
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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

Volume 92, No. 6

February 8, 2007

DIRECTORY

MEENAKSHI SRINIVASAN, *Chair*

CHRISTOPHER COLLINS, *Vice-Chair*

DARA OTTLEY-BROWN

SUSAN M. HINKSON

Commissioners

Jeffrey Mulligan, *Executive Director*

Roy Starrin, *Deputy Director*

John E. Reisinger, *Counsel*

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

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

CONTENTS

DOCKET	82
CALENDAR of February 27, 2007	
Morning	83
Afternoon	83/84

CONTENTS

**MINUTES of Regular Meetings,
Tuesday, January 30, 2007**

Morning Calendar85

Affecting Calendar Numbers:

733-56-BZ 283 East 164th Street, Bronx
52-55-BZ 1255 East Gun Hill Road, Bronx
240-55-BZ 207-22 Northern Boulevard, Queens
258-90-BZ 2337 Coney Island Avenue, Brooklyn
30-00-BZ 458 West 166th Street, Manhattan
104-02-BZ 23-40 120th Street, Queens
44-06-BZ, Vol. II 150-24 18th Avenue, Queens
68-06-A 612 Harmony Road, Queens
172-06-A 157-05 20th Avenue, Queens
166-06-BZY 84-59 162nd Street, Queens

Afternoon Calendar88

Affecting Calendar Numbers:

330-05-BZ 350 New Dorp Lane, Staten Island
50-06-BZ 461 Carroll Street, Brooklyn
267-06-BZ 148-29 Cross Island Parkway, Queens
425-05-BZ 2409 Avenue Z, Brooklyn
23-06-BZ 150-62 78th Road, Queens
31-06-BZ 102-10 159th Street, Queens
64-06-BZ 363-371 Lafayette Street, Manhattan
83-06-BZ 47-33 Fifth Street, Queens
111-06-BZ 136 Norfolk Street, Brooklyn
138-06-BZ 3447 Bedford Avenue, Brooklyn
178-06-BZ 609 Madison Avenue, Manhattan
214-06-BZ 196-25 Hillside Avenue, Queens
216-06-BZ 35-17 Junction Boulevard, Queens
218-06-BZ 885 Second Avenue, Manhattan
268-06-BZ 80-35 Pitkin Avenue, Queens
275-06-BZ 408-414 West 13th Street and 13-15 Little West 12th Street, Manhattan

DOCKETS

New Case Filed Up to January 30, 2007

32-07-BZ

146-10/16 Guy R. Brewer Boulevard, +/-240 feet south of the intersection of Guy R. Brewer Boulevard and Farmers Boulevard., Block 13310, Lot(s) 69 & 70 Borough of **Queens, Community Board: 13.** (SPECIAL PERMIT)73-& 22-21-For a non-accessory radio tower for a public utility wireless communications facility and consist of a 62-ft. stealth flagpole (gold ball on top), together with antennas mounted and equipment cabinets on roof of near building.

33-07-BZ

25 Carroll Street, North side of Carroll Street, 200 feet east of intersection with Van Brunt Street., Block 347, Lot(s) 54 Borough of **Brooklyn, Community Board: 6.** Uner 72-21-To permit conversion of floors 2 (two) through 5 (five) of the existing manufacturing building, and addition of partial 6th (sixth) story (no increase in total floor area), to permit permit residential use, contrary to M1-1 Z.D. regulations.

34-07-A

72-40 Myrtle Avenue, South of Myrtle Avenue, east of 72nd Street., Block 3511, Lot(s) 27 Borough of **Queens, Community Board: 5.** General city Law Section 35-

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

FEBRUARY 27, 2007, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, February 27, 2007, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

1038-80-BZ

APPLICANT – Davidoff & Malito & Hutcher, LLP, for Feinrose Downing LLC, owner; Expressway Arcade Corp., lessee.

SUBJECT – Application February 6, 2007 – Extension of Term of a Special Permit for an amusement arcade (UG15 in an M2-1 zoning district.

PREMISES AFFECTED – 31-07/09 11 Downing Street, Whitestone Expressway, Block 4327, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

8-01-BZ

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

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

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

COMMUNITY BOARD #1SI

200-01-BZ

APPLICANT – Davidoff Malito & Hutcher by Howard S. Weiss, Esq., for Browne Associates, owner; Hillside Manor Rehabilitation and Extended Care Center, lessee.

SUBJECT – Application January 9, 2007 – Extension of Time to complete construction and to obtain a Certificate of Occupancy for the enlargement of a community use facility (Hillside Manor) in a C2-2/R-5 zoning district which expired on January 11, 2007.

PREMISES AFFECTED – 182-15 Hillside Avenue, northeast corner of Hillside Avenue and Avon Street, Block 9950, Lot 1, Borough of Queens.

COMMUNITY BOARD #8Q

124-02-BZ

APPLICANT – Law Office of Howard Goldman, for St. John's University, owner.

SUBJECT – Application January 9, 2007 – Reopening of a previously approved variance to grant an extension of time to complete substantial construction of two parking facilities for St. John's University. R4 zoning district.

PREMISES AFFECTED – 8000 Utopia Parkway, bounded by Union Turnpike, 82nd Street and 180th Street, Block 7021, Lots 1 and 50, Borough of Queens.

COMMUNITY BOARD #8Q

FEBRUARY 27, 2007, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, February 27, 2007, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

100-06-BZ

APPLICANT– Francis R. Angelino, for Old Gowanus Road, LLC, owner.

SUBJECT – Application May 23, 2006 – Variance (§ 72-21) to allow a proposed residential building to violate regulations for maximum height (§ 23-633), minimum dimensions of inner court (§ 23-851) and permitted obstructions in courts (§ 23-87). The proposed building will contain five (5) dwelling units and three (3) parking spaces. Site is located in an R6B district.

PREMISES AFFECTED – 638-640 President Street, between 4th and 5th Avenues, Block 958, Lots 35 and 36, Borough of Brooklyn.

COMMUNITY BOARD #6BK

110-06-BZ

APPLICANT – Moshe M. Friedman, for Rochelle Grossman, owner.

SUBJECT – Application June 5, 2006 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space and floor area (23-141); side yard (23-461) and rear yard (23-47) in an R-2 zoning district. This application also proposes to convert from a two family to a one family residence.

PREMISES AFFECTED – 1473 East 21st Street, a/k/a Kenmore Place, 325' north of intersection formed by East 21st Street and Avenue N, Block 7657, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #14BK

CALENDAR

123-06-BZ

APPLICANT – Rampulla Associates Architects, for Dr. Ronald Avis, owner.

SUBJECT – Application June 13, 2006 – Variance (72-21) to permit the legalization of the existing one room, one-story addition which encroaches upon the required 30' rear yard of the existing single-family detached house. The Premise is located in an R3X SHPD/LOGMA zoning district. The proposal is contrary to rear yard (23-47).

PREMISES AFFECTED – 21 Cheshire Place, north side 905.04' to Victory Boulevard, Block 240, Lot 77, Borough of Staten Island.

COMMUNITY BOARD #1SI

152-06-BZ

APPLICANT– Rothkrug Rothkrug & Spector, LLP, for Gregory Montalbano, owner.

SUBJECT – Application July 11, 2006 – Special Permit (73-125) to allow the proposed two-story ambulatory diagnostic/treatment care facility containing 5,565 square feet of floor area and parking for fourteen vehicles. The Premise is located in an R3X zoning district. The proposal is contrary to Section 22-14.

PREMISES AFFECTED – 82 Lamberts Lane, southwest corner of Lamberts and Seldin Avenue, Block 1609, Lot 16, Borough of Staten Island.

COMMUNITY BOARD #2SI

272-06-BZ

APPLICANT – Joseph P. Morsellino, Esq., for The Media Realty Group, owner; Evolution Sports Club, LLC, lessee.

SUBJECT – Application October 10, 2006 – Special permit (§73-36) to legalize a Physical Culture Establishment on the second floor in a three-story building. The proposal is contrary to Section 42-31. M1-5 zoning district.

PREMISES AFFECTED – 37-11 35th Avenue, between 37th and 38th Streets, Block 645, Lot 1, Borough of Queens.

COMMUNITY BOARD # 1Q

285-06-BZ

APPLICANT– Sheldon Lobel, P.C., for 531 Central Park Avenue Associates, LLC, owner; Serenity Wellbeing Inc., lessee.

SUBJECT – Application October 25, 2006 – Special Permit (§73-36) to permit the operation of a physical culture establishment on the third floor of an existing commercial building located in a C6-4.5 zoning district.

PREMISES AFFECTED – 23 West 45th Street, north side of West 45th Street, between Fifth and Sixth Avenues, Block 1261, Lot 25, Borough of Manhattan.

COMMUNITY BOARD #6M

318-06-BZ

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

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

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

COMMUNITY BOARD #1Q

Jeff Mulligan, Executive Director

MINUTES

REGULAR MEETING TUESDAY MORNING, JANUARY 30, 2007 10:00 A.M.

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

The motion is to approve the minutes of regular meetings of the Board held on Tuesday morning and afternoon, October 31, 2006 as printed in the bulletin of November 9, 2006, Vol. 91, No. 42. If there be no objection, it is so ordered.

SPECIAL ORDER CALENDAR

733-56-BZ

APPLICANT – Cozen O’Connor, Attorneys, for S & B Bronx Realty Associates, owner.

SUBJECT – Application October 26, 2006 – Extension of Term and a waiver of the rules to a previously granted variance to allow a parking lot (UG8) in an R7-1 residential zoning district which expired on December 6, 1997.

PREMISES AFFECTED – 283 East 164th Street, northwest corner of East 164th Street, and College Avenue, Block 2432, Lot 19, Borough of The Bronx.

COMMUNITY BOARD #4BX

APPEARANCES –

For Applicant: Peter Geis.

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 waiver of the Rules of Practice and Procedure, a reopening, and an extension of the term for a previously granted variance for a parking lot, which expired on December 6, 1997; and

WHEREAS, a public hearing was held on this application on January 9, 2007 after due notice by publication in *The City Record*, and then to decision on January 30, 2007; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Commissioner Hinkson and Commissioner Ottley-Brown; and

WHEREAS, the subject premises is located on the northwest corner of East 164th Street and College Avenue; and

WHEREAS, the site is located within an R7-1 zoning district and is occupied by a 16,182 sq. ft. parking lot; and

WHEREAS, on March 26, 1957, the Board granted a variance to allow parking and storage of more than five motor vehicles at the site; and

WHEREAS, at various times, the term has been

extended; and

WHEREAS, most recently, the term was extended for a period of ten years, which expired on December 6, 1997; and

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

WHEREAS, the applicant represents that the term had not been extended since 1997 due to a change in ownership and an administrative oversight; and

WHEREAS, the applicant represents that there are approximately 80 spaces for motor vehicle parking and storage at the site and that this condition will be maintained; and

WHEREAS, the Board observed that there was barbed wire along the top of the fence at the site and noted that it may not be compatible with the nearby residential uses; and

WHEREAS, at hearing, the Board asked the applicant if the barbed wire along the top of the fence could be removed; and

WHEREAS, in response, the applicant removed the barbed wire and submitted photographs and revised plans reflecting its removal; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of term is 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 March 26, 1957, so that as amended this portion of the resolution shall read: “to grant an extension of the variance for a term of ten years from the date of this grant; *on condition* that the use and operation of the parking lot shall substantially conform to BSA-approved plans, and that all work and site conditions shall comply with drawings marked ‘Received January 19, 2007’–(2) sheets; and *on condition*:

THAT this grant shall be limited to a term of ten years from January 30, 2007, expiring January 30, 2017;

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. 200994898)

Adopted by the Board of Standards and Appeals, January 30, 2007.

52-55-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Bouck Oil Corp.,

MINUTES

owner.

SUBJECT – Application November 28, 2006 – Amendment, filed pursuant to §11-412 of the zoning resolution, of previously approved automotive service station with accessory uses located in a C1-2/R5 zoning district. Application seeks to permit the erection of a one story enlargement to an existing building to be used as an accessory convenience store.

PREMISES AFFECTED – 1255 East Gun Hill Road, northwest corner of Bouck Avenue, Block 4733, Lot 72, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Carl A. Sulfaro.

ACTION OF THE BOARD – Laid over to March 13, 2007, at 10 A.M., for continued hearing.

240-55-BZ

APPLICANT – Joseph P. Morsellino, Esq., for DLC Properties, LLC, owner; Helm Bros., lessee.

SUBJECT – Application November 16, 2006 – Extension of Time/Waiver to complete construction to permit the erection of a second story (5,000 sq. ft.) to the existing (UG6) commercial building (auto repair shop, sales and exchange of vehicles and products) which expired on April 29, 2005, located in a C2-2(R6B) and R4 zoning district.

PREMISES AFFECTED – 207-22 Northern Boulevard, Northern Boulevard and 208th Street, Block 7305, Lot 19, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Joseph P. Morsellino.

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 February 13, 2007, at 10 A.M., for decision, hearing closed.

258-90-BZ

APPLICANT – Sheldon Lobel, P.C., for John Isikli, owner.

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

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

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Ron Mandel.

ACTION OF THE BOARD – Laid over to May 8, 2007, at 10 A.M., for adjourned hearing.

30-00-BZ

APPLICANT– Sheldon Lobel, P.C., for Sand Realty Group, Inc., owner.

SUBJECT – Application October 13, 2006 – Extension of term/Waiver of a previously granted variance granted pursuant to §72-21 of the zoning resolution which permitted an open parking lot (Use Group 8) within an R7-2 zoning district.

PREMISES AFFECTED – 458 West 166th Street, north side of West 166th Street, between Amsterdam Avenue and Edgecomb Avenue, Block 2111, Lot 57 (a/k/a 53-55, 57, 71-73), Borough of Manhattan.

COMMUNITY BOARD #12M

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 February 27, 2007, at 10 A.M., for decision, hearing closed.

104-02-BZ

APPLICANT – Joseph P. Morsellino, Esq., for DLC Properties, LLC, owner; Helms Brothers, lessee.

SUBJECT – Application November 16, 2006 – Extension of Time to complete construction and waiver of the rules which expired on August 13, 2006 for the construction of a new car preparation building (Use Group 16B) at an existing automobile storage facility in a C-3 zoning district.

PREMISES AFFECTED – 23-40 120th Street, west side of 120th Street, between 25th Avenue and 23rd Avenue, Block 4223, Lot 21, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Joseph P. Morsellino.

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 February 13, 2007, at 10 A.M., for decision, hearing closed.

44-06-BZ, Vol. II

APPLICANT– Rothkrug, Rothkrug & Spector, for Philip & Laura Tuffnel, owner.

SUBJECT – Application October 13, 2006 – Rehearing of a previously granted variance (§72-21) the vertical enlargement of an existing single family home, to permit notification of affected property owners and public officials in an R3A zoning district.

PREMISES AFFECTED – 150-24 18th Avenue, south side of 18th Avenue, 215' east of intersection with 150th Street, Block 4687, Lot 43, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

MINUTES

For Opposition: Maria Beneventano, Madelene Benincasa and Ronald J. Dillon.

THE VOTE TO REOPEN HEARING –

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

ACTION OF THE BOARD – Laid over to March 6, 2007, at 10 A.M., for continued hearing.

APPEALS CALENDAR

68-06-A

APPLICANT – Valentino Pompeo, for Breezy Point Cooperative, Incorporated, owner; Janet Fox, lessee.

SUBJECT – Application April 19, 2007 – Proposal to reconstruct and enlarge a one family dwelling locate within the bed of a mapped street which is contrary to General City Law Section 35 and the upgrade of an existing disposal system in the bed of a mapped street is contrary to Department of Buildings policy .Premises is located within an R4 Zoning District.

PREMISES AFFECTED – 612 Harmony Road, West of Harmony Road (unmapped street) south of 12th Avenue Block 16340, Lot 50, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Valentino Pompeo.

ACTION OF THE BOARD – Appeal granted.

THE VOTE TO CLOSE HEARING –

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

THE VOTE TO GRANT–

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

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated September 15, 2006, acting on Department of Buildings Application No. 402285692, reads in pertinent part:

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

A-2 The proposed upgraded private disposal system is in the bed of a mapped street contrary to Department of Buildings Policy.”; and

WHEREAS, a public hearing was held on this application on January 30, 2007, after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, the Fire Department is on the record stating that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated October 12, 2006 the

Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated January 19, 2007, the Department of Transportation states that it has reviewed the above project and has no objections; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated September 15, 2006, acting on Department of Buildings Application No. 402285692, 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 April 19, 2006”–(1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition:*

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

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

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

Adopted by the Board of Standards and Appeals, January 30, 2007.

172-06-A

APPLICANT – Adam Rothkrug, Esq., for Paul F. DeMarinis, owner.

SUBJECT – Application August 11, 2006 – Proposed construction of a two family dwelling located within the bed of mapped streets (20th Ave.) which is contrary to Section 35 of the General City Law. R3-1 Zoning District.

PREMISES AFFECTED – 157-05 20th Avenue, south side of 20th Avenue, east of Clintonville Street, Block 4750, Lot 10, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Appeal granted.

THE VOTE TO CLOSE HEARING –

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

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

MINUTES

Commissioner, dated July 12, 2006, acting on Department of Buildings Application No. 402379500, reads in pertinent part:

“A-1 The proposed NB construction is located within the bed of mapped street contrary to Section 35 of the General City Law.”; and

WHEREAS, a public hearing was held on this application on January 30, 2007 after due notice by publication in the *City Record*, and then to closure and decision on this same date; and

WHEREAS, by letter dated November 16, 2006, the Fire Department states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated December 18, 2006, the Department of Environmental Protection states that it has reviewed the above project and has no objections; and

WHEREAS, by letter dated January 22, 2007, the Department of Transportation (DOT) states that it has reviewed the above project and has notified the Board that it would require the applicant to provide for a sidewalk and curb in alignment with the existing sidewalk and curb on the south side of 20th Avenue for the entire length of the lot; and

WHEREAS, by letter dated January 29, 2007, the applicant agrees to DOT conditions and has submitted a revised site plan; and

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

Therefore it is Resolved that the decision of the Queens Borough Commissioner, dated July 12, 2006, acting on Department of Buildings Application No. 402379500, 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 January 29, 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, January 30, 2007.

166-06-BZY

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

SUBJECT – Application July 28, 2006 – Proposed extension of time (§11-331) to complete construction of a minor

development for a multi-family building. Prior zoning was R4 zoning district and new zoning is R4-A as of June 29, 2006.

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

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Eric Palatnik, Zannis Angelidakis and Paul Mok.

For Administration: Lisa Orrantia, Department of Buildings.

THE VOTE TO REOPEN HEARING –

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

Negative:.....0

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 February 13, 2007, at 10 A.M., for decision, hearing closed.

Jeffrey Mulligan, Executive Director

Adjourned: A.M.

REGULAR MEETING

TUESDAY AFTERNOON, JANUARY 30, 2007

1:30 P.M.

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

ZONING CALENDAR

330-05-BZ

CEQR #06-BSA-032R

APPLICANT – Vito J. Fossella, P.E., for Frank Bennett, owner.

SUBJECT – Application November 16, 2005 – Special permit (§73-36). In a C2-2/R3-2 district, on a lot consisting of 5,670 SF, and improved with two one-story commercial buildings, permission sought to allow a physical culture establishment in the cellar of one existing building in 350 New Dorp Lane and in the enlarged cellar of an existing adjacent retail building at 346 New Dorp Lane.

PREMISES AFFECTED – 350 New Dorp Lane, Block 4221, Lot 53, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Sameh M. El-Meniawy.

ACTION OF THE BOARD – Application granted on condition.

MINUTES

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 November 15, 2005, acting on Department of Buildings Application No. 500809084, reads in pertinent part:

“The proposed application for . . . a physical culture or health establishment is referred to the Board of Standards and Appeals for consideration”; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, within a C4-2 zoning district, the legalization and expansion of a physical culture establishment (PCE), to be located on the first floor and in the cellar of existing commercial buildings at the site, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 9, 2007 after due notice by publication in *The City Record*, and then to decision on January 30, 2007; and

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

WHEREAS, the subject site is located on the south side of New Dorp Lane, 260 ft. east of the corner formed by the intersection of New Dorp Lane and Clawson Street; and

WHEREAS, the site encompasses two single-story with cellar buildings, one at 346 New Dorp Lane (the “346 Building”) and one at 350 New Dorp Lane (the “350 Building”); and

WHEREAS, combined, the two buildings have a gross floor space of 8,548 sq. ft. (the 350 Building has 5,926 sq. ft. and the 346 Building has 2,622 sq. ft.); and

WHEREAS, the applicant represents that currently there is a salon on the first floor of 350 Building and an unrelated clothing store on the first floor of the 346 Building; and

WHEREAS, the applicant also represents that the salon has expanded its services to include massage, which necessitates the instant application for a PCE special permit; and

WHEREAS, the massage services are offered in the cellar of the 350 Building, but the entirety of the existing salon is considered PCE use since it is the same establishment; thus, this application is, in part, for a legalization of the PCE uses in the 350 Building; and

WHEREAS, specifically, the total PCE floor space in the 350 Building sought to be legalized is 5,926 sq. ft. (i.e. all of its gross square footage); and

WHEREAS, the applicant also proposes the expansion of this PCE use to the existing cellar of the 346 Building, as well as an expansion of the PCE use into a cellar area to be created in the 346 Building; and

WHEREAS, the total proposed PCE gross floor space in the 346 Building is 1,284 sq. ft.; and

WHEREAS, the cellar PCE spaces in the two Buildings will be connected, creating an integrated cellar PCE space; and

WHEREAS, the clothing store on the first floor of the 346 Building is a separate establishment and will remain as it currently exists; and

WHEREAS, in sum, upon legalization and completion of the expansion, the PCE will occupy a total of 7,210 sq. ft. of floor space within the two Buildings; and

WHEREAS, the PCE will be operated as the AF Bennet Salon and Wellness Spa; and

WHEREAS, the PCE will maintain the following hours of operation: Monday 9:30 am to 6:00 pm; Tuesday and Friday 7:30 am to 9:00 pm, Saturday 7:30 am to 8:00 pm, and Sunday 8:30 am to 5:00 pm; 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. 06-BSA-032R, dated January 16, 2007; and

WHEREAS, the EAS documents show that the continued 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 continued 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

MINUTES

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, within a C4-2 zoning district, the legalization and expansion of a physical culture establishment, to be located on the first floor and in the cellar of existing commercial buildings at the site, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received January 25, 2007"-(4) sheets; and *on further condition*:

THAT the term of this grant shall be from January 30, 2007 to January 30, 2012;

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 9:30 am to 6:00 pm; Tuesday and Friday 7:30 am to 9:00 pm, Saturday 7:30 am to 8:00 pm, and Sunday 8:30 am to 5:00 pm;

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, January 30, 2007.

50-06-BZ

CEQR #06-BSA-067K

APPLICANT – Jeffrey A. Chester, Esq., for 461 Carool Strait, LLC, owner.

SUBJECT – Application March 20, 2006 – Use Variance pursuant to Z.R. §72-21 to permit the conversion and expansion of a commercial/industrial building to a two-family residence. The premise is located in a M1-2 zoning district. The waiver requested relates to the use regulations pursuant to Z.R. §42-00. The subject site was previously used by Linda Tool Co., a custom tool and dye manufacturer which occupied the premises for several decades.

PREMISES AFFECTED – 461 Carroll Street, between Nevins Street and Third Avenue, Block 447, Lot 45, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Jeffrey Chester.

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 February 23, 2006, acting on Department of Buildings Application No. 302003099, reads in pertinent part:

“Residence (UG 2) is not permitted as of right use in a M1-2 district as per Section 42-00 of the Zoning Resolution.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-2 zoning district, the conversion and enlargement of a former industrial/commercial building to a two-family residence, which is contrary to ZR § 42-00; and

WHEREAS, the proposed three-story building will have a total floor area of 4,248 sq. ft. (2.0 FAR), a street wall and total height of 38’-2 3/8”, a rear yard of 33’-5”, and two dwelling units (the “Proposed Building”); and

WHEREAS, the applicant initially proposed a three-story building with 3,893 sq. ft. of floor area (1.83 FAR), and no rear yard; and

WHEREAS, the Board expressed concern about this proposal, noting that although the existing building does not provide a rear yard, residential use requires access to light and air which would be limited by a full lot coverage building; and

WHEREAS, the Board directed the applicant to revise the plans in order to ensure that both dwelling units have access to light and air either from a complying rear yard or through complying interior court yards, as per residential standards; and

WHEREAS, subsequently, the applicant submitted a revised proposal that reflects the provision of a 33’-5” rear yard; and

WHEREAS, the revised proposal also reflects variations on the interior layouts and locations of skylights; and

WHEREAS, while the Board agrees that the current version resolves concerns about access to light and air for both dwelling units, it asked the applicant to confirm that the access to light and air met Building Code requirements; and

WHEREAS, the applicant responded that the current proposal provides the required access to light and air; and

WHEREAS, additionally, the Board asked the applicant to design a building which would allow for the floor area that would be removed by the inclusion of a required rear yard to be recaptured, but that the total floor area would not exceed that of the existing building (1.4 FAR); and

WHEREAS, in response, the applicant submitted an iteration that provided the required rear yard and an FAR of 1.4; and

WHEREAS, the applicant represented that such a

MINUTES

scenario would not provide a sufficient return; and

WHEREAS, the Board notes that the M1-2 zoning district permits a maximum FAR of 2.0, and that the final proposal, providing for the conversion and enlargement of the original building, is compatible as to the scale and context of the surrounding land uses and streetscape while providing feasible units; and

WHEREAS, further, the Board notes that the modest enlargement is a result of increased floor sizes on the second and third floors at the rear and does not impact the street; and

WHEREAS, a public hearing was held on this application on September 26, 2006 after due notice by publication in the *City Record*, with continued hearings on October 31, 2006 and December 5, 2006, and then to decision on January 30, 2007; and

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

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

WHEREAS, the subject premises is located on the north side of Carroll Street between Nevins Street and Third Avenue; and

WHEREAS, the site has a lot area of 2,125 sq. ft.; and

WHEREAS, the site is currently occupied by a three-story building, which was previously occupied by commercial uses; and

WHEREAS, because the Proposed Building will contain Use Group 2 dwelling units, the instant variance application was filed; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformity with applicable regulations: (1) the existing building has narrow and irregularly shaped floors; (2) the narrow staircase and the absence of an elevator; (3) the historic use of the site as accessory space to a former manufacturing use next door; (4) constraints on vehicle access to the site; and (5) the adjacency of residential use on both sides of the site; and

WHEREAS, as to the building's configuration, the applicant notes that the building is only 21 feet wide and the second and third floors only have a depth of 32 feet, making it difficult to accommodate modern manufacturing equipment; and

WHEREAS, the small size and building design limitations also do not allow for accessory storage space; and

WHEREAS, as to the internal circulation, the applicant represents that the narrow staircase does not accommodate the efficient transfer of materials and machinery between floors; and

WHEREAS, as to the historic use of the building, the applicant represents that the building served as an accessory storage space and was occupied by offices for a neighboring tool manufacturing business, which has since relocated; and

WHEREAS, additionally, the applicant represents that

the first floor was used primarily for storing machinery and equipment as well as a staging and loading area for shipping goods manufactured next door; and

WHEREAS, the applicant represents that the upper floors were used as office space for the business for the past several decades; and

WHEREAS, as to vehicle access, the applicant notes that the street is one-way with one lane of traffic and parking on both sides of the street; and

WHEREAS, the applicant asserts that the narrowness of the street and the absence of a driveway or loading dock constrain vehicle access to the site and truck loading for a conforming use; and

WHEREAS, finally, as to the adjacent uses, the applicant represents that there are three-story multi-dwelling buildings to the east and west of the subject site; and

WHEREAS, the applicant asserts that the adjacent residential uses compromise access to the site and limit its marketability for a conforming use; and

WHEREAS, as to uniqueness, the applicant represents that within a 400 ft. radius of the block, only two lots out of 33 located completely within the radius are occupied by industrial uses; and

WHEREAS, in support of these representations, the applicant submitted a land use study which included all sites within a 400-ft. radius of the site; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, specifically the obsolescence of the building and the narrowness of the lot, 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 asserts that because of its unique physical conditions, there is no possibility that the development of the property in conformance with applicable use regulations will bring a reasonable return to the owner; and

WHEREAS, the applicant submitted a feasibility study analyzing both the existing 2,998 sq. ft. building and a complying, fully built-out 4,463 sq. ft. building for a conforming use; and

WHEREAS, the applicant concluded that neither scenario would realize a reasonable return; and

WHEREAS, the applicant submitted evidence that the owner had unsuccessfully attempted to market the building for a conforming use; and

WHEREAS, based upon its review of the feasibility study and marketing evidence, 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 use 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

MINUTES

WHEREAS, the applicant states that the buildings surrounding the property are predominantly residential, and that while the property is within an M1-2 district, there is an R6 zoning district directly across Carroll Street; and

WHEREAS, the applicant notes that the proposed residential use is consistent with the character of the area, which includes many other residential uses, including the adjacent residential buildings and others on the subject block; 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, based upon its review of the submitted land use map and its site inspection, the Board agrees that the area includes a significant amount of residential use, and finds that the introduction of two dwelling units will not impact nearby conforming uses nor negatively affect the area's character; and

WHEREAS, the Board also notes that the first iteration of the Proposed Building, which included full lot coverage for the first floor, would not have been compatible with the surrounding neighborhood, which is characterized by residential buildings with rear yards; and

WHEREAS, the Board notes that by maintaining the building's existing height and number of stories, the design is compatible with the adjacent three-story residential buildings, and the block, which is characterized by two- and three-story residential buildings; and

WHEREAS, at hearing, the Board directed the applicant to limit the height of the wall at the rear of the property and at the rear lot line to six feet; and

WHEREAS, in response, the applicant submitted revised plans reflecting a height of six feet for the wall around the perimeter of the rear yard; 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, but is rather a function of the pre-existing unique physical conditions cited above; and

WHEREAS, as noted above, the applicant originally proposed a nearly full lot coverage building; and

WHEREAS, in response to the Board's concerns about compatibility and sufficient access to light and air, the applicant proposed the current version of the building, which the Board finds acceptable; 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 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. 06BSA067K, dated March 15, 2006; and

WHEREAS, the EAS documents indicate 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 Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the applicant: March 15, 2006 EAS and the January 2004 Phase I Environmental Site Assessment Report; and

WHEREAS, these submissions specifically examined the proposed action for Hazardous Materials; and

WHEREAS, a DEP Restrictive Declaration (the "DEP RD") was executed on December 12, 2006 and submitted for proof of recording on January 4, 2007 and requires that hazardous materials concerns be addressed; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the DEP RD and the applicant's agreement to the conditions noted below; and

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an M1-2 zoning district, the conversion and enlargement of a former industrial/commercial building to a two-family residence, 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 January 19, 2007"-(10) sheets; and *on further condition*:

THAT prior to the issuance of any DOB permit for any work on the site that would result in soil disturbance (such as site preparation, grading or excavation), the applicant or any successor will perform all of the hazardous materials remedial

MINUTES

measures and the construction health and safety measures as delineated in the Remedial Action Plan and the Construction Health and Safety Plan to the satisfaction of DEP and submit a written report that must be approved by DEP;

THAT no temporary or permanent Certificate of Occupancy shall be issued by DOB or accepted by the applicant or successor until DEP shall have issued a Final Notice of Satisfaction or a Notice of No Objection indicating that the Remedial Action Plan and Health and Safety Plan has been completed to the satisfaction of DEP;

THAT the following are the bulk parameters of the building: three stories, 4,248 sq. ft. of floor area (2.0 FAR), a street wall and total height of 33'-2 3/8", a rear yard of 33'-5", and two dwelling units, all as indicated on the BSA-approved plans;

THAT all stairways and means of egress 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, January 30, 2007.

267-06-BZ

CEQR #07-BSA-024Q

APPLICANT– Stadtmauer Bailkin, LLP, for Philip Zerillo and Peter Zuccarello, owners.

SUBJECT – Application September 29, 2006 – Variance (§72-21). On a lot consisting of 5,902 SF, and located in an R2 district, permission sought to construct a two-story plus cellar commercial building. The structure will contain 3,431 SF (FAR .58), and will have five accessory parking spaces. The uses therein will be UG6 professional offices. Currently the site is improved with a 1,507 SF two-story, one-family vacant residential structure with a detached garage.

DOB Objection: §22-00: Proposed use is contrary to district use regulations.

PREMISES AFFECTED – 148-29 Cross Island Parkway, Block 4486, Lots 34, 35, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Steven Sinacori.

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 August 31, 2006, acting on Department of Buildings Application No. 402416587, reads, in pertinent part:

“The proposed NB construction is contrary to section 22-00 of the Zoning Resolution.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R2 zoning district, the construction of a two-story commercial building, which is contrary to ZR § 22-00; and

WHEREAS, a public hearing was held on this application on January 9, 2007, after due notice by publication in the *City Record*, and then to decision on January 30, 2007; and

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

WHEREAS, Community Board 7, Queens, recommends approval of the application on the condition that the parking lot lighting be directed down and away from nearby residences, that landscaping be provided, and that any graffiti be removed immediately; and

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

WHEREAS, State Senator Frank Padavan, Assemblywoman Ann-Margaret Carrozza, City Councilmember Tony Avella, and Queens County Clerk Gloria D’Amico all submitted letters in support of this application; and

WHEREAS, the Greater Whitestone Taxpayers Civic Association submitted a letter in support of this application; and

WHEREAS, additionally, a neighbor submitted a letter in support of this application; and

WHEREAS, certain neighbors submitted objections to the application citing concerns about introducing a commercial use at the site and increased traffic; and

WHEREAS, the site is located on the southeast corner of Cross Island Parkway and 149th Street; and

WHEREAS, the site is triangular-shaped with a lot area of 5,902.6 sq. ft.; and

WHEREAS, the site is occupied by a two-story single-family home and a one-story garage; and

WHEREAS, the applicant proposes to demolish the existing home and garage; and

WHEREAS, the applicant proposes to build a two-story commercial building to be occupied by office use; and

WHEREAS, the new building will have approximately 3,431.48 sq. ft. of floor area (0.58 FAR); the R2 zoning district regulations permit a maximum floor area of 2,951.4 sq. ft. (0.5 FAR) for a residential use; and

WHEREAS, additionally, the applicant proposes to provide five accessory off-street parking spaces; and

MINUTES

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 lot has an irregular triangular shape and (2) the site is located at a heavily trafficked three-way intersection and is not marketable for residential use; and

WHEREAS, as to the lot's irregular shape, the applicant represents that the irregular triangular shape of the lot results in a wide range of lot depths across the site; and

WHEREAS, specifically, the applicant represents that in 1941, when the Cross Island Parkway and its service road were constructed, the lot, which was formerly rectangular, was cut approximately in half across a 45 degree angle; and

WHEREAS, accordingly, the applicant represents that half of the lot was claimed for the parkway and the remainder was left with a triangular shape; and

WHEREAS, the applicant represents that due to the shape of the lot, it is difficult to accommodate the three yards which would be required for a residential use at the site – two 15'-0" front yards and one 5'-0" side yard and still create a viable residential floorplate; and

WHEREAS, as to the uniqueness of the shape, the applicant represents that there are only two other triangular-shaped lots within the 400 ft. radius of the site; and

WHEREAS, the Board notes that neither of the other triangular lots is both within the R2 zoning district and on a corner; and

WHEREAS, as to the marketability of the site for a residential use, the applicant represents that the site has remained vacant for almost two years as the owner made unsuccessful attempts to secure a conforming use; and

WHEREAS, the applicant notes that there is a C2-2 zoning district overlay directly across 149th Street and that there are several commercial uses and a firehouse located there; and

WHEREAS, as to the uniqueness of this condition, the applicant represents that no other residentially-zoned sites have frontage directly on the Cross Island Expressway at a three-way intersection within the 400 ft. radius; and

WHEREAS, accordingly, 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 compliance with the applicable zoning regulations; and

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

WHEREAS, the applicant submitted a feasibility study analyzing a conforming residential use; and

WHEREAS, the applicant concluded that the conforming scenario would not be financially viable; and

WHEREAS, based upon its review of this study, 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 site is located in a mixed-use area characterized by local commercial uses and residential uses ranging in height from one to three stories; and

WHEREAS, the Board notes that the only adjacent building is a two-story single-family residence; and

WHEREAS, accordingly, the applicant represents that the new building has been designed to resemble a residential building; and

WHEREAS, the applicant proposes to provide yards, that are comparable with those within the vicinity; and

WHEREAS, specifically, the applicant states that the proposed building will provide for two ten ft. front yards on 149th Street and Cross Island Parkway (two 15 ft. front yards are required for residential uses in the R2 zoning district) and a 9.82 ft. side yard along the northern side of the site; and

WHEREAS, the Board notes that the proposed side yard is more than twice the width of the current side yard, and almost twice the width of the side yard required for a residential use; and

WHEREAS, the applicant notes that the proposed building complies with the bulk regulations of the C2-2 zoning district adjacent to the site; and

WHEREAS, additionally, the applicant proposes to provide a row of shrubbery along the lot line adjacent to the residential use and additional landscaping surrounding two sides of the building; and

WHEREAS, the applicant notes that the proposed building is oriented towards 149th Street at the request of the Community Board, which stated that this site design is compatible with the context of 149th Street; and

WHEREAS, the applicant notes that front yards are not required for the lots within the C2-2 zoning district overlay across 149th Street and that many of the residential and commercial uses do not provide complying front yards along 149th Street; and

WHEREAS, accordingly, the Board finds that the proposed front yard along 149th Street is consistent with the context of this blockfront; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is rather a function of the pre-existing unique physical conditions cited above, particularly the introduction of the Cross Island Expressway which re-shaped the original lot; and

WHEREAS, the applicant represents that the requested

MINUTES

use change is the minimum required to realize a reasonable rate of return; and

WHEREAS, accordingly, the Board finds that the variance request 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 an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07-BSA-24Q, dated September 29, 2006; and

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

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

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

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R2 zoning district, the construction of a two-story commercial building, which is contrary to ZR § 22-00; and *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 September 29, 2006"-(6) sheets and "January 26, 2007"-(1) sheet; and *on further condition*:

THAT the following are the bulk parameters of the new building: two stories, a total floor area of 3,431.48 sq. ft. (0.58 FAR), a street wall height of 21'-0", a total height of 28'-0", two front yards of 10'-0", one side yard of 9.82 ft., and five parking spaces, all as indicated on the BSA-approved plans;

THAT all parking lot lighting shall be directed towards the ground and away from adjacent residential uses;

THAT landscaping be provided as indicated on the BSA-approved plans;

THAT the premises shall be maintained free of debris

and graffiti;

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

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

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

THAT the 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, January 30, 2007.

425-05-BZ

APPLICANT– Steven Sinacori of Stadtmauer & Bailkin, for Essol Realty, LLC, owner.

SUBJECT – Application December 28, 2005 – Variance (§72-21) to allow a proposed three-story residential building with ground floor community facility use to violate applicable requirements for floor area and FAR (§23-141c and §24-162), front yard (§24-34), side yards (§24-35), lot coverage (§23-141 and §24-111) and minimum distance between legally required windows and lot lines (§23-86(a)). Proposed development will contain five (5) dwelling units and three (3) parking spaces and is located within an R4 zoning district.

PREMISES AFFECTED – 2409 Avenue Z, north side of Avenue Z, Bedford Avenue to the east, East 24th to the west, Block 7441, Lots 1 and 104, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Steven M. Sinacori and Calvin Wong.

For Opposition: Fred Madler and Kai Chan.

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

23-06-BZ

APPLICANT– Sheldon Lobel, P.C., for Kehilat Sephardim, owner.

SUBJECT – Application February 9, 2006 – Variance (§72-21) to legalize, in an R4 zoning district, the expansion of an existing three-story building currently housing a synagogue and accessory Rabbi's apartment. The proposal is requesting waivers for side yards (§24-35) and front yards (§24-34).

PREMISES AFFECTED – 150-62 78th Road, southwest corner of 153rd Street and 78th Road, Block 6711, Lot 84, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Richard Lobel, Joyce Kevelson, Karen Ginnis, Anna Ralinkina and Rabbi Shlomo Nisarov.

MINUTES

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

31-06-BZ

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

SUBJECT – Application February 24, 2006 – Zoning variance (§72-21) to allow the legalization of an automotive collision repair shop (Use Group 16) in an R3-1/C1-2 district; proposed use is contrary to ZR §§22-00 and 32-00.

PREMISES AFFECTED – 102-10 159th Road, south side of 159th Road near the intersection of 192nd Street and 159th Road, Block 14182, Lot 88, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES –

For Applicant: Jordon Most, Robert Pauls and Jim Heineman.

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

64-06-BZ

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

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

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

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Melorey McMurry and Doris Diether, CB #2.
For Opposition: Caroline Harris.

ACTION OF THE BOARD – Laid over to February 27, 2007, at 1:30 P.M., for continued hearing.

83-06-BZ

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

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

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

COMMUNITY BOARD #2Q

APPEARANCES –

For Applicant: Eric Palatnik, Mark Mancuso and Robert Pauls.

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

111-06-BZ

APPLICANT– Sheldon Lobel, P.C., for Alex Lyublinskiy, owner.

SUBJECT – Application June 5, 2005 – Special Permit (73-622) for the in-part legalization of an enlargement to a single family residence. This application seeks to vary open space and floor area (23-141); side yard (23-48) and perimeter wall height (23-631) regulations. R3-1 zoning district.

PREMISES AFFECTED – 136 Norfolk Street, west side of Norfolk Street, between Shore Boulevard and Oriental Boulevard, Block 8756, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to March 13, 2007, at 1:30 P.M., for continued hearing.

138-06-BZ

APPLICANT– Law Office of Fredrick A. Becker, for RH Realty LLC NY by Ralph Herzka, owner.

SUBJECT – Application July 5, 2006 – Special Permit (§73-622) for the enlargement of a single family residence. This application seeks to vary open space and floor area (§23-141(a)) and rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 3447 Bedford Avenue, between Avenue M and N, Block 7661, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra Altman and David Shteirman, R.A.

ACTION OF THE BOARD – Laid over to February 27, 2007, at 1:30 P.M., for continued hearing.

178-06-BZ

APPLICANT– The Law Office of Fredrick A. Becker, for Zurich Holding, Co., LLC, owner; Samson International Inc. d/b/a Nao Spa, lessee.

SUBJECT – Application August 16, 2006 – Special Permit (§73-36) to allow the operation of a Physical culture Establishment/Spa at the subject premises. The spa is located in portions of the cellar, first floor and second floor of a multi-story, mixed use building.

PREMISES AFFECTED – 609 Madison Avenue, southeast corner of Madison Avenue and East 58th Street, Block 1293, Lot 50, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING –

MINUTES

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

Negative:.....0

ACTION OF THE BOARD – Laid over to February 13, 2007, at 1:30 P.M., for decision, hearing closed.

214-06-BZ

APPLICANT– Walter T. Gorman, P.E., for Sidney Esikoff & Norman Fieber, owners.

SUBJECT – Application August 24, 2006 – Special Permit (§11-411) for the re-establishment and extension of term for an existing gasoline service station, which has been in continuous operation since 1953. R3-2 zoning district.

PREMISES AFFECTED – 196-25 Hillside Avenue, northwest corner of 197th Street, Block 10509, Lot 265, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: John Ronan.

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

216-06-BZ

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

SUBJECT – Application August 28, 2006 – Special Permit (§11-411 and §11-412) for the re-establishment and extension of term for an existing automotive service station, which has been in continuous operation since 1961 and legalization of certain minor amendments to previously approved plans. C1-4/R6-A zoning district.

PREMISES AFFECTED – 35-17 Junction Boulevard, east side of Junction Boulevard between 35th and 37th Avenues, Block 1737, Lot 49, Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES –

For Applicant: Joshua Rinesmith.

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

218-06-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Tower Plaza Associates, Inc., owner; TSI East 48 Inc. d/b/a New York Sports Club, lessee.

SUBJECT – Application August 30, 2006 – Special Permit pursuant to Z.R. §73-36 to allow the operation of an existing PCE located on the sub-cellar and cellar levels with an entrance on the first floor in a 46-story commercial building. The Premises is located in C1-9 (TA), R8B, and R10 zoning districts. The proposal is contrary to Z.R. §32-01(a).

PREMISES AFFECTED – 885 Second Avenue, westerly side of Second Avenue between East 47th Street and 48th Street, Block 1321, Lot 22, Borough of Manhattan.

COMMUNITY BOARD # 6M

APPEARANCES –

For Applicant: Fredrick A. Becker.

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 February 13, 2007, at 1:30 P.M., for decision, hearing closed.

268-06-BZ

APPLICANT – Omnipoint Communications Inc., for Mokom Sholom Cemetery Assoc., owner; Omnipoint Communications Inc., lessee.

SUBJECT – Application October 2, 2006 – Special Permit for non-accessory radio tower under (§73-30). In an R-4 district, on a lot consisting of 714,600 SF, and located in a portion of Mokom Sholom Cemetery, permission sought to erect an 80' stealth flagpole disguised as a radio tower for public utility wireless communications.

PREMISES AFFECTED – 80-35 Pitkin Avenue, 150 east of the intersection of Pitkin Avenue and 80th Street, Block 9141, Lot 20, Borough of Queens.

COMMUNITY BOARD #10Q

APPEARANCES –

For Applicant: Robert Gaudio.

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 February 27, 2007, at 1:30 P.M., for decision, hearing closed.

275-06-BZ

APPLICANT– Friedman & Gotbaum, LLP, by Shelly S. Friedman, Esq., for 410-13 West LLC, owner.

SUBJECT – Application October 11, 2006 – Variance (§72-21) to allow a proposed commercial office building (UG 6) to violate §43-28 (rear yard equivalent regulations for through lots) in an M1-5 district.

PREMISES AFFECTED – 408-414 West 13th Street and 13-15 Little West 12th Street, south side of West 13th Street, 124.16' west of the corner formed by the intersection of Ninth Avenue and West 13th Street, Block 645, Lots 33, 35, 51, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Shelly Friedman and Doris Diether, CB #2.

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 February 13, 2007, at 1:30 P.M., for decision, hearing closed.

MINUTES

Jeff Mulligan, Executive Director

Adjourned: 5:00 P.M.