally, as discussed above, the proposed home is comparable in width to the homes within the immediate vicinity and is within the 0.50 FAR permitted in the R2 zoning district; and

WHEREAS, the Board also notes that the absence of one complying front yard will not negatively impact the adjacent uses as the Current Home provides complying yards along the south and west property lines adjacent to other residences and provides a complying front yard along 83rd Avenue where the front of the home is oriented; 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 R2 zoning district regulations except for one required front yard; and

WHEREAS, the Board finds that this proposal is for a minor increase in FAR, from 0.23 to 0.47, which is within the zoning district parameters and reflects the minimum necessary to afford the applicant 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

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makes the required findings under ZR § 72-21, to permit, within an R2 zoning district, the legalization of an enlargement to a single-family home, which 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 January 23, 2007”– (8) sheets; and *on further condition*:

THAT the parameters of the building shall be as follows: an FAR of 0.47; a floor area of 1,889 sq. ft.; one front yard of 26'-0", along 83rd Avenue; one front yard of 5'-3", along 267th Street; one side yard of 36.39 feet; and one side yard of 10'-0";

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, September 25, 2007.

328-06-BZ

CEQR #07-BSA-049M

APPLICANT – Francis R. Angelino, Esq., for Okada Denki Sanyo Company Limited, owner.

SUBJECT – Application December 20, 2006 – Zoning variance under ZR §72-21 to allow an eight (8) story residential building containing six (6) dwelling units and ground floor retail use; contrary to regulations for use (§42-00, §111-104(e), and §111-102(b)). M1-5 district (Area B-2 of Special TriBeca Mixed Use District).

PREMISES AFFECTED – 50-52 Laight Street, Between Hudson and Greenwich Streets, Block 219, Lots 2 & 3, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Jack Freeman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated June 8, 2007, acting on Department of Buildings Application No. 104350202, reads in pertinent part:

“ZR 42-00 – Use Group 2 is not permitted in M2-4 district per ZR 111-104(e)”; and

WHEREAS, this is an application under ZR § 72-21, to

permit, within an M1-5 zoning district (Area B2), within the Special Tribeca Mixed Use District and the Tribeca North Historic District, the construction of an eight-story, six-unit residential building with ground floor retail, which is contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on August 21, 2007, after due notice by publication in the *City Record*, and then to decision on September 25, 2007; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan and Commissioner Hinkson; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application on the condition that a bar, club, or restaurant not be permitted in the first floor retail space; and

WHEREAS, the site is located on the north side of Laight Street, between Greenwich Street and Hudson Street, within an M1-5 zoning district (Area B2), within the Special Tribeca Mixed Use District and the Tribeca North Historic District; and

WHEREAS, the site comprises two lots – Lot 2 (50 Laight Street) and Lot 3 (52 Laight Street); each lot has a width of 25'-0", and depths ranging across the site from 68'-7" on the east property line to 72'-11" on the west property line; and

WHEREAS, the applicant proposes to merge the two lots into Lot 3; and

WHEREAS, the site has a total lot area of 3,552 sq. ft. and was formerly occupied by two one-story garage buildings, which were demolished in anticipation of construction; and

WHEREAS, the proposed building will have a total floor area of 17,739 sq. ft. (5.0 FAR), a residential floor area of 15,341 sq. ft. (4.32 FAR), a commercial floor area of 2,398 sq. ft. (0.68 FAR), a street wall height of 85 feet, and a total height of 97'-5"; and

WHEREAS, the first floor will be occupied by retail space and the residential lobby; the second through sixth floors will be occupied by one residential unit per floor; and the seventh and eighth floors will be occupied by one duplex unit; and

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

WHEREAS, as to size, the applicant represents that, with a lot area of 3,552 sq. ft. and a range of depths from 68'-7" to 72'-11", the site is too small to accommodate a conforming use; and

WHEREAS, additionally, the applicant notes that separately, the lots have lot areas of only 1,752 sq. ft. and 1,800 sq. ft.; and

WHEREAS, as to the uniqueness of this condition, the applicant notes that there are only two other lots wholly within a 400-ft. radius of the site which have a depth of 73'-0" or less and that both of those sites are developed with five-story buildings; and

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WHEREAS, further, the applicant notes that there are only two other sites within the radius that are not occupied with a building of at least five stories; and

WHEREAS, the applicant represents that the small size of the site could not provide efficient floorplates for conforming development at the site; and

WHEREAS, further, the applicant represents that the shallow depth and small size of the site results in a building with a disproportionate amount of space devoted to the building core, which includes the elevator, stairways, and bathrooms and which is comparable in size to a core that could serve a larger building; and

WHEREAS, the applicant represents that this condition results in a higher percentage of lost floor space than for a larger building with the same core; and

WHEREAS, specifically, the applicant represents that an as of right commercial building would provide 2,523 sq. ft. floor plates on the second through sixth floors, and a 1,324 sq. ft. floor plate on the seventh floor, which is too small and fragmented to support a modern conforming use; and

WHEREAS, the applicant represents that the site has been occupied by one-story garage structures since before 1940 and that, due to its small size, has never been occupied by manufacturing or commercial uses; and

WHEREAS, as to the site's shape, the applicant states that the rear lot line is on an angle and results in varying depths from 68'-7" on the east property line to 72'-11" on the west property line; and

WHEREAS, the applicant represents that the irregularity of the depth, coupled with its shallowness, results in premium costs and a loss of valuable space when developing the site with the required rear yard for either a conforming or non-conforming building; and

WHEREAS, specifically, this condition would either result in an underutilization of the already small site and/or an angled rear wall of the building if the required rear yard were provided; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study analyzing (1) a complying non-conforming building, which sets back on the seventh and eighth floors, and (2) an as of right conforming building; and

WHEREAS, the applicant concluded that (1) the complying non-conforming building would not allow for the use of all of the available floor area and would result in a loss and (2) the as of right scenario would not provide a sufficient return; and

WHEREAS, the applicant provided building plans reflecting the two scenarios noted above and the proposed; and

WHEREAS, based upon its review of the applicant's submissions, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable

possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return; and

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

WHEREAS, the applicant states that the immediate area is a mix of residential and commercial uses, with some remaining manufacturing/industrial uses; and

WHEREAS, the applicant notes that the proposed residential use, with ground floor retail, is consistent with the character of the area, which includes many other such uses, some of which occupy the subject block; and

WHEREAS, the Board agrees that the character of the area is mixed-use, and finds that the introduction of six dwelling units and ground floor retail will not impact any nearby conforming uses; and

WHEREAS, the applicant also notes that there are several residential buildings which are larger or of comparable size on the subject block and across Laight Street; and

WHEREAS, specifically, the adjacent site to the east is occupied by a six-story residential building with commercial use on the first floor; the site at the northeast corner of Greenwich Street and Laight Street is occupied by an 11-story loft building with first floor commercial use; and across Laight Street are nine-story and five-story building with residential use; and

WHEREAS, in support of the above statements, the applicant submitted a land use map, showing the uses in the immediate vicinity of the site; and

WHEREAS, additionally, the applicant notes that the eighth floor will be set back so as to minimize its visibility from the street and the seventh floor will also have a setback which will be occupied by a partially enclosed terrace; and

WHEREAS, the Board notes that there are no bulk regulations for a residential building in an M1-5 zoning district, so the applicant analyzed the bulk based on the R7X residential equivalent; and

WHEREAS, the applicant notes that the shallow depth and irregular shape makes it difficult to provide a rear yard with a depth of 30'-0", which would be required in an R7X equivalent district, and develop a building with viable floor plates for residential use; and

WHEREAS, the Board notes that the building complies with all R7X zoning district parameters except rear yard, as noted, and front setback, which are both attributed to the shallow lot; and

WHEREAS, the applicant received a Certificate of Appropriateness from the Landmarks Preservation Commission (LPC), dated August 21, 2006; and

WHEREAS, at the LPC's direction, the applicant designed the height of the street wall to be compatible with adjacent buildings; the floor to ceiling heights are proportionate to those on adjacent buildings; and the composition of the

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façade is in a traditional arrangement which is characteristic of the multi-story buildings in the district; and

WHEREAS, additionally, the applicant represents that the façade materials have been chosen to be compatible with the district's historic character; and

WHEREAS, the Board notes that the building has been carefully designed to be compatible with neighborhood character; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board observes that the proposed building of six dwelling units is limited in scope and compatible with nearby development; and

WHEREAS, the Board also notes that the proposed building envelope is the minimum necessary to compensate for the additional construction costs associated with the uniqueness of the lot and which has been designed to minimize any effects on adjacent buildings; and

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

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

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07BSA049M, dated July 17, 2007; and

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

WHEREAS, the Department of Environmental Protection's Office of Environmental Planning and Assessment has reviewed the following submissions from the Applicant: (1) a August, 2006 Environmental Assessment Statement, (2) a January, 2007 Phase I Environmental Site Assessment; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials impacts; and

WHEREAS, a Restrictive Declaration was executed on September 18, 2007 and submitted for recordation on September 18, 2007 for the subject property to address hazardous materials concerns; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §72-21 and grants a variance, to permit, within an M1-5 zoning district (Area B2), within the Special Tribeca Mixed Use District and the Tribeca North Historic District, the construction of an eight-story, six-unit residential building with ground floor retail, which is contrary to ZR § 42-00, *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 July 12, 2007" – thirteen (13) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed building: eight stories, six residential units, a total floor area of 17,739 sq. ft. (5.0 FAR), a residential FAR of 4.32, a commercial FAR of 0.68, a streetwall height of 85 feet, and a total height of 97'-5";

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, September 25, 2007.

126-07-BZ CEQR #07-BSA-090M

APPLICANT – Ellen Hay, Wachtel & Masyr, LLP, for Massachusetts Mutual Life Insurance Co., owner; AGT Crunch New York, LLC, lessee.

SUBJECT – Application May 17, 2007 – 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. C6-4 zoning district.

PREMISES AFFECTED – 555 West 42nd Street, north side of West 42nd Street, at 11th Avenue, Block 1071, Lot 1, Borough of Manhattan.

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COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Ellen Hay.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated April 30, 2007, acting on Department of Buildings Application No. 104737448, reads in pertinent part:

“Proposed Physical Culture Establishment not permitted in C6-4 zoning district within Special Clinton District “CI”. Impermissible use which requires special permit from BSA. Examination to commence thereafter”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-4 zoning district, within the Special Clinton District, the establishment of a physical culture establishment (PCE) on portions of the ground floor, the second floor mezzanine, and portions of the second floor of an existing 43-story mixed-use residential and commercial building, contrary to ZR § 32-00; and

WHEREAS, a public hearing was held on this application on August 7, 2007 after due notice by publication in *The City Record*, and then to decision on September 25, 2007; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Hinkson; and

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

WHEREAS, the subject site is located at the northeast corner of West 42nd Street and 11th Avenue; and

WHEREAS, the PCE occupies a portion of the ground floor (3,711 sq. ft.), the second floor mezzanine (3,311 sq. ft.), and a portion of the second floor (7,759 sq. ft.) of the building, totaling 14,781 sq. ft. of floor area; and

WHEREAS, the PCE will be operated as Crunch Fitness; and

WHEREAS, on September 14, 1988, under BSA Cal. No. 60-87-BZ, the Board granted a special permit for a term of five years for the conversion of a health establishment accessory to the residential portion of the building to a PCE; and

WHEREAS, after the lapse of the original grant, the Board granted a special permit, under BSA Cal. No. 42-99-BZ, to legalize the existing PCE on the second floor and second floor mezzanine of the building; and

WHEREAS, in or about 2000, the PCE expanded to include part of the ground floor; and

WHEREAS, on September 1, 2003, the special permit under BSA Cal. No. 42-99-BZ lapsed; and

WHEREAS, the applicant represents that the operator of

the PCE changed and the term of the special permit was not extended; and

WHEREAS, the applicant represents that the PCE will offer classes in physical improvement, strength training, weight training, group fitness programs, personal training, cardio-vascular programs, and aquatic programs; and

WHEREAS, the proposed hours of operation are: Monday through Friday, 5:30 a.m. to 12:00 a.m. and Saturday and Sunday, 7:00 a.m. to 9:00 p.m.; and

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

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 07BSA090M, dated May 15, 2007; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C6-4 zoning district,

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within the Special Clinton District, the establishment of a physical culture establishment on portions of the ground floor, the second floor mezzanine and portions of the second floor of an existing 43-story mixed-use residential/commercial building, contrary to ZR §§ 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received May 17, 2007"- (6) sheets; and *on further condition*:

THAT the term of this grant shall expire on September 25, 2017;

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

THAT the hours of operation shall be limited to: Monday through Friday, 5:30 a.m. to 12:00 a.m. and Saturday and Sunday, 7:00 a.m. to 9:00 p.m.;

THAT all massages shall be performed by New York State licensed massage therapists;

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

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

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

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

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

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

Adopted by the Board of Standards and Appeals, September 25, 2007.

166-07-BZ

CEQR #07-BSA-101K

APPLICANT – Wolf Block, Schorr & Solis-Cohen LLP, for Mindy Guzzone, owner. JCR Fitness, Incorporated d/b/a Fitness Together, lessee.

SUBJECT – Application June 15, 2007 – Special Permit (§73-36) to legalize the operation of a Physical Culture establishment on the ground floor of a five-story mixed-use building. The proposal is contrary to section 32-00. C2-3 zoning district.

PREMISES AFFECTED – 213 Court Street, between Wyckoff and Warren Streets. Block 390, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Kenneth K. Fisher.

ACTION OF THE BOARD – Application granted on

condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated June 14, 2007, acting on Department of Buildings Application No. 302371715, reads:

"The proposed Physical Culture Establishment is not permitted "As of Right" use in a C2-3 district.

This use is contrary to ZR 32-00"; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site within a C2-3 (R6) zoning district, the legalization of a physical culture establishment (PCE) on the ground floor of an existing five-story mixed-use residential/commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on August 21, 2007 after due notice by publication in *The City Record*, and then to decision on September 25, 2007; and

WHEREAS, Community Board 2, Brooklyn, waived its hearing process on this application; and

WHEREAS, the subject site is located on the east side of Court Street, between Wyckoff Street and Warren Street; and

WHEREAS, the site is currently occupied by a five-story mixed-use residential/commercial building; and

WHEREAS, the PCE occupies 1,355 sq. ft. of floor space on the ground floor of the building; and

WHEREAS, the PCE, is operated as Fitness Together, which offers personal training services; and

WHEREAS, the current hours of operation are: Monday through Friday, 6:00 a.m. to 9:00 p.m. and Saturday 6:00 a.m. to 3:00 p.m.; and

WHEREAS, the applicant states that in the future it intends to have Sunday hours of operation; and

WHEREAS, three employees and the operator work at the PCE, and it is used by approximately 14 patrons daily; and

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

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

WHEREAS, the PCE 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

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the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6 NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07BSA101K, dated June 24, 2007; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to permit, on a site within a C2-3 (R6) zoning district, the establishment of a physical culture establishment on the ground floor of an existing five-story mixed-use residential/commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received August 14, 2007"-(3) sheets; and *on further condition*:

THAT the term of this grant shall expire on September 25, 2017;

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

THAT all massages shall be performed by New York State licensed massage therapists;

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

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

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

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

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

THAT the Department of Buildings must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other

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

Adopted by the Board of Standards and Appeals, September 25, 2007.

426-05-BZ

APPLICANT – Sheldon Lobel, P.C., for Expert Realty, LLC, owner.

SUBJECT – Application December 28, 2005 – Variance (§72-21) to allow a two-level enlargement of an existing one-story commercial building contrary to FAR regulations (§43-12). M1-1 district.

PREMISES AFFECTED – 57-02/08 39th Avenue and 39-02 58th Street, Block 1228, Lots 48, 52, 57, Borough of Queens.

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to November 20, 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.

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 October 30, 2007, at 1:30 P.M., for continued hearing.

227-06-BZ

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

SUBJECT – Application September 6, 2006 – Variance (§72-21) to allow a two-story commercial office building (U.G.6) contrary to use regulations (§ 22-00). R3-2 district. PREMISES AFFECTED – 2066 Richmond Avenue, Richmond Avenue, north of Knapp Street, Block 2102, Lot 90, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Eric Palatnik.

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

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315-06-BZ

APPLICANT– Eric Palatnik, P.C., for Merkaz, The Center, Inc., owner.

SUBJECT – Application December 6, 2006 – Variance (§72-21) to permit the proposed three-story religious-based pre-school, which will include an accessory synagogue. The premises is located within two zoning districts, an R5B and R2, with the vast majority (95%) resting within the R5B district. The proposal is contrary to §§24-11, 24-34, 24-35, 24-36 and 24-521.

PREMISES AFFECTED – 1739 Ocean Avenue, between Avenues L and M, Block 7638, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik, Rabbi Gavin Boldom, Rabbi Harris.

For Opposition: Alex Zelotarev, Alexandra Neotylev and M. Charny.

ACTION OF THE BOARD – Laid over to November 20, 2007, at 1:30 P.M., for continued hearing.

65-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Ship Management Corp., owner.

SUBJECT – Application March 15, 2007 – Variance (§ 72-21) to allow a one-story (UG 6) retail building to violate use regulations (§ 22-00). R3-2 district.

PREMISES AFFECTED – 146-93 Guy R. Brewer Boulevard, northeastern intersection of 147th Avenue and Guy R. Brewer Boulevard, Block 13354, Lot 12, Borough of Queens.

COMMUNITY BOARD #13Q

APPEARANCES –

For Applicant: Richard Lobel.

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

69-07-BZ

APPLICANT – Jay A. Segal, for Greenberg Traurig, LLP, for 240 West Broadway, LLC, owner.

SUBJECT – Application March 23, 2007 – Variance (§72-21) to allow a nine (9) story residential building containing seven (7) dwelling units; contrary to use regulations (§42-10). M1-5 district (Area B-1 of Special TriBeca Mixed Use District).

PREMISES AFFECTED – 240 West Broadway, northwest corner of the intersection of North Moore Street and West Broadway, Block 190, Lot 44, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Jay Segal and Jack Freeman.

For Opposition: Jack Lester and Lee Dary.

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

78-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Phyllis Balsam, owner; Shape-N-Up Fitness Club, LLC; lessee.

SUBJECT – Application April 12, 2007 – Special Permit (§73-36) to allow the operation of a PCE on the first floor of a two-story commercial building. The proposal is contrary to section 42-00. M1-1 district.

PREMISES AFFECTED – 2515 McDonald Avenue, east side of McDonald Avenue, between Avenues W and X, Block 7173, Lot 58, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Josh Rinesmith.

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

80-07-BZ

APPLICANT – Sheldon Lobel, P.C., for 319 West LLC, owner. The Lantern Group, Incorporated, lessee.

SUBJECT – Application April 12, 2007 – Variance (§72-21) to permit a nine-story and cellar not-for-profit institution with sleeping accommodations and accessory supportive social service space. The proposal is contrary to community facility floor area (§24-111), wall height, setback, and sky exposure plane (§24-522), rear yard (§24-36), permitted reconstruction to allow the construction of a nine-story community facility building (§54-41). R8 zoning district.

PREMISES AFFECTED – 319 West 94th Street, West 94th Street between Riverside Drive and West End Avenue. Block 1253, Lot 10, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES –

For Applicant: Ron Mandel, Richard Vitto, Chris Santee.

For Opposition: Aaron Briller and Judith Doell.

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 October 23, 2007, at 1:30 P.M., for decision, hearing closed.

124-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Gino Masci, owner.

SUBJECT – Application May 16, 2007 – Under (§ 72-21) to allow UG 6 (eating and drinking) on the first floor and cellar of an existing seven-story building, contrary to use

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regulations (§ 42-14(d)(2)(b). M1-5B district.
PREMISES AFFECTED – 521 Broome Street, between Broome and Watts Streets, midblock between Thompson Street and Sixth Avenue, Block 476, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Richard Lobel.

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

188-07-BZ

APPLICANT – Friedman & Gotbaum, LLP, for Hilton Hotels Corporation, owner; Spa Chakra, LLC, lessees.

SUBJECT – Application August 2, 2007 – Special Permit (§§73-03 & 73-36) – To allow a Physical Culture Establishment in portion of an existing building (19th floor & p/o lobby level) in a C5-2.5/C5-3/C6-6 ZD.

PREMISES AFFECTED – Waldorf-Astoria, 301 Park Avenue, entire block bounded by Park & Lexington Avenues and East 49th & 50th Streets, Block 1304, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Shelly Friedman.

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 October 23, 2007, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.