
BULLETIN

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October 17, 2008

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DOCKET

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239-08-A

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240-08-A

167 Bayside Drive, South/side of Bayside Drive 100' west of mapped Beach 178th Street, Block 16340, Lot(s) p/o 50, Borough of **Queens, Community Board: 14**. Construction within mapped street, contrary to Section 35 of the General City Law, Article 3.

241-08-BZ

546 Midland Avenue, The southwest corner of the intersection of Freeborn Street and Midland Avenue, Block 3803, Lot(s) 29, Borough of **Staten Island, Community Board: 2**. Reconstruction and enlargement of an existing single family home not fronting on a legally mapped street contrary to GCL36 . R4

242-08-A

53 Beach 216th Street, East side of Tioga Walk 225.04' south of 6th Avenue, Block 16350, Lot(s) 400, Borough of **Queens, Community Board: 14**. Reconstruction and enlargement of an existing single family home located within the bed of a mapped street contrary to GCL 35. R4

243-08-A

489 Amsterdam Avenue, Between 83rd and 84th Streets., Block 1214, Lot(s) 64, Borough of **Manhattan, Community Board: 7**. Reconstruction and enlargement of an existing single family home not fronting on a mapped street contrary to Section 36 of the GCL and partially in the bed of a mapped street contrary to Section 35 of the GCL. R4 zoning district .

244-08-BZ

139-153 East 53rd Street, North side of 53rd Street between 3rd Avenue and Lexington Avenue, Block 1308, Lot(s) 7501, Borough of **Manhattan, Community Board: 6**. Special Permit (§73-00) to seek permit to operate a physical culture establishment.

245-08-BZY

219-05 North Conduit Boulevard, Premises is bounded by Springfield Boulevard, 144th Avenue, and North Conduit Boulevard, Block 13085, Lot(s) 4, Borough of **Queens, Community Board: 13**. Extension of time to complete construction (11-331) of minor development commenced under the prior C2-2/R3-2 district regulations . C1-1/R3X.

246-08-BZ

4400 Third Avenue, Entire block bounded by Third Avenue, East 184th Street, Quarry Road, and East 181st Street, Block 3064, Lot(s) 1, 20, (tent) 100, Borough of **Bronx, Community Board: 6**. Special Permit/Variance(73-481, 73-49,72-21) To allow construction of a five story hospital with facility parking.

247-08-BZ

3454 Nostrand Avenue, Approximately 49 feet along Nostrand Avenue and approximately 49 feet along Graysend Neck Road, Block 7362, Lot(s) 10, Borough of **Brooklyn, Community Board: 15**. Special Permit (73-01, 73-03,73-243) to allow a drive-through facility at Starbucks Coffeehouse.

248-08-BZ

3550 Eastchester Road, The Eastern side of Eastchester Road between Hicks Street and Needham Avenue, Block 4726, Lot(s) 7,36,38, Borough of **Bronx, Community Board: 12**. Variance to allow the development of religious-based school and church, contrary to the use regulations.

249-08-BZ

130 Adelaide Avenue, West side of Adelaide Avenue, 497 ft. south of intersection with Guyon Avenue, Block 4705, Lot(s) 151, Borough of **Staten Island, Community Board: 3**. Variance to allow a one family dwelling, contrary to use 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

NOVEMBER 18, 2008, 10:00 A.M.

APPEALS CALENDAR

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, November 18, 2008, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

863-48-BZ

APPLICANT – Alfonso Duarte, for Dilip Datta, owner.
SUBJECT – Application September 25, 2008 – Extension of Term of a previously granted variance for a (UG16A) auto repair establishment, in an R-2 zoning district, which will expire on November 25, 2008.

PREMISES AFFECTED – 259-16 Union Turnpike, south east corner of 259th Street, Block 8678, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

297-99-BZ

APPLICANT – Walter T. Gorman, P.E., for Bell & Northern Bayside Company, LLC, owner; Exxon Mobil Corporation, lessee.

SUBJECT – Application October 6, 2008 – Extension of Time to Obtain a Certificate of Occupancy for a (UG16) Gasoline Service Station (Mobil), in a C2-2/R6B zoning district, which will expire on February 12, 2009.

PREMISES AFFECTED – 45-05 Bell Boulevard, east side of blockfront between Northern Boulevard and 45th Road, Block 7333, Lot 201, Borough of Queens.

COMMUNITY BOARD #11Q

159-07-BZ

APPLICANT – Eric Palatnik, P.C., for Stillwell Sports Center Incorporated, owner; Dolphin Fitness Clubs, lessee.
SUBJECT – Application October 6, 2008 – Extension of Time to complete construction to allow the legalization of a P.C.E. on the second floor of a two story commercial building (Stillwell Sports Center) and an Extension of Time to Obtain a Certificate of Occupancy, in a C8-2 zoning district, which expired on May 27, 2008.

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

COMMUNITY BOARD #11BK

60-08-A

APPLICANT – Eric Palatnik, P.C., for F & Z Properties, owners.

SUBJECT – Application March 21, 2008 – Proposed construction of a four Story Community Facility located within the bed of a mapped street (102nd Street) contrary to General City Law Section 35. R6B (C1-4) zoning district.
PREMISES AFFECTED – 101-20 39th Avenue (formerly 101-20, 101-22 & 101-24 103rd Street, between 102nd and 103rd Streets, Block 1770, Lot 22, Borough of Queens.

COMMUNITY BOARD #3Q

121-08-A thru 132-08-A

APPLICANT – Philip L. Rampulla, for Rocco Berardi, owner.

SUBJECT – Application April 24, 2008 – Proposed construction of twelve homes not fronting a legally mapped street contrary to General City Law Section 36. R3x (SSRD) Series - 121-08-A thru 132-08-A.

PREMISES AFFECTED – 80, 70, 60, 59, 79, 15, 25, 39, 55, 50, 40, 30, Gallant Loop, Block 6517, Lot 102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, Borough of Staten Island.

COMMUNITY BOARD #3SI

231-08-A

APPLICANT – Gerard E. Meyer, for Breezy Point Cooperative Inc., owner; Stephen D'Antonio, lessee.

SUBJECT – Application September 9, 2008 – Reconstruction and enlargement of an existing single family home not fronting on a legally mapped street contrary to General City Law Section 36. R4 zoning

PREMISES AFFECTED – 118 Beach 221st Street, southwest side of Beach 221st Street, 320' southeast of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

CALENDAR

NOVEMBER 18, 2008, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday afternoon, November 18, 2008, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

172-08-BZ

APPLICANT – Mitchell A. Korbey, Esq., for Sunnyside Jewish Center, owners.

SUBJECT – Application June 27, 2008 – Variance (§72-21) to permit the conversion of an existing two-story residential building to a house of worship. The proposal is contrary to ZR Section 24-35 (a) (Side yards). R5 district.

PREMISES AFFECTED – 40-20 47th Avenue, aka 4702-4710 41st Street, southwest corner of 47th Avenue and 41st Street, Block 198, Lot 36, Borough of Queens.

COMMUNITY BOARD #2Q

188-08-BZ

APPLICANT – Rizzo Group, for Hotel Carlyle Owners Corp., owners; The Hotel Carlyle, lessee.

SUBJECT – Application July 14, 2008 – Special Permit (§73-36) and Variance (§72-21) to allow the legalization of a Physical Culture Establishment and to extend this use into an R8B district for the subject hotel which exists in the C5-1MP and R8B zoning districts. The proposal is contrary to ZR Section 32-10.

PREMISES AFFECTED – 35 East 76th Street, (975-983 Madison; 981 Madison; 35-53 East 76th Street) northeast corner of Madison Avenue and East 76th Street, Block 1391, Lot 21, Borough of Manhattan.

COMMUNITY BOARD #8M

199-08-BZ

APPLICANT – Rizzo Group, LLP, for Acadia PA East Fordham Acqustns, LLC, owners; 24 Hour Fitness USA, Inc., lessee.

SUBJECT – Application July 28, 2008 – Special Permit (§73-36) to allow the operation of a physical culture establishment on the third floor in an existing 14-story mixed-use building. The proposal is contrary to ZR Section 32-10. C4-4 district.

PREMISES AFFECTED – 400 East Fordham Road (aka 2506-2526 Webster Ave./4747-4763 Park Ave.) Block 3033, Lot 12, Borough of Bronx.

COMMUNITY BOARD #6BX

224-08-BZ

APPLICANT – Omnipoint Communications Inc., for Remzija Suljovic, Rizo Muratovic, Brahim Muratovic, owners; Omnipoint Communications Inc., lessee.

SUBJECT – Application August 29, 2008 – Special Permit (§73-30) to allow an extension to an existing non-accessory radio tower, to mount nine small panel antennas and related equipment cabinets on the rooftop.

PREMISES AFFECTED – 47-10 Laurel Hill Boulevard, south side of Laurel Hill Boulevard, bounded by 47th Street, to the west and 48th Street to the east, Block 2305, Lot 22, Borough of Queens.

COMMUNITY BOARD #2Q

225-08-BZ

APPLICANT – Lewis E. Garfinkel, R.A., for Lewis Sternlicht, owner.

SUBJECT – Application September 2, 2008 – Special Permit (§73-622) for the enlargement of an existing two family home to be converted to a single family residence. This application seeks to vary open space and floor area (23-141(a)); side yards (23-461) and less than the required rear yard (23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1155 East 24th Street, between Avenue K and Avenue L, Block 7624, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #14BK

230-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for A and B Bistricher, LLC, by Elsa Bistricher, owner.

SUBJECT – Application September 5, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and open space (23-141); and less than minimum rear yard requirement (23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1019 East 23rd Street, East side of 23rd Street between Avenue J and Avenue K, Block 7605, Lot 36, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, OCTOBER 7, 2008
10:00 A.M.**

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

SPECIAL ORDER CALENDAR

605-86-BZ

APPLICANT – Anthony M. Salvati, Architects, for Bernard Wechsler, owner.

SUBJECT – Application November 19, 2007 – Extension of Term of a Variance (§72-21) previously granted for a (UG4) two story medical office building in an R5B(BR) zoning district which expired on March 31, 2007; an Extension of Time to obtain a Certificate of Occupancy which expired on June 10, 1998 and a Waiver of the rules.

PREMISES AFFECTED – 7606 7th Avenue, southeast corner of 76th Street and 7th Avenue, Block 5953, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES –

For Applicant: Mark McCarthy.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening of a previously granted variance permitting medical office use (Use Group 4), an extension of term, and an extension of the time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on September 16, 2008 after due notice by publication in the *City Record*, and then to decision on October 7, 2008; and

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

WHEREAS, Community Board 10, Brooklyn, recommends approval of this application; and

WHEREAS, the site is located on the southwest corner of 76th Street and 7th Avenue, in an R5B zoning district within the Special Bay Ridge District; and

WHEREAS, the site is currently occupied by a two-story residential building with medical office use on both floors and one accessory parking space; and

WHEREAS, the site has been under the jurisdiction of the Board since March 31, 1987, when, under the subject

calendar number, the Board granted a variance under Z.R. § 72-21 to permit medical office use on the second floor of the subject building; and

WHEREAS, on June 10, 1997, the Board granted a ten-year extension of term, to expire March 31, 2007; and

WHEREAS, the applicant now seeks to extend the term and extend the time to obtain a new certificate of occupancy; and

WHEREAS, the Board may extend the term of an expired variance; and

WHEREAS, based upon the above, the Board finds the requested extensions to be 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 the resolution, as adopted March 31, 1987, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from the expiration of the prior grant, to expire on March 31, 2017, and to extend the time to obtain a certificate of occupancy; *on condition*:

THAT this grant shall be for a term of ten years, to expire on March 31, 2017;

THAT a new certificate of occupancy be obtained within six months of the date of this grant, by April 7, 2009;

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;

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.” (DOB Application No. 302226909)

Adopted by the Board of Standards and Appeals, October 7, 2008.

222-90-BZ

APPLICANT – Cozen O’Connor by Barbara Hair, Esq., for 80-02 Fee Owner LLC, owner; Jack LaLanne Fitness Centers d/b/a Bally Total Fitness; lessee.

SUBJECT – Application August 7, 2008 – Extension of Term/waiver for the continued operation of a previously granted PCE (Bally Total Fitness), in a C4-4 zoning district, which expired on August 13, 2006 and an Extension of Time to obtain a Certificate of Occupancy which expired on September 23, 1998.

PREMISES AFFECTED – 80-02 Kew Gardens Road, west side of block front at Union Turnpike, Block 3348, Lot 37, Borough of Queens.

COMMUNITY BOARD #9Q

APPEARANCES –

For Applicant: Barbara Hair.

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ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening of a previously granted special permit for a physical culture establishment (Use Group 9), an extension of term which expired on September 23, 2007, and an extension of the time to obtain a certificate of occupancy; and

WHEREAS, a public hearing was held on this application on September 23, 2008 after due notice by publication in the *City Record*, and then to decision on October 7, 2008; and

WHEREAS, Community Board 9, Queens, recommends approval of this application; and

WHEREAS, the site is located at the southwestern intersection of Kew Gardens Road and Union Turnpike, within a C4-4 zoning district; and

WHEREAS, the PCE is operated as “Bally Total Fitness”; and

WHEREAS, the site has been under the jurisdiction of the Board since August 13, 1991, when, under the subject calendar number, the Board granted a special permit under Z.R. §73-36 for a physical culture establishment at the site; and

WHEREAS, on September 23, 1997, the Board granted a ten-year extension of term, to expire August 13, 2006; and

WHEREAS, the applicant now seeks to extend the term and extend the time to obtain a new certificate of occupancy; and

WHEREAS, the Board may extend the term of an expired special permit; and

WHEREAS, the applicant also seeks approval of minor changes to the previously approved plans; specifically, the removal of a ballet bar and the installation of turnstiles; and

WHEREAS, based upon the above, the Board finds the requested extensions and modification to the approved plans to be 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 the resolution, as adopted August 13, 1991, so that as amended this portion of the resolution shall read: “to extend the term for a period of ten years from the expiration of the prior grant, to expire on August 13, 2016, and to extend the time to obtain a certificate of occupancy; *on condition*:

THAT this grant shall be for a term of ten years, to expire on August 13, 2016;

THAT a new certificate of occupancy be obtained within six months of the date of this grant, by March 7, 2009;

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;

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.”

(DOB Application No. 400594843)

Adopted by the Board of Standards and Appeals, October 7, 2008.

68-94-BZ

APPLICANT – Cozen O’Connor, for Bay Plaza Community Center LLC, owner; Jack LaLanne Fitness Centers, Incorporated, lessee.

SUBJECT – Application August 14, 2008 – Extension of Time to obtain a Certificate of Occupancy for a previously granted special permit for the operation of a PCE (Bally Total Fitness) on the first and second floors of the Co-Op City Bay Plaza shopping center which expired on March 12, 2008. The premise is located in a C4-3 zoning district.

PREMISES AFFECTED – 2100 Bartow Avenue, southside of Baychester Avenue, Block 5141, Lot 810, Borough of Bronx.

COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Barbara Hair.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, this is an application for a reopening and an extension of time to obtain a certificate of occupancy for a previously granted special permit for the operation of a physical culture establishment (PCE), which expired on March 12, 2008; and

WHEREAS, a public hearing was held on this application on September 23, 2008, after due notice by publication in *The City Record*, and then to decision on October 7, 2008; and

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

WHEREAS, the site is located on the south side of Bartow Avenue, between Baychester Avenue and the Hutchinson River Parkway, within a C4-3 zoning district; and

WHEREAS, the PCE is located on a portion of the first and second floors of the Co-op City Bay Plaza shopping center and occupies 20,290 sq. ft. of floor area; and

WHEREAS, the PCE is operated as “Bally Total Fitness”; and

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WHEREAS, on November 1, 1994, under the subject calendar number, the Board granted a special permit, pursuant to ZR § 73-36, to permit, in a C3-4 district, the operation of a PCE for a term of ten years; and

WHEREAS, on April 12, 2005, the grant was extended for a term of ten years, to expire on November 1, 2014; and

WHEREAS, a condition of the prior grant was that a certificate of occupancy be obtained by September 12, 2006; and

WHEREAS, on September 12, 2006 the Board granted an 18-month extension of time to obtain a certificate of occupancy, to expire March 12, 2008; and

WHEREAS, the applicant represents that its application to DOB for a certificate of occupancy for the PCE is pending and that it is conditioned on approval by the Board of the instant application; and

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

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated November 1, 1994, so that as amended this portion of the resolution shall read: “to grant an extension of time to obtain a certificate of occupancy to April 7, 2009; *on condition* that all use and operations shall substantially conform to all BSA-approved drawings associated with the prior grant; and *on further condition*:

THAT a certificate of occupancy shall be obtained by April 7, 2009;

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

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

Adopted by the Board of Standards and Appeals, October 7, 2008.

182-85-BZ

APPLICANT – Dominick Salvati & Son Architects, for Salvatore Meeina, owner.

SUBJECT – Application November 19, 2007 – Extension of Term/Waiver of a previously granted Variance (§72-21) for a one story building for the storage of commercial vehicles for a (UG16) contractor's establishment (Fox Glass), in an R6B zoning district, which expired on September 9, 2006. PREMISES AFFECTED – 206-08 20th Street, between 4th and 5th Avenue, Block 640, Lots 21 & 22, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Mark McCarthy.

THE VOTE TO CLOSE HEARING –

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

Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to October 28, 2008, at 10 A.M., for decision, hearing closed.

183-85-BZ

APPLICANT – Dominick Salvati & Son Architects, for Salvatore Meeina, owner.

SUBJECT – Application November 9, 2007 – Extension of Term/waiver of a previously granted Variance (§72-21) for the operation of a (UG16) open storage yard for building materials and accessory parking for four cars with an accessory office and showroom building, in an R6B zoning district, which expired on November 18, 2006.

PREMISES AFFECTED – 206-08 20th Street, between 4th and 5th Avenue, Block 640, Lots 21 & 22, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES –

For Applicant: Mark McCarthy.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to October 28, 2008, at 10 A.M., for decision, hearing closed.

360-01-BZ

APPLICANT – Carl. A. Sulfaro, Esq., for Kings Knapp Development Corporation, owner.

SUBJECT – Application July 1, 2008 – Extension of Time to obtain a Certificate of Occupancy/waiver for an existing gasoline service station (Mobil), in a C2-2/R-4 zoning district, which expired on December 17, 2004.

PREMISES AFFECTED – 2228 Gerritsen Avenue, southwest corner of Avenue U, Block 7370, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Carl A. Sulfaro, Esq.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to October 28, 2008, at 10 A.M., for decision, hearing closed.

340-03-BZ

APPLICANT – Davidoff Malito & Hatcher, LLP, by Howard S. Weiss, Esq., for 408-410 Greenwich Street LLC.

SUBJECT – Application February 20, 2008 – Reopening for an Amendment to allow in a mixed use building the change of the use on the fifth floor from commercial use (UG6) to

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residential use (UG2).

PREMISES AFFECTED – 408 Greenwich Street, a/k/a 22-24 Hubert Street, northwest corner of Hubert and Greenwich Street, Block 217, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Howard Weiss and Robert Pauls.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to November 18, 2008, at 10 A.M., for decision, hearing closed.

257-04-BZ

APPLICANT – Cozen O’Connor Attorneys, for Boerum Place, LLC, owner.

SUBJECT – Application May 19, 2008 – Original bulk variance was granted on 8/23/05. SOC Amendment filed on 5/19/08 pursuant to ZR §§72-01 & 72-22 to modify the street wall with dormers and to extend the elevator bulkhead to allow ADA access to the roof. No changes proposed to floor area or any waiver previously granted by the Board. R6, R6A, C2-3 & C2-4 districts.

PREMISES AFFECTED – 252/260 Atlantic Avenue, aka 83-89 Boerum Place, aka 239/247 Pacific Street, east side of Boerum Place, Block 181, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES –

For Applicant: Peter Geis.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to October 28, 2008, at 10 A.M., for decision, hearing closed.

736-45-BZ

APPLICANT – Walter T. Gorman, P.E., for Midel Property Associates, LLC, owner; Exxon Mobil Corporation, lessee.

SUBJECT – Application June 3, 2008 – Extension of Term/waiver for a previously granted variance for the operation of a gasoline service station (Mobil), in a C2-4/R8 zoning district, which expired on March 17, 1999 and an Extension of Time to obtain a Certificate of Occupancy which expired on May 8, 2000.

PREMISES AFFECTED – 3740 Broadway, northeast corner of West 155th Street, Block 2114, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #12M

APPEARANCES –

For Applicant: Patrick Gorman.

For Opposition: James E. Scott, Kim McEvoy, Stacey

Murphy.

ACTION OF THE BOARD – Laid over to November 18, 2008, at 10 A.M., for continued hearing.

94-58-BZ

APPLICANT – Walter T. Gorman, P.E., for Exxon Mobil Corporation, owner; Nor-East S/S Incorporated, lessee.

SUBJECT – Application June 19, 2008 – Extension of Term/waiver for the continued operation of a gasoline service station (Mobil), in an R-4 zoning district, which expired on September 30, 2003

PREMISES AFFECTED – 22-55/25-75 Brooklyn Queens Expressway, northeast corner of 30th Avenue, Block 1046, Lot 1, Borough of Queens.

COMMUNITY BOARD #3Q

APPEARANCES –

For Applicant: Patrick Gorman.

ACTION OF THE BOARD – Laid over to October 28, 2008, at 10 A.M., for continued hearing.

141-58-BZ

APPLICANT – Kenneth H. Koons, for East 201 Street Realty Corporation, owner.

SUBJECT – Application August 14, 2008 – Extension of Term of a UG7 Funeral Home in an R8C-(Special Grand Concourse Preservation) zoning district which expired on July 15, 2008.

PREMISES AFFECTED – 201-203 East 202nd Street, northeast corner Grand Concourse, Block 3307, Lots 67 & 68, Borough of Bronx.

COMMUNITY BOARD #7BX

APPEARANCES –

For Applicant: Kenneth Koons.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to November 18, 2008, at 10 A.M., for decision, hearing closed.

198-66-BZ

APPLICANT – Eric Palatnik, P.C., for 300 East 74 Owners Corporation, owner.

SUBJECT – Application July 25, 2008 – Extension of Time to Complete Construction of an existing plaza for a residential high rise building, in a C1-9 zoning district, which expired on June 19, 2008 and an Extension of Time to obtain a Certificate of Occupancy which expires on June 19, 2009.

PREMISES AFFECTED – 300 East 74th Street, between First and Second Avenues, Block 1448, Lot 3, Borough of Manhattan.

COMMUNITY BOARD #8M

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APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Lily Salm.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to October 28, 2008, at 10 A.M., for decision, hearing closed.

170-96-BZ

APPLICANT – Martyn & Don Weston, Architects, for 8501 Flatlands Avenue, owner.

SUBJECT – Application July 30, 2008 – Extension of Term/Amendment/Waiver (§72-01 & §72-22) to reopen the term of 10 years for an automobile repair facility located in an R5 zoning district.

PREMISES AFFECTED – 8501 Flatlands Avenue, northeast corner of East 85th Street, Block 8006, Lots 6 and 7, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Don Weston and Ben Delarea

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to November 18, 2008, at 10 A.M., for decision, hearing closed.

20-02-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 303 Park Avenue South Leasehold Co., LLC, owner; New York Sports Club, lessee.

SUBJECT – Application September 18, 2006 – Extension of Term/Amendment-To allow the operation of a Physical Culture Establishment/Health Club and change in hour of operation, on portions of the cellar, first floor and second floor of the existing five story mixed use loft building.

PREMISES AFFECTED – 303 Park Avenue South, northeast corner of Park Avenue South and East 23rd Street, Block 879, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Fredrick A. Becker.

For Administration: Nick Lecakes.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to November 18, 2008, at 10 A.M., for decision, hearing

closed.

APPEALS CALENDAR

230-07-BZY

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Alco Builders, Inc., owner.

SUBJECT – Application October 9, 2007 – Extension of time (§11-331) to complete construction of a minor development commenced prior to the amendment of the zoning district regulations on September 10, 2007. R4-1 zoning district.

PREMISES AFFECTED – 90-22 176th Street, between Jamaica and 90th Avenues, Block 9811, Lot 61, Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application denied

THE VOTE TO GRANT –

Affirmative:0

Negative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

THE RESOLUTION:

WHEREAS, this is an application under ZR §11-331, to renew a building permit and extend the time for the completion of the foundation for a three-story multi-family residential building; and

WHEREAS, a public hearing was held on this application on May 13, 2008, after due notice by publication in *The City Record*, with continued hearings on June 24, 2008 and August 19, 2008, and then to decision on October 7, 2008; and

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

WHEREAS, certain neighbors and the owner of the adjacent home, through counsel, appeared in opposition to the application (collectively the “Opposition”); and

WHEREAS, the site is located on 176th Street between Jamaica Avenue and 90th Avenue and has a lot area of 5,280 sq. ft.; and

WHEREAS, the applicant proposes to develop the site with a three-story multi-family dwelling (Use Group 2), with approximately 10,623 sq. ft. of floor area (1.72 FAR) (the “Building”); and

WHEREAS, the subject site is part of a five-building development on a single zoning lot; the applicant represents that the other four buildings have vested, therefore this application requests no action concerning them; and

WHEREAS, the subject premises is currently located within an R4-1 zoning district, but was formerly located within an R6 zoning district (the “Building”); and

WHEREAS, on July 5, 2007, DOB issued New Building Permit No. 402568431-01-NB (the “NB Permit”) for the

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Building; and

WHEREAS, however, on September 10, 2007 (the "Enactment Date"), the City Council voted to adopt the Jamaica Rezoning, which rezoned the site to R4-1, as noted above; and

WHEREAS, because the site is now within an R4-1 district, the Building would not comply with the new zoning restrictions; and

WHEREAS, the applicant now applies to the Board to reinstate the NB Permit pursuant to ZR § 11-331; and

WHEREAS, ZR § 11-331 reads: "If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued . . . to a person with a possessory interest in a zoning lot, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that: (a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or (b) in the case of a major development, the foundations for at least one building of the development had been completed prior to such effective date. In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations"; and

WHEREAS, because the proposed development contemplates construction of one building, it meets the definition of a minor development; and

WHEREAS, since the proposed development is a minor development, the Board must find that excavation was completed and substantial progress was made as to the required foundation; and

WHEREAS, however, the threshold issue is that any work performed in support of a vesting claim must be performed pursuant to a valid permit; and

WHEREAS, it is well settled that vested rights cannot be acquired in reliance upon an invalid permit (see *Matter of Natchev v. Klein*, 41 N.Y.2d 834, 834 (1977); *Jayne Estates v. Raynor*, 22 N.Y.2d 417, 422 (1968));

WHEREAS, even where DOB erroneously issues a permit due to its own initial failure to notice that a builder's plans do not comply with provisions of the Zoning Resolution, no vested rights are acquired, since the permit could not have been validly granted in the first place (see *Perrotta v. City of New York*, 107 A.D.2d 320, 325 (1st Dep't) aff'd 66 N.Y.2d 859 (985) and *GRA V, LLC v. Srinivasan*, 862 N.Y.S.2d 358 (1st Dep't 2008)); and

WHEREAS, as stated by the Court in *Perrotta*, "[a] determination as to whether [a] petitioner had vested rights

under [its] building permit must, of necessity, involve an examination of the validity of the permit, as well as compliance with technical provisions of the Zoning Resolution, and this is clearly an appropriate inquiry for agency expertise" (107 A.D.2d at 324); and

WHEREAS, on April 25, 2008, DOB performed a special audit of the building plans during the hearing process to determine whether the permit had been properly issued; and

WHEREAS, this audit resulted in three objections, two of which were reconsidered upon further review; and

WHEREAS, DOB issued a ten-day notice of intent to revoke the permit on April 29, 2008 based on the outstanding objection, concerning the noncompliance of the plans with the required dimensions of an inner court pursuant to ZR § 23-851; and

WHEREAS, the applicant attended a meeting with a plan examiner on May 21, 2008 in response to the letter of intent to revoke, but failed to resolve the objection; and

WHEREAS, DOB revoked the permit on June 17, 2008; and

WHEREAS, on September 26, 2008, the applicant met with the DOB Technical Affairs Unit to review the objection concerning to ZR § 23-851, but was unable to demonstrate that the objection was improperly issued; and

WHEREAS, accordingly, DOB has determined that the permit was invalid ab initio and the right to complete the work cannot have vested; and

WHEREAS, the Board agrees with DOB that any work performed cannot be considered for vesting purposes because the plans would not have complied with the zoning requirements and therefore no permits could be properly issued to permit the construction that was performed; and

WHEREAS, accordingly, because the permits were erroneously issued for a non-compliant building and were therefore invalid when issued, DOB rejects the Appellant's vesting claim; and

WHEREAS, the Board agrees with DOB and notes that New York State courts have consistently held that vested rights may only be granted for work performed pursuant to valid permits; and

WHEREAS, accordingly, the Board, through this resolution, denies the owner of the site the six-month extension for completion of construction that is allowed under ZR § 11-331.

Therefore it is Resolved that this application to renew DOB Permit No. 402568431-01-NB pursuant to ZR §11-331 is denied.

Adopted by the Board of Standards and Appeals, October 7, 2008.

39-07-A thru 40-07-A

APPLICANT – Sheldon Lobel, P.C., for Blue Granite, owner.

SUBJECT – Application February 2, 2007 – Proposed construction of two , 3 story, 3 family homes located within the bed of a mapped street, contrary to General City Law Section 35. R5 zoning district.

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PREMISES AFFECTED –3248, 3250 Wickham Avenue, unnamed street between Wickham and Givan Avenue,, Block 4755, Lots 65 & 66, Borough of Bronx.

COMMUNITY BOARD #12BX

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Laid over to November 18, 2008, at 10 A.M., for continued hearing.

251-07-A thru 254-07-A

APPLICANT – Eric Palatnik, P.C., for Willow/Houston, LLC, owner.

SUBJECT – Application November 2, 2007 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development under the prior R3A zoning district. R3X zoning district.

PREMISES AFFECTED – 63/65 Houston Street and 104/106 Willowbrook Road, Block 1478, Lots 542, 543, 150 & 151, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: James E. Scott, Kim McEvoy and Stacey Murphy.

ACTION OF THE BOARD – Laid over to October 28, 2008, at 10 A.M., for continued hearing.

34-08-A

APPLICANT – Kevin Christopher Shea, for Neighbors Allied for Good Growth (“NAG”) and People’s Firehouse, Inc. (“PFI”).

OWNER: North Seven Associates LLC

SUBJECT – Application February 20, 2008 – Appeal seeking to revoke permit and approvals that allow the construction of a sixteen story building in violation of ZR §23-142 and ZR §12-10 which fails to provide adequate open space on the zoning lot to support the Building's floor area.

PREMISES AFFECTED – 144 North 8th Street, south side of North 8th Street, 100’ east of Berry Street, Block 2319, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Kevin Christopher Shea, Philip DePaolo and Peter Gillespie.

For Opposition: Lisa Orrantia and Peter Geis.

ACTION OF THE BOARD – Laid over to November 18, 2008, at 10 A.M., for continued hearing.

70-08-A thru 72-08-A

APPLICANT – Eric Palatnik, P.C., for TOCS Developers, Inc., owner.

SUBJECT – Application April 1, 2008 – An appeal seeking a determination that the property owner has acquired a common law vested right to continue construction

commenced under the prior Zoning district regulations. R3A Zoning District.

PREMISES AFFECTED – 215C, 215B, 215A Van Name Avenue, north of the corner formed by intersection of Forest Avenue, Block 1194, Lot 42, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to November 18, 2008, at 10 A.M., for continued hearing.

73-08-A thru 75-08-A

APPLICANT – Eric Palatnik, P.C., for S.B. Holding, owner.

SUBJECT – Application April 1, 2008 – An appeal seeking a determination that the property owner has acquired a common law vested right to continue construction under the prior district regulations. R3A zoning district.

PREMISES AFFECTED –354 Van Name, northeast of the corner formed by the intersection of Van Name and Forest Avenue, Block 1198, Lots 42, 43, 44, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to November 18, 2008, at 10 A.M., for continued hearing.

81-08-A & 82-08-A

APPLICANT – Harvey Epstein, Esq., for 514-516 East 5th Street, LLC, owner.

SUBJECT – Application April 4, 2008 – Appeal seeking to revoke permit and approvals for a vertical enlargement of an existing non- fireproof tenement building which fails to comply with the applicable provisions of the MDL regarding fire safety standards. R7-2 zoning district.

PREMISES AFFECTED – 514-516 & 515 East 5th Street, between A and Avenue B, Block 401, Lot 17, 18 & 56, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Harvey Epstein, Rosie Mendez (NYC Councilmember), Brian Cook (Manhattan Borough President), John Foy, C#3; Wasim Lone and Monroe Schapiro

For Opposition: Mark Davis and Marvin Mitzner.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to November 25, 2008, at 10 A.M., for decision, hearing closed.

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168-08-A

APPLICANT – Cozen O’Connor Attorneys, for South Brighton Development, LLC, owner.

SUBJECT – Application June 24, 2008 – Legalization of an existing building not fronting on a legally mapped street contrary to General City Law Section 36. R6(OP) zoning district.

PREMISES AFFECTED – 63 Brighton 2nd Place, east side of Brighton 2nd Place, 110’ north of Brighton 2nd Lane, Block 8662, Lot 157, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Peter Geis.

ACTION OF THE BOARD – Laid over to November 18, 2008, at 10 A.M., for continued hearing.

Jeffrey Mulligan, Executive Director

Adjourned: 10:-15 A.M.

REGULAR MEETING

TUESDAY AFTERNOON, OCTOBER 7, 2008

1:30 P.M.

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

ZONING CALENDAR

291-07-BZ

CEQR #09-BSA-042Q

APPLICANT – Eric Palatnik, P.C., for Cong. Tifereth Torna Eliezer, owner.

SUBJECT – Application December 27, 2007 – Variance (§72-21) to permit the alteration of the existing residential structure to create a Use Group 4 synagogue with accessory rabbi's quarters. The proposal is contrary to §24-35 (side yards), §24-391 (rear yard), §24-34 (front yard), and §24-521 (front wall height). R4 district.

PREMISES AFFECTED – 1912 New York Avenue, between Avenues J and K, Block 7614, Lot 66, Borough of Brooklyn.

COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated June 24, 2008, acting on Department of Buildings Application No. 310005776, reads, in pertinent part:

- “1. Proposed plans are contrary to ZR 24-35 in that the existing minimum side yard is less than the required minimum 8’-0”;
2. Proposed plans are contrary to ZR 24-391 in that the proposed rear yard is less than 30’-0”;
3. Proposed plans are contrary to ZR 24-34 in that the existing minimum front yard is less than the required minimum 15’-0”;
4. Proposed plans are contrary to ZR 24-521 in that the existing front wall height exceeds the maximum 35’-0”;
5. Proposed plans are contrary to ZR 24-551 in that the minimum side setback does not comply; and
6. Proposed plans are contrary to ZR 25-31 in that the minimum parking is not provided;” and

WHEREAS, this is an application for a variance pursuant to ZR § 72-21, to permit, on a site within an R4 zoning district, the proposed conversion and enlargement of an existing two-

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story and cellar home into a three-story and cellar building to be occupied by a synagogue and accessory Rabbi's residence, which does not comply with front, rear and side yard, front wall height, side setback and parking requirements for community facilities, contrary to ZR §§ 24-35, 24-391, 24-34, 24-521, 24-551, and 25-31; and

WHEREAS, a public hearing was held on this application on June 3, 2008, after due notice by publication in *The City Record*, with continued hearings on July 15, 2008 and August 19, 2008 and then to decision on October 7, 2008; and

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

WHEREAS, Community Board 18, Brooklyn, recommends approval of the application; and

WHEREAS, certain members of the community provided testimony in support of the proposal; and

WHEREAS, an adjacent property owner initially opposed the application but later submitted a consent to the proposed variance; and

WHEREAS, this application is being brought on behalf of Congregation Tifereth Torna Eliezer, Inc., a non-profit religious entity (the "Synagogue"); and

WHEREAS, the subject premises is located on the east side of New York Avenue between Avenue J and Avenue K within an R4 zoning district and has a lot area of 4,000 sq. ft.; and

WHEREAS, the subject site is occupied by a detached two-story home which is non-compliant with respect to zoning requirements for front yard, side yard and rear yard; and

WHEREAS, the proposal provides for the following uses: (1) mikvah bath and synagogue use the cellar level, (2) a synagogue on the first floor; and (3) an accessory Rabbi's residence on the second and third floors; and

WHEREAS, the applicant initially proposed a synagogue building with the following parameters: approximately 6,597 sq. ft. of community facility floor area, an FAR of 1.65, a lot coverage of 46 percent, and a front yard waiver for the first through third floors; and

WHEREAS, the proposal was revised during the hearing process, the current proposal provides for a synagogue building with 5,952 sq. ft. of floor area, an FAR of 1.49, a lot coverage of 41 percent, and a setback at the third floor of 6'-0" from the New York Avenue frontage; and

WHEREAS, additionally, the applicant proposes: a height of 36'-4" (35'-0" is the maximum permitted in the subject zoning district); a front yard with a depth of 4'-8" at the first and second floors and a depth of 10'-8" at the third floor (a minimum depth of 15'-0" is required); one side yard with a width of 3'-9" on the southern lot line, and one side yard with a partial width of 7'-1" on the northern lot line (two side yards with minimum widths of 8'-0" each are required); a rear yard above the first floor of 29'-1.5" (a minimum rear yard of 30'-0" is required); no side setback (a minimum setback of 18'-2" is

required above 35'-0"); and no accessory parking (ten accessory parking spaces are required); and

WHEREAS, the applicant states that the following are the primary programmatic needs of the Synagogue which necessitate the requested variances: (1) to accommodate the congregation of approximately 200 families; and (2) to provide a residence for the Synagogue's rabbi; and

WHEREAS, the applicant further states that its existing synagogue located nearby at 1880-1882 New York Avenue consists of 1,250 sq. ft. of floor area on a zoning lot containing 3,000 sq. ft. of lot area; and

WHEREAS, the applicant represents that the small size of its existing building does not allow it to serve its growing congregation and the limitations of its zoning lot do not permit sufficient expansion of its facility to accommodate its congregants; and

WHEREAS, the Board acknowledges that the Synagogue, as a religious institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in *Westchester Reform Temple v. Brown*, 22 NY2d 488 (1968), a religious institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, the applicant provided a submission briefing the prevailing New York State case law on religious deference; and

WHEREAS, the Board notes that under well-established precedents of the courts, a Rabbi's residence on the site of a religious institution is construed to be a religious use entitled to deference by a zoning board (see *Jewish Recon. Syn. v. Vill. of Roslyn*, 38 N.Y.2d 283 (1975)); and

WHEREAS, the applicant represents that the existing building also constrains its ability to develop the site in compliance with applicable regulations; and

WHEREAS, the applicant states that the variances to rear yard, front yard and side yard along the southern lot line are necessitated by its construction on the footprint of the existing building and by the existing non-compliant conditions on the site, and the variance to height is necessitated by the height of the existing home, which makes a height of 36'-4" necessary to allow for a sufficient floor to ceiling height at the proposed third floor; and

WHEREAS, the applicant further states that the variance for a portion of the side yard at the first floor along the northern lot line is necessary to meet its programmatic need to provide an area within the Synagogue for the Ark of the Torah, required by religious doctrine to be set back in the room in which it is located; and

WHEREAS, the applicant further represents that the requested yard and side setback waivers would enable the

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Synagogue to develop the site with a building with viable floor plates; and

WHEREAS, the applicant states that the proposed building height of 36'-4" would require a side setback of 18'-2" and that the required setback, coupled with the lot width of 40'-0", would result in a floor plate for the third floor that is infeasible and impractical; and

WHEREAS, at hearing, the Board asked the applicant to further demonstrate the necessity for the side yard waivers; and

WHEREAS, in response, the applicant submitted plans showing the occupancy counts for the revised proposed building as well as for an as-of-right building which indicate that, based on minimum square footage requirements, the proposed building could accommodate 282 congregants while a building with the required side yards could accommodate 250 persons, and

WHEREAS, the Board notes that the synagogue spaces within the as-of-right footprint have obstructed sight lines and would therefore have a smaller feasible capacity than would be inferred from the square footage of the space; and

WHEREAS, based upon the above, the Board finds that the programmatic needs of the Synagogue create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant need not address ZR § 72-21(b) since the Synagogue is a not-for-profit organization and the proposed development will be in furtherance of its not-for-profit mission; 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 that the proposed use and floor area are permitted in the subject zoning district; and

WHEREAS, the applicant represents that the scale and bulk of the Synagogue is consistent with the with the scale of the two-and-a-half-story homes that characterize the area; and

WHEREAS, the applicant states that the proposed building is being built on the footprint of the existing building and maintains the site's existing non-compliances with respect to the front yard at the first and second floors, the side yard and the rear yard; and

WHEREAS, the applicant further states that the homes in the immediate area are also characterized by front yards and side yards similar to that proposed; and

WHEREAS, the Board asked the applicant to document the neighborhood context for the proposed front yard; and

WHEREAS, the applicant submitted photographs of nearby homes depicting front yards which exhibit non-compliance similar to that existing and proposed at the subject site; and

WHEREAS, the Board directed the applicant to explore other designs to improve compatibility with adjacent buildings; and

WHEREAS, specifically, the Board suggested that the applicant provide a complying front yard above the second floor by shifting the bulk of the building to its rear; and

WHEREAS, a response by the applicant states that providing a complying front yard at the third floor would necessitate the loss of a number of bedrooms from the Rabbi's residence and that such a reduction would be incompatible with its programmatic needs; and

WHEREAS, in response, the applicant re-designed the building to provide a 6'-0" setback above the second floor along the New York Avenue frontage; and

WHEREAS, as to traffic and parking impacts, the applicant noted that the impacts would be minimal as a majority of congregants live nearby and would walk to services, specifically to worship services on Fridays and Saturdays when they are not permitted to drive; and

WHEREAS, a submission by the applicant indicates that 96 percent of the congregation live within three-quarters of a mile from the subject site; and

WHEREAS, the applicant conducted a parking survey indicating the availability of 406 parking spaces within a one-quarter mile radius of the subject site during a weekday morning between the hours of 8:30 a.m. and 12:30 p.m., when the bulk of its weekday activities are scheduled; and

WHEREAS, at hearing, the Board raised concerns with the compliance of the subject site with applicable requirements for landscaping and tree planting; and

WHEREAS, the applicant represents that the landscaping is in full compliance with the regulations for a community facility building in a residential district set forth in ZR §§ 24-05 and 24-06 and submitted revised plans indicating the landscaped areas of the subject site; and

WHEREAS, in response to concerns by the Board regarding fire safety, the applicant has agreed to install a sprinkler system on the cellar and first floor levels, and to install a smoke detection system throughout the entire building; both the smoke detection system and the sprinkler system shall be connected to a Fire Department approved central station; and

WHEREAS, applicant further amended its plans to provide that synagogue-related refuse be stored indoors until pick-up and to provide opaque windows on the rear façade; and

WHEREAS, accordingly, the Board finds that this action will neither 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 applicant states that the hardship was not self-created and that no development that would meet the programmatic needs of the Synagogue could occur on the existing lot; and

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

WHEREAS, as noted, throughout the hearing process,

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the applicant revised the proposal to provide a 6'-0" setback above the second floor along the New York Avenue frontage, thereby reducing the overall floor area and providing additional light and air to adjacent homes; and

WHEREAS, the Board considered the modifications noted above and finds the requested waivers to be the minimum necessary to afford the Synagogue the relief needed both to meet its programmatic needs and to construct a building that is compatible with the character of the neighborhood; 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(ak) 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. 08BSA042K, dated April 18, 2008; 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 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 R4 zoning district, a proposed enlargement and conversion of an existing two-story home into a three-story and cellar building to be occupied by a synagogue and accessory Rabbi's residence, which does not comply with front, rear and side yard, front wall height, side setback and parking requirements for community facilities, contrary to ZR §§ 24-35, 24-391, 24-34, 24-521, 24-551, and 25-31, *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 22, 2008—Two (2) sheets and "Received August 5, 2008"—Eleven (11) sheets; and *on further condition*:

THAT the building parameters shall be: a height of 36'-

4"; a front yard with a depth of 4'8" at the first and second floors and a depth of 10'-8" at the third floor; one side yard with a width of 3'-9" on the southern lot line, and one side yard with a partial width of 7'-1" on the northern lot line; a rear yard above the first floor of 29'-1.5"; and no side setback;

THAT no accessory parking will be provided;

THAT any change in control or ownership of the building shall require the prior approval of the Board;

THAT the use shall be limited to a house of worship and residence;

THAT no commercial catering shall take place onsite;

THAT landscaping shall comply with the regulations for a community facility building in a residential district set forth in ZR §§ 24-05 and 24-06;

THAT a sprinkler system shall be installed on the cellar and first floor levels and a smoke detection system shall be installed throughout the entire building, as shown on the BSA-approved plans,

THAT the smoke detection system and the sprinkler system shall be connected to a Fire Department approved central station; and

THAT the above conditions shall be listed 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, October 7, 2008.

9-08-BZ

APPLICANT – Rampulla Associates Architects, for Joseph Vitacco, owner.

SUBJECT – Application January 3, 2008 – Variance (§ 72-21) to construct a single family detached residence on a vacant, corner lot that has less than the minimum lot area (§ 107-42); to vary side yards (§ 23-462) and front yards (§ 23-45) in an R3-X SRD (Special Richmond District) SGMD (Special Growth Management District) zoning district.

PREMISES AFFECTED – 555 Foster Road, east side from the intersection of Foster Road and Stafford Avenue, Block 6892, Lot 8, Borough of Staten Island.

COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Stephanie ?.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

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Commissioner Montanez.....5
Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Staten Island Borough Commissioner, dated December 13, 2007, acting on Department of Buildings Application No. 510022930, reads in pertinent part:

“Proposed front yards are contrary to Z.R. Section 23-45”; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R3X zoning district within the Special South Richmond Development District and Lower Density Growth Management Area, the proposed construction of a two-story single-family home that does not provide the required front yards and is contrary to ZR § 23-45; and

WHEREAS, a public hearing was held on this application on March 11, 2008, after due notice by publication in *The City Record*, with continued hearings on May 13, 2008, June 17, 2008, July 29, 2008 and September 16, 2008, and then to decision on October 7, 2008; and

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

WHEREAS, Community Board 3, Staten Island, recommended disapproval of an earlier version of the application; and

WHEREAS, the site is a corner lot located on the southeast corner of the intersection of Stafford Avenue and Foster Road, in an R3X zoning district within the Special South Richmond Development District and Lower Density Growth Management Area; and

WHEREAS, the site has a total lot area of 3,199 sq. ft. and is currently vacant; and

WHEREAS, the applicant proposes to construct a two-story single-family home on the site; and

WHEREAS, the applicant initially sought variances to all side yards and front yards on the site, to permit a home with front yards of 2'-0" on Foster Road and 2'-0" on Stafford Avenue (two front yards with minimum depths of 10'-0" and 20'-0", respectively, are required), and with side yards of 2'-0" on the southern lot line and 8'-0" on the eastern lot line (two side yards with minimum widths of 5'-0" and 20'-0", respectively, are required); and

WHEREAS, the applicant revised the proposal during the hearing process to provide a complying front yard of 10'-0" on Foster Road, a front yard of 15'-0" on Stafford Avenue (a front yard with a minimum depth of 20'-0" is required), a complying side yard of 5'-0" on the southern lot line, and a complying side yard of 20'-0" on the eastern lot line; and

WHEREAS, now the applicant seeks only a front yard variance; and

WHEREAS, the applicant has provided documentation establishing that the subject lot was owned separately and individually from all other adjoining tracts of land as of December 15, 1961, and as of the date of application for a building permit, and is therefore an undersized lot pursuant

to ZR § 23-33; and

WHEREAS, the Board notes that Z.R. § 23-33 eliminates a lot area requirement for a single-family dwelling, but not the front yard objection; and

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

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

WHEREAS, as to the size of the lot, the site has a width of 60 feet and a depth of approximately 55 feet; and

WHEREAS, the applicant submitted a 400-foot radius diagram indicating that the subject lot was the only vacant corner lot in the surrounding area with a shallow depth, and that most lots have depths of approximately 100 feet; and

WHEREAS, the applicant provided floor plans indicating that a complying home would have a width of 35 feet, a depth of approximately 22 feet, and a building footprint of approximately 768 sq. ft.; and

WHEREAS, the requested front yard waiver would allow the applicant to build a home with a width of 40 feet, a depth of approximately 22 feet, and a building footprint of approximately 880 sq. ft.; and

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

WHEREAS, at hearing, the Board asked the applicant to explain why a complying two-story single-family home was infeasible; and

WHEREAS, in response, the applicant submitted floor plans indicating that a complying home would necessitate the elimination of a proposed dining room on the first floor and a proposed third bedroom on the second floor; and

WHEREAS, the applicant represents that a new two-bedroom house would not be marketable since there is no demand for houses with fewer than three bedrooms; and

WHEREAS, additionally, the applicant submitted a survey of the homes within a 400 foot radius of the subject premises which establishes that the majority of homes within the surrounding area contain three bedrooms or more; and

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

WHEREAS, the applicant represents that the grant of the variance is necessary to enable the owner to realize a reasonable return from the subject zoning lot; and

WHEREAS, as discussed above, the applicant states that complying development would result in a home that is unmarketable due to its inadequate number of bedrooms and lack of a dining room; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that compliance with applicable zoning

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regulations will result in a reasonable return from the subject zoning lot; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, or impact adjacent uses; and

WHEREAS, the applicant states that Stafford Avenue and Foster Road consist of detached and semi-detached single and two-family residences; and

WHEREAS, the applicant represents that the home's footprint and façade have been designed to be compatible with the streetscape of the surrounding area; and

WHEREAS, the applicant states that the proposed 15'-0" front yard is compatible with nearby residential development and the home complies with all relevant bulk regulations; and

WHEREAS, at hearing, the Board requested that the applicant show the front yard context for the surrounding area; and

WHEREAS, in response, the applicant provided a survey indicating that that the homes on the northwest and southwest corners at the intersection of Foster Road and Stafford Avenue each have 10'-0" front yards, the home on the northeast corner of the intersection has a 15'-0" front yard, and three homes immediately to the east of the subject site each have 18'-0" front yards; and

WHEREAS, the Board finds that the proposed 15'-0" front yard is consistent with front yards in the surrounding area; and

WHEREAS, therefore, the Board finds that this action will neither 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 applicant has established that the subject lot is an undersized lot pursuant to ZR § 23-33; 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 historic lot dimensions; and

WHEREAS, the original proposal sought to permit a home with front yards of 2'-0" on Foster Road and 2'-0" on Stafford Avenue, and with side yards of 2'-0" on the southern lot line and 8'-0" on the eastern lot line;

WHEREAS, during the hearing process, the applicant modified the proposal to provide a 15'-0" front yard on Stafford Avenue (a front yard with a minimum depth of 20'-0" is required), a complying 10'-0" front yard on Foster Road, a complying 5'-0" side yard on the southern lot line, and a complying 20'-0" side yard on the eastern lot line; and

WHEREAS, as noted above, the applicant complies with all requirements for an R3X zoning district within the Special South Richmond Development District and Lower Density Growth Management Area, except for the required front yard; and

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

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be

made under ZR § 72-21; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21 to permit, in an R3X zoning district within the Special South Richmond Development District and Lower Density Growth Management Area, the proposed construction of a two-story single-family home that does not provide the required front yard and is 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 July 15, 2008"–(3) sheets; and *on further condition*:

THAT the parameters of the proposed home shall be as follows: a front yard of 15'-0" on Stafford Avenue, as per the BSA-approved plans; and

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 significant construction shall proceed in accordance with ZR § 72-23;

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

Adopted by the Board of Standards and Appeals, October 7, 2008.

89-08-BZ

CEQR #08-BSA-079R

APPLICANT – Eric Palatnik, P.C., for Majorie Wilpon, owner.

SUBJECT – Application April 11, 2008 – Special Permit (§73-125) to allow a medical office (UG 4) in an existing one-story commercial office building, allowed by prior variance. R3X (HS) district.

PREMISES AFFECTED – 1101 Victory Boulevard, northwest corner of Victory Boulevard and Melrose Avenue, Block 247, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Staten Island Borough Commissioner, dated March 18, 2008, acting on Department

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of Buildings Application No. 510031500, reads in pertinent part:

“Section 22-14. Proposed conversion of one story office building with accessory...parking spaces, located in R3X residential zoning district, and permitted under BSA Resolution Cal. # 495-62-BZ, to medical offices with floor area more than 1,500 square feet is not permitted as of right and therefore referred to Board of Standards and Appeals for approval”; and

WHEREAS, this is an application under ZR §§ 73-125 and 73-03, to permit, on a site in an R3X zoning district within the Special Hillside Preservation District, the conversion of a one-story commercial building to be occupied by an ambulatory diagnostic/treatment health care facility (Use Group 4) with five accessory parking spaces, contrary to ZR § 22-14; and

WHEREAS, a public hearing was held on this application on July 15, 2008 after due notice by publication in *The City Record*, with a continued hearing on September 23, 2008, and then to decision on October 7, 2008; and

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

WHEREAS, Community Board 1, Staten Island, recommends approval of this application, and

WHEREAS, the subject site is located on the northwest corner of the intersection of Victory Boulevard and Melrose Avenue; and

WHEREAS, the site has a lot area of 11,448 sq. ft. and is located in an R3X zoning district within the Special Hillside Preservation District; and

WHEREAS, the site is occupied by a one-story commercial building with 2,100 sq. ft. of floor area; and

WHEREAS, the applicant proposes a Use Group 4 ambulatory diagnostic/treatment health care facility on the subject site with five accessory parking spaces; and

WHEREAS, the Board notes that medical office use of the subject premises was previously approved pursuant to BSA Cal. No. 495-62-BZ; the certificate of occupancy for the former medical use expired in 1972 and authorization has thereby lapsed; and

WHEREAS, the Board notes that a 1,500 sq. ft. ambulatory diagnostic/treatment health care facility use would be permitted as-of-right in the subject zoning district; and

WHEREAS, the special permit pursuant to ZR § 73-125 allows for an increase in the floor area of an ambulatory diagnostic/treatment health care facility use up to a maximum of 10,000 sq. ft. on the site; and

WHEREAS, the proposed facility, at a floor area of 2,100 sq. ft., is within the floor area permitted by the special permit; and

WHEREAS, the existing building provides a front yard with a depth of 48 feet (a front yard with a depth of 15 feet is the minimum required), and side yards with widths of approximately ten feet and 49 feet, respectively (two side yards each with a minimum width of approximately nine

feet are required);

WHEREAS, accordingly, the Board finds that the amount of open area and its distribution on the lot conform to standards appropriate to the character of the neighborhood; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR § 73-125; and

WHEREAS, the proposed ambulatory diagnostic/treatment health care facility complies with all other relevant zoning district regulations; and

WHEREAS, the Board notes that the accessory parking for an ambulatory diagnostic/treatment health care facility of this size is five spaces (one space is required per 400 sq. ft. of floor area); and

WHEREAS, the applicant is providing the number of required spaces; and

WHEREAS, the plans indicate that landscaping is provided along the site's frontages on Victory Boulevard and Melrose Avenue; and

WHEREAS, the applicant represents that the proposed facility is consistent with the neighborhood character which is characterized by a mix of residential uses and commercial office uses; and

WHEREAS, the applicant submitted a radius diagram indicating that non-residential uses are located directly adjacent to and directly fronting on the subject premises, and that three buildings with commercial office uses are located within a 200-foot radius of the subject premises; and

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

WHEREAS, the facility 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 § 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; 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. 08BSA07R9 dated May 22, 2008; and

WHEREAS, the EAS documents that the operation of the facility 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;

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Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement 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 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 ZR §§ 73-125 and 73-03, to permit, on a site within an R3X zoning district within the Special Hillside Preservation District, the conversion of a one-story building to be occupied by an ambulatory diagnostic/treatment health care facility (Use Group 4) with five accessory parking spaces, contrary to ZR § 22-14; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received June 5, 2007"—three (3) sheets; and *on further condition*:

THAT there shall be no change in the use of the building as an ambulatory diagnostic/treatment health care facility (Use Group 4) without prior application to and approval from the Board;

THAT landscaping shall be provided and maintained, as shown on the BSA-approved plans;

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

THAT the parameters of the building shall be as follows: 2,100 sq. ft. of floor area and five parking spaces, as shown on the BSA-approved plans;

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

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

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, October 7, 2008.

194-08-BZ

CEQR #09-BSA-010M

APPLICANT – The Law Office of Fredrick A. Becker, for

Colonnade Management LLC, owner.

SUBJECT – Application July 16, 2008 – Special Permit (§73-19) to allow a Use Group 3 school on the first floor of an existing four-story mixed-use building. The proposal is contrary to ZR Section 42-10. M1-5B district.

PREMISES AFFECTED – 432 Lafayette Street, westerly side of Lafayette Street, 229'-11" south of Astor Place, Block 545, Lot 38, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated July 16, 2008, acting on Department of Buildings Application No. 110179949, reads in pertinent part:

"Provide BSA approvals. Proposed school use is contrary to section ZR 42-10"; and

WHEREAS, this is an application under ZR § 73-19 to permit, on a site within an M1-5B zoning district, the proposed operation of a school (Use Group 3) contrary to ZR § 42-10; and

WHEREAS, a public hearing was held on this application on September 23, 2008, after due notice by publication in the *City Record*, and then to decision on October 7, 2008; and

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

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

WHEREAS, the application is brought on behalf of and will be operated by the Blue Man Creativity Center; and

WHEREAS, the site is located on the west side of Lafayette Street between Astor Place and 4th Street; and

WHEREAS, the site is located within an M1-5B zoning district and has a lot area of 3,684 sq. ft.; and

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

WHEREAS, the applicant proposes to renovate the first floor of the existing building for use as a school (Use Group 3) with a floor area of 1,622 sq. ft.; and

WHEREAS, the Board notes that the proposed use meets the ZR § 12-10 definition of school, as it is will operate under a permit issued pursuant to § 47.03 of the New York City Health Code; and

WHEREAS, the applicant represents that the proposed school meets the requirements of the special permit authorized by ZR § 73-19 for permitting a school in an M-1 zoning district; and

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WHEREAS, ZR § 73-19 (a) requires an applicant to demonstrate the inability to obtain a site for the development of a school within the neighborhood to be served and with an adequate size, within districts where the school is permitted as of right, sufficient to meet the programmatic needs of the school; and

WHEREAS, the applicant represents that it sought a site adequate to accommodate six employees and approximately 16 students ranging in age from four to five years; and

WHEREAS, the applicant states that in order to insure the health, safety, and welfare of the students, the school requires: (i) a ground floor space that is separated from other uses or a space above the first floor with a private means of egress; (ii) child-sized bathrooms and fixtures or the ability to install them; and (iii) wide sidewalks in front of the premises and limited vehicular and pedestrian traffic; and

WHEREAS, the applicant represents that it worked with at least four major real estate brokers and spent several years searching for a suitable location for the school, and

WHEREAS, the applicant further represents that it evaluated the feasibility of various sites, including: 99-101 East 4th Street, 236 2nd Avenue, 666 Broadway, 137 2nd Avenue, and 146 Essex Street, but that none had a floor plate small enough to accommodate the school or was able to provide a private means of egress; and

WHEREAS, the applicant states that there were no available sites within the neighborhood with certificates of occupancy permitting school use, nor were any property owners willing to undertake the cost or effort to accommodate a school use; and

WHEREAS, the applicant represents that no available site was furnished with child-sized bathrooms and property owners were unwilling to install new plumbing lines to accommodate child-sized bathrooms; and

WHEREAS, the applicant states that none of the alternative sites investigated were therefore found to be able to accommodate the proposed school; and

WHEREAS, the applicant maintains that the results of the site search show that there is no practical possibility of obtaining a site of adequate size for the school in a nearby zoning district where it is permitted as-of-right; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (a) are met; and

WHEREAS, ZR § 73-19 (b) requires an applicant to demonstrate that the proposed school is located no more than 400 feet from the boundary of a district in which such a school is permitted as of right; and

WHEREAS, the applicant submitted a land use map which reflects that the rear of the subject zoning lot is located within 100 feet of Broadway, the westerly side of which is zoned C6-2 and C6-4, where the proposed use would be permitted as of right; and

WHEREAS, therefore, the Board finds that the requirements of ZR § 73-19 (b) are met; and

WHEREAS, ZR § 73-19 (c) requires an applicant to

demonstrate how it will achieve adequate separation from noise, traffic and other adverse effects of the surrounding non-residential district; and

WHEREAS, the applicant represents that adequate separation from noise, traffic and other adverse effects of the surrounding M1-5B zoning district is provided through the use of sound-attenuating window construction; and

WHEREAS, the applicant further represents that, although the majority of the site is within an M1-5B zoning district, the area does not contain manufacturing uses but is primarily developed with commercial retail uses which are compatible with the proposed school; and

WHEREAS, the applicant further represents that the site is fronted by a particularly wide sidewalk and that the subject portion of Lafayette Street is lightly trafficked; and

WHEREAS, the Board finds that the conditions surrounding the site and the use of sound-attenuating window construction will adequately separate the school from noise, traffic and other adverse effects of any the uses within the surrounding M1-5B zoning district; thus, the Board finds that the requirements of ZR § 73-19 (c) are met; and

WHEREAS, ZR § 73-19 (d) requires an applicant to demonstrate how the movement of traffic through the street on which the school will be located can be controlled so as to protect children traveling to and from the school; and

WHEREAS, the applicant states that the school's hours will be Monday through Friday from 8:30 a.m. to 4:30 p.m.; and

WHEREAS, the applicant further states that no public transportation will be provided by the school; and

WHEREAS, the applicant represents that students will come primarily from the surrounding area and will arrive and depart on foot accompanied by adults; and

WHEREAS, the applicant further represents that the students will be carefully supervised upon arrival and departure by adults who accompany them to and from the school, and by school staff stationed at the entrance to the premises; and

WHEREAS, the Board referred the application to DOT's School Safety Engineering Office; and

WHEREAS, in response, DOT provided a letter indicating that it has no objection to the proposed school; and

WHEREAS, the Board finds that the above-mentioned measures can control traffic so as to protect children going to and from the school; and

WHEREAS, therefore, Board finds that the requirements of ZR § 73-19 (d) are met; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-19; 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;

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and

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

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

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; 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. 090BSA010M, dated August 18, 2008; 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, 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 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 §§ 73-19 and 73-03 and grants a special permit, to allow the proposed operation of a school (Use Group 3), on a site within an M1-5B zoning district; *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 16, 2008" (3) sheets, and *on further condition*:

THAT any change in the use, occupancy, or operator of the school requires review and approval by the Board;

THAT the issuance of a permanent certificate of occupancy be conditioned on the securing of a charter allowing operation of the school pursuant to the requirements of the New York State Education Law;

THAT sound-attenuating windows shall be installed and maintained to limit the noise level of the surrounding M1-5B zoning district; and

THAT the premises shall comply with all applicable fire safety measures, as required and as illustrated on the BSA approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other

jurisdiction objection(s) only;

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

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

Adopted by the Board of Standards and Appeals, October 7, 2008.

51-07-BZ

APPLICANT – Gerald J. Caliendo, R.A., AIA, for 70-50 Kissena Boulevard, LLC, owner.

SUBJECT – Application February 22, 2007 – Variance (§72-21) to allow a one-story retail building (U.G. 6); contrary to use regulations (§22-00). R4 district.

PREMISES AFFECTED – 70-44 to 58 Kissena Boulevard, northwest corner of Kissena Boulevard and 70th Road, Block 6656, Lot 52, Borough of Queens.

COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Irving Minkin.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to November 18, 2008, at 1:30 P.M., for decision, hearing closed.

257-07-BZ

APPLICANT – Gordon J. Davis c/o Dewey & LeBoeuf, for The Mount Sinai Hospital and Mount Sinai, owners; One Gustave L. Levy Place, lessees.

SUBJECT – Application November 17, 2007 – Variance (§72-21) to permit the construction of an eleven-story, approximately 269,000 square foot Center for Science and Medicine Building at the Mount Sinai Medical Center. The proposal is contrary to sections §24-522 (height, setbacks, and sky exposure plane for community facility), §24-11 (community facility lot coverage), and §24-54 (community facility tower coverage).

PREMISES AFFECTED – 3 East 101st Street, 11 East 101st Street, 65 and 4-20 East 102nd Street, Block 1607, Lots 3, 5, 59, Borough of Manhattan.

COMMUNITY BOARD #11M

APPEARANCES –

For Applicant: Michael Phillips.

ACTION OF THE BOARD – Laid over to October 28, 2008, at 1:30 P.M., for deferred decision.

268-07-BZ

APPLICANT – Eric Palatnik, P.C., for Congregation Adath

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Jacob, owner.

SUBJECT – Application March 21, 2008 – Variance (§72-21) to permit the development of a new Use Group 4 synagogue with two accessory Use Group 4 apartments (for Rabbi and visiting dignitaries). The proposal is contrary to §24-11 (Total Floor Area and Lot Coverage), §24-35 (Side Yard), §24-36 (Rear Yard), §24-551 (Setback), and §25-31 (Community facility parking). R5 district.

PREMISES AFFECTED – 1644 48th Street, south side of 48th Street, between 16th and 17th Avenues, Block 5448, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES – None.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Otley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to October 28, 2008, at 1:30 P.M., for decision, hearing closed.

35-08-BZ

APPLICANT – Lewis E. Garfinkel, R.A., for Isaac Ades, owner.

SUBJECT – Application February 21, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area, open space and lot coverage (§34-141(b)); side yards (§23-461) and rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 1856 East 24th Street, west side of 24th Street between Avenue R & Avenue S, Block 6829, Lot 29, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to October 28, 2008, at 1:30 P.M., for continued hearing.

46-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Congregation Adas Yereim, owner.

SUBJECT – Application February 15, 2008 – Variance (§72-21) to permit the construction of a community facility building. The proposals contrary to sections 24-11 (Floor area ratio and lot coverage) and 24-522 (front wall height, setback, sky exposure plane and number of stories). R6 district.

PREMISES AFFECTED – 491 Bedford Avenue, 142 Clymer Street, southwest corner of Bedford Avenue and Clymer Street, Block 2173, Lot 6, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to November 18, 2008, at 1:30 P.M., for continued hearing.

61-08-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for 429-441 86th Street, LLC, owner; TSI Bay Ridge 86th Street, LLC dba New York Sports Club, lessee.

SUBJECT – Application March 25, 2008 – Special Permit (§73-36) to allow the operation of a Physical Culture Establishment on the second and third floors of an existing building. The proposal is contrary to ZR §32-10. C4-2A (BR) district.

PREMISES AFFECTED – 439 86th Street, north side of 86th Street and east of 4th Avenue, Block 6035, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #10BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to November 18, 2008, at 1:30 P.M., for continued hearing.

155-08-BZ

APPLICANT – Eric Palatnik, P.C., for Arkadiy Kofman, owner.

SUBJECT – Application June 3, 2008 – Special Permit (§73-622) for the enlargement of an existing two family home to be converted to a one family home. This application seeks to vary floor area, open space and lot coverage (§23-141(a)); less than the minimum required rear yard (§23-47) in an R3-1 zoning district.

PREMISES AFFECTED – 282 Beaumont Street, south of Oriental Boulevard, Block 8739, Lot 71, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Opposition: Scott Kurland, Susan Klappe, Judy Baron and Samuel Falack.

ACTION OF THE BOARD – Laid over to November 18, 2008, at 1:30 P.M., for continued hearing.

158-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Kay Robyn Askenazi and Shay Ashkenazi, owners.

SUBJECT – Application June 6, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area, lot coverage and open space (§23-141); less than the minimum side yards (§23-461) and less than the minimum rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 1814 East 27th Street, west side of East 27th Street, between Avenue R and Avenue S, Block 6832, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Lyra Altman.

For Opposition: Emile Scharf, Wadiah J. Dmaraon, Louis Goldberg and Ed Jaworski.

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THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to November 18, 2008, at 1:30 P.M., for decision, hearing closed.

175-08-BZ

APPLICANT – Eric Palatnik, P.C., for Mama Spa Corporation, owner.

SUBJECT – Application July 3, 2008 – Special Permit (73-36) to allow a Physical Culture Establishment at the cellar, first and second floors of an existing five-story building. The proposal is contrary to ZR Section 32-10. C6-1 district.

PREMISES AFFECTED – 141 Allen Street, between Rivington Street and Delancy Street, Block 415, Lot 24, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES –

For Applicant: Eric Palatnik.

ACTION OF THE BOARD – Laid over to November 18, 2008, at 1:30 P.M., for continued hearing.

179-08-BZ

APPLICANT – Rizzo Group, for 600 Broadway Partners, LLC, owner; 24 Hour Fitness USA, Inc., lessee.

SUBJECT – Application July 22, 2008 – Special Permit (§73-36) to allow a Physical Culture Establishment on the fourth, fifth, and sixth floors in a six-story building. The proposal is contrary to ZR §42-10. M1-5 district.

PREMISES AFFECTED – 600 Broadway, southeast corner of Houston Street, Block 511, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Kenneth Barbina.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to October 28, 2008, at 1:30 P.M., for decision, hearing closed.

189-08-BZ

APPLICANT – The Law Office of Fredrick A. Becker, for Broadway Mercer Associates, owner; TSI Mercer Street, LLC d/b/a New York Sports Club, lessee.

SUBJECT – Application July 14, 2008 – Special Permit (§73-36) to allow the legalization of a Physical Culture Establishment in the cellar, first and second floors in the six-story mixed-use building. The proposal is contrary to ZR Section 32-10. C6-2 district.

PREMISES AFFECTED – 232 Mercer Street, Easterly side of Mercer Street 220' north of Blecker Street. Block 532, Lot 15, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Lyra J. Altman.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to November 18, 2008, at 1:30 P.M., for decision, hearing closed.

190-08-BZ

APPLICANT – Valerie Campbell, Esquire c/o Kramer Levin Naftalis & Frankel, for 41-43 Bond Street LLC, owner.

SUBJECT – Application July 14, 2008 – Variance (§72-21) to allow a nine (9) story residential building (UG 2) containing eight (8) dwelling units; contrary to use regulations (§42-10). M1-5B district.

PREMISES AFFECTED – 41-43 Bond Street, south side of Bond Street, between Lafayette Street and Bowery, Block 529, Lots 29 & 30, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Kenneth Barbina.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to November 25, 2008, at 1:30 P.M., for decision, hearing closed.

203-08-BZ

APPLICANT – Sheldon Lobel, P.C. for Avi Babayof, owner.

SUBJECT – Application August 1, 2008 – Special Permit (§73-622) for the enlargement of an existing two family residence to be converted to a single family residence. This application seeks to vary open space and floor area (§23-141); side yards (§23-461) and less than the minimum rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1245 East 23rd Street, located on the east side of East 23rd Street between Avenue L and Avenue M. Block 7641, Lot 26, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Richard Lobel.

ACTION OF THE BOARD – Laid over to October 28, 2008, at 1:30 P.M., for continued hearing.

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208-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Desiree Eisenstadt and 2123 Avenue M, LLC, owner.

SUBJECT – Application August 11, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and open space ratio (§23-141) and less than the minimum side yard (§23-461) in an R-2 zoning district.

PREMISES AFFECTED – 2117-2123 Avenue M, northwest corner of Avenue M and East 22nd Street, Block 7639, Lot 1 & 3 (tent 1), Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Lyra J. Altman.

ACTION OF THE BOARD – Laid over to October 7, 2008, at 1:30 P.M., for continued hearing.

214-08-BZ

APPLICANT – Harold Weinberg, for Yossi Cohen, owner.
SUBJECT – Application August 19, 2008 – Special Permit (§73-622) for the enlargement of an existing family residence. This application seeks to vary floor area, lot coverage and open space (§23-141); less than the minimum side yard (§23-461) and less than minimum required rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 1855 East 24th Street, east side 305' north of Avenue S between Avenue R and Avenue S, Block 6830, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Harold Weinberg, P.E. and Frank Sellitto, R.A.

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to November 18, 2008, at 1:30 P.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: 4:00 P.M.

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**SPECIAL HEARING
WEDNESDAY MORNING, OCTOBER 8, 2008
10:00 A.M.**

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

APPEALS CALENDAR

152-08-A/177-08-A

APPLICANT – Quinn McCabe LLP, for 23 High-Line LLC, c/o Alf Naman, owners.

SUBJECT – Application May 30, 2008 – Appeals seeking to vacate a Stop Work Order issued by the Department of Buildings for failure to obtain the authorization of the adjacent property owner. C6-3A, Special District WCH.

PREMISES AFFECTED – 515 W 23rd Street, north side of West 23rd Street, between 10th and 11th Avenues, Block 695, Lot 27, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Christopher McCabe.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

THE RESOLUTION: 1

WHEREAS, the instant appeal heard under BSA Cal. No. 152-08-A comes before the Board in response to a stop work order dated April 30, 2008 by the Manhattan Borough Commissioner of the NYC Department of Buildings (“DOB”) (the “Stop Work Order”) addressed to 23 High Line LLC, with respect to New Building Application No. 104589562; and

WHEREAS, the April 30, 2008 Stop Work Order reads, in pertinent part:

“Failure to provide all required information to demonstrate compliance with all applicable laws for related application # 104589562. Stop all work. Provide required information”; and

WHEREAS, the instant appeal heard under BSA Cal. No. 177-08-A comes before the Board in response to a partial stop work rescind order dated June 5, 2008 by the Manhattan Borough Commissioner of DOB (the “Partial Lift Order”) also addressed to 23 High Line LLC with respect to New Building Application No. 104589562; and

WHEREAS, the Partial Lift Order reads, in pertinent part:

“Partial lift only to place ground floor slab and backfill foundation walls”; and

WHEREAS a public hearing was held on this application on September 24, 2008 after due notice by publication in *The City Record*, and then to decision on October 8, 2008; and

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

PARTIES AND SUBMITTED TESTIMONY

WHEREAS, this appeal is brought by 23 High Line 23, LLC (the “appellant”); the appellant was represented by counsel in this proceeding; and

WHEREAS, DOB has been represented by counsel throughout this Appeal; and

WHEREAS, 519 West 23rd LLC/High Line Park, LLC and 519 West 23rd Street Condominium (collectively, the “adjacent owner”) have been represented by counsel throughout this Appeal; and

WHEREAS, the parties provided testimony concerning the appropriateness of the issuance of a stop work order by DOB halting all construction of a building to be located at 515 West 23rd Street, Manhattan; and

PROCEDURAL HISTORY

WHEREAS, the instant appeals concern the construction of a 14-story residential condominium building at 515 West 23rd Street, New York, New York (the “Building”); and

WHEREAS, on October 19, 2006, DOB issued New Building Permit No. 104589562 (the “NB Permit”) for the construction of the Building at the subject site; and

WHEREAS, on July 9, 2007, DOB issued Permit No. 104589562 for the foundation of the Building; and

WHEREAS, on October 1, 2007, DOB issued Permit No. 104890646 (the “shoring permit”) for certain earth retention and shoring work (the “shoring work”) in connection with the installation of the foundations at the subject site; and

WHEREAS, the drawings filed in connection with the shoring permit indicate that shoring work was to be performed on the property immediately to the west of the Building at 519 West 23rd Street (the “adjacent property”); and

WHEREAS, on April 24, 2008, DOB received a written complaint stating that the appellant performed underpinning to the foundation of the building located at 519 West 23rd Street (the “adjacent building”) without the permission of the owner; and

WHEREAS, on April 30, 2008, a DOB inspector visited the subject site and asked for evidence of consent to the shoring work on the adjacent property; and

WHEREAS, the appellant failed to provide documentation certifying owner authorization of the work conducted on the adjacent property; issuance of the Stop Work Order (“SWO”) ensued; and

WHEREAS, on May 30, 2008, the appellant filed the instant appeal to the issuance of the SWO at the BSA, denominated 152-08-A; and

WHEREAS, after a site inspection in which a DOB inspector found that that the Building’s foundation walls

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

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were completed but that the foundation walls were only partially backfilled, the SWO was partially rescinded on June 5, 2008 to allow the appellant to install the first floor slab and backfill the site (the “partial lift order”); and

WHEREAS, on July 7, 2008, the appellant filed the instant appeal seeking to vacate the partial lift order to the BSA, denominated 177-08-A; and

WHEREAS, on September 10, 2008 and September 12, 2008, DOB issued letters of intent to revoke approval of the shoring permit and the NB Permit based on the lack of owner authorization for the shoring work in violation of Section 27-140 of the Code; and

ISSUES PRESENTED

WHEREAS, the appellant challenges the issuance of a stop work order based on the alleged violation of Sections 27-140 and 27-151 of the Code; and

WHEREAS, both appeals present the same set of facts and issues of law concerning the validity of a shoring permit and an NB Permit where shoring was performed on a neighboring property without the consent of the owner and is now complete; and

WHEREAS, the appellant was issued a shoring permit on October 7, 2007 to perform sheeting and shoring on the perimeter of its property; the plans submitted in conjunction with the shoring permit application indicate that concrete piers were to be installed on the adjacent property underneath the neighboring building structure; and

WHEREAS, the shoring permit was issued without evidence of consent by the adjacent owner to the performance of shoring work on its property; after a complaint by the adjacent owner that such work had been performed without its consent, DOB issued a stop work order halting all work to be performed under the shoring permit as well as under the NB permit; and

WHEREAS, DOB contends that the issuance of the stop work order, pursuant to a violation of Section 27-147 of the Code, was appropriate because: (i) the appellant was not authorized to perform the shoring work by the adjacent owner, as required by Section 27-140 of the Code; (ii) the two permits cannot be deemed valid without the adjacent owner’s consent to the shoring work; (iii) the work performed under the shoring permit was integral to the work to be performed under the NB Permit and the two permits together authorized a single project; (iv) there is a continuing trespass because work to be performed under the NB Permit would rely on the unauthorized encroachment; (v) DOB has no authority to lift the stop work order without consent of the adjacent owner; and (vi) DOB has no authority to impose an alternative penalty; and

WHEREAS, the appellant makes the following primary arguments in support of its position that the Board should rescind the stop work order and the partial lift order, that: (i) all further work is to be performed on the owner’s property and requires no consent of the adjacent owner; (ii) the work permitted under the shoring permit was independent of the work to be performed under the NB Permit; (iii) the shoring work is complete and poses no safety hazard; and (iv) the shoring work was performed

properly according to the approved plans and DOB does not recommend its removal; and

WHEREAS, the appellant additionally argues that DOB has acted arbitrarily in halting the work to be performed under the NB permit because: (a) the failure to lift the SWO would cause irreparable harm which is disproportionate to the harm caused by the performance of its shoring work; (b) DOB has deferred its authority to the adjacent owner and imposed a condition that makes it impossible to complete its construction; (c) DOB could have imposed a different penalty; and (d) DOB has acted inconsistently in its enforcement; and

WHEREAS, these arguments are addressed below; and

WHEREAS, DOB contends that issuance of the SWO was required because approval of the shoring permit was invalid without the consent of the adjacent owner; and

WHEREAS, Section 27-140 of the Code requires that applications for building permits be authorized by an owner, and Section 27-151 of the Code states that applications made by a person other than the owner must be accompanied by a signed statement of the owner declaring that the applicant is authorized by the owner to make the application; and

WHEREAS, Section 27-147 of the Code requires that construction be performed pursuant to the issuance of valid permits by DOB; and

WHEREAS, DOB asserts that Section 27-140 of the Code requires an authorization from the owner of property before any work is performed on its property; and

WHEREAS, DOB further asserts that the shoring permit and the NB Permit cannot be deemed valid without the adjacent owner’s consent to the shoring work and the issuance of a SWO is therefore appropriate in the absence of such consent; and

WHEREAS, in support of this proposition, DOB submitted a memorandum dated May 8, 1984 addressed to Borough Superintendents from the [former] DOB Commissioner concerning owner’s authorization, which states that if a lessee files an application and a fee owner subsequently informs DOB that he or she had not authorized the filing, “the processing of the application shall immediately cease,” and if an approval or permit had been issued, “such approval or permit shall be revoked . . . regardless of the status of the application or the work” (the “Departmental Memo”); and

WHEREAS, the appellant contends that the Departmental Memo is inapplicable to the instant case because it concerns only the performance of work by a lessee without the consent of the owner of the leasehold property and does not refer to underpinning, shoring or to any other work performed on an adjacent property; and

WHEREAS, in further support, DOB cites to decisions of the Board in BSA Cal. No. 480-83-A and BSA Cal. No. 1046-86-A, and the decision of the Appellate Division in *Bun & Burger of Rockefeller Plaza, Inc. v. New York, Dep’t of Bldgs.*, 111 A.D. 2d 140 (NY, 1st Dep’t 1985) which dealt with the revocation of permits that were not

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authorized by owners; and

WHEREAS, the Board notes that the cases cited by DOB each concern the issue of whether work could be performed pursuant to a permit application that was not explicitly authorized by an owner and, therefore, are pertinent to the issue of authorization for work performed under the shoring permit; and

WHEREAS, DOB has established that there was no explicit authorization by the adjacent owner for the performance of shoring work on the adjacent property; and

WHEREAS, at hearing, the Board questioned whether consent to the shoring could be implied by written communications between the parties discussing the prospective shoring which were submitted into the record; and

WHEREAS, a submission made on behalf of the adjacent owner makes it clear that consent can occur only by an express agreement of the adjoining property owner to the work to be performed (see *McLennon v. Serv. 31 Corp.*, 9 Misc. 3rd 1109(A), 2005 N.Y. Slip Op. 51459(U) (Kings Cty. (2005))); and

WHEREAS, the Board finds that, as no such agreement was reached between the appellant and the adjacent owner, there was no consent to the shoring work and the imposition of a SWO for the performance of work under the shoring permit is therefore appropriate; and

WHEREAS, the appellant argues that the imposition of a SWO for work performed pursuant to the shoring permit should have no bearing on the performance of work under the NB Permit because: (i) the work to be performed under the NB Permit is on its own property; (ii) the shoring permit and the NB Permit are independent of each other; (iii) the shoring work is complete; and (iv) the shoring work poses no hazard to the public; and

WHEREAS, the appellant states that the imposition of the SWO on work to be performed under the NB permit is inappropriate because the permitted work is to be performed only on its own property and the consent of the adjacent owner is not required for its performance; and

WHEREAS, the appellant further argues that its failure to secure consent to shoring work on the adjacent property cannot be the basis for the stopping of work to be performed pursuant to the NB Permit either under the Code, or under any other provision of law, because the two permits are independent of each other and authorize different work; and

WHEREAS, as discussed above, DOB issued the applicant separate permits for the work to be performed in connection with shoring work and the construction of the Building; and

WHEREAS, the appellant states that the shoring permit and the NB Permit are different permits sought pursuant to separate applications and that each addresses separate construction work; and

WHEREAS, the appellant contends that because the violation related only to work performed under the separate and distinct shoring permit, the issuance of a SWO preventing construction of the work to be performed under the project's NB Permit is therefore improper; and

WHEREAS, DOB and the adjacent owner argue that DOB was correct in issuing a SWO respecting the NB Permit because the Building is structurally dependent on the shoring supports, therefore, there is a continuing trespass unauthorized by the adjacent owner; and

WHEREAS, the appellant, however, further contends that because shoring work had been completed, the appellant is no longer trespassing on the adjacent property and, further that that there is no continuing trespass because the work to be performed under the NB Permit is located entirely within its property; and

WHEREAS, in a written submission, DOB concedes that the shoring work consisted of soil retention work, rather than underpinning, but contends that the shoring work was nonetheless a necessary precondition to the installation of the foundations; and

WHEREAS, at hearing, the appellant's engineer testified that the foundation of the Building does not rely upon the shoring work performed on the adjacent property because the lateral forces exerted by the soils under the Building are supported entirely by the Building's foundation and not by the shoring work, and therefore, that there is no connection between the work performed under the shoring permit and the construction of the Building; and

WHEREAS, at hearing, the engineer who had designed the foundations for a building on the adjacent property testified that the shoring work at the site of the adjacent building was performed merely to retain the soils under the adjacent building, and did not include underpinning because the adjacent building was supported by a caisson system which rendered underpinning unnecessary; and

WHEREAS, this testimony is uncontroverted by DOB or by the adjacent owner; and

WHEREAS, DOB contends that the future work under the NB Permit is to be performed in reliance upon on the shoring work, therefore, that the two permits and the work to be performed under them should be considered as a single job; and

WHEREAS, DOB cites no authority for the proposition that they must be considered unitarily; and

WHEREAS, the appellant notes that, even if the Building's foundation and shoring work were "intricately connected," as DOB contends, the work under the foundation permit was completed on April 28, 2008, before the issuance of the SWO and, again, is separate and independent of the work to be performed under the NB Permit; and

WHEREAS, the adjacent owner argues that the shoring permit and the NB Permit must be taken together as one undertaking in the context of an SWO or a permit revocation, citing *GRA V, LLC vs. Srinivasan* (862 N.Y.S.2d 358 (1st Dep't 2008)) as authority for the position; and

WHEREAS, the Board notes that in *GRA*, a vested rights case, the Court found that a foundation permit was void ab initio because the proposed building could not comply with the zoning in effect at the time of the permit's

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issuance; and

WHEREAS, because the foundation permit contemplated a non-complying building and could not have been validly granted in the first place, the GRA court properly held that the permit was erroneously issued and no vested rights could be acquired; and

WHEREAS, the Board further notes that the GRA case has no applicability to the instant appeal, in which there is no assertion that the work to be performed under the NB Permit would result in a non-complying building; and

WHEREAS, GRA further does not address the question of whether a permit for work on an adjacent property should be treated as a part of an entirely separate permit for a new building being constructed on an entirely different site; and

WHEREAS, the Board finds that the work performed pursuant to the shoring permit consisted of soil retention activities which have been completed and which were not necessary for the support of the new building; and

WHEREAS, the work to be performed under the NB Permit therefore does not rely on the work that was performed under the shoring permit, thus, the Board finds that the respective permits are entirely separate from each other; and

WHEREAS, because the NB permit is independent of the shoring permit, DOB therefore lacked authority to impose a SWO respecting work to be performed under the NB Permit for a violation pertaining to its shoring work; and

WHEREAS, On April 30, 2008, based on a violation of Section 27-140 of the Code, DOB issued the SWO requiring the stoppage of all work in connection with the Building, including work to be performed under the NB Permit; and

WHEREAS, the appellant contends that under Section 26-118 of the Code, a stop work order may only be issued "when it is found that building work is being executed" in violation of the provisions of any law, rule or regulation enforceable by the DOB; and

WHEREAS, the work which was performed in violation of law was the shoring work performed without the consent of the adjacent owner to the work; and

WHEREAS, the appellant represents that the shoring work had been completed and entombed behind the foundation for the Project five months prior to the issuance of the SWO and therefore, at the time the SWO was issued, no work on the Building was being executed which violated the law; and

WHEREAS, the appellant argues that the issuance of the stop work order was improper because DOB has no power to impose a stop work order where work has been completed; and

WHEREAS, the appellant contends, accordingly, that DOB was not authorized by Section 26-118 of the Code to issue the SWO; and

WHEREAS, at hearing, DOB stated that the imposition of the SWO was consistent with its responsibility to "preserve the status quo while the neighbors work it out" and in a subsequent submission stated that work pursuant to

the NB Permit must be stopped until owner authorization of the shoring work is obtained because the Building relies on the shoring work; and

WHEREAS, appellant argues that maintaining the status quo is not among the statutory grounds authorizing the issuance of a stop work order; and

WHEREAS, the appellant also contends that at the time the SWO was imposed, all shoring work had been completed and, as stated above, no work to be performed under the NB Permit relies on the shoring work; and

WHEREAS, the appellant represents that inspections by DOB and by engineers on behalf of the adjacent owner concluded that the shoring work had been completed properly, and that removal of such work at that time was not recommended; and

WHEREAS, the appellant contends that the removal of the shoring would destabilize the adjacent building and, at hearing, stated that DOB had agreed that the removal of the shoring work would cause safety risks; and

WHEREAS, the appellant further contends that the decision by DOB to stop all work on the Building therefore constitutes an abuse of discretion because it did not make the public, the building, or the adjacent building safer; and

WHEREAS the appellant moreover contends that unless the SWO is lifted, the proposed building cannot be constructed, while the lifting of the SWO would have no effect on the adjacent property or on public safety, and that the imposition of a SWO under these circumstances is so "disproportionate to the offense as to be shocking to one's sense of fairness," (citing Featherstone v. Franco (95 N.Y. 2d 550, 555 (2000))); and

WHEREAS, the appellant has also argued that a failure to lift the SWO would cause it irreparable harm which is disproportionate to any harm caused to the public from allowing construction under the NB Permit to continue; and

WHEREAS, DOB contends that the consideration of any harm caused the appellant by the issuance of the SWO is self-created and is therefore outside the Board's consideration; and

WHEREAS, DOB has conditioned a lift of the SWO on the securing of the adjoining owner's consent to the shoring work; and

WHEREAS, DOB contends that the City Charter mandates that permits be issued to developers who have complied with the provisions of the law, rules and regulations that apply to the issuance of the permits and, further, that it lacks the power or authority to vary the terms and conditions that the developer must satisfy to be issued a permit; and

WHEREAS, the appellant contends that by interpreting the Charter thusly, DOB is empowering the adjacent owner with the authority to determine whether the SWO is rescinded and the appellant is permitted to construct the Building; and

WHEREAS, the appellant represents that its efforts to secure consent for the shoring work from the adjoining owner have been unavailing, stating that in May 2008 it

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sought the consent of the adjacent owner and offered to enter into an agreement to resolve issues between the parties and that the adjoining owner, through counsel, continued to refuse consent; and

WHEREAS, there is no evidence in the record that the adjoining owner has reconsidered this refusal; and

WHEREAS, the appellant further contends that because the adjacent owner has consistently refused to consent, DOB has effectively left it without a possible cure to its violation, and

WHEREAS, at hearing, DOB stated that stop work orders are issued and permits are revoked where underpinning or shoring is installed on an adjacent property without the consent of the owner of the adjacent premises, subsequent to the filing of a complaint by that owner concerning the performance of unauthorized work; and

WHEREAS, DOB contends that it lacks the power or authority to vary the terms and conditions that the developer must satisfy to be issued a permit, therefore the agency was mandated to issue the SWO in the absence of consent by the adjacent owner; and

WHEREAS, the appellant argues that the language of Section 26-118 of the Code, providing that “a notice or order to stop work may be issued . . . at any time when it is found that building work is being executed in violation of the provisions of any law, rule, or regulation enforceable by the department, for example, is permissive, rather than mandatory; and

WHEREAS, the appellant further argues that several provisions of the Code provide discretion to DOB in the penalties that may be imposed for a violation of the Code, and that an SWO is only one of “an arsenal” of potential penalties; and

WHEREAS, the appellant points to Section 26-116 of the Code providing that where there is a violation of any law, rule or regulation, or the failure to comply with any order issued by the Commissioner, the Commissioner may, “in his or her discretion, request the corporation counsel to institute legal proceedings to restrain, correct or abate such violation, or to compel compliance with such order” and additional evidence of the discretion vested with DOB in the shaping of an appropriate penalty for a violation of the Code; and

WHEREAS, the appellant further points to Section 26-125 of the Code which provides that violations of the Code can be punishable by a fine as well as through a civil action; and

WHEREAS, the appellant argues that the cited provisions demonstrate that DOB has recourse to other alternative penalties more appropriate to the severity of its violation and has been arbitrary and capricious in refusing to impose them instead; and

WHEREAS, the appellant contends that this arbitrariness is demonstrated by DOB’s imposition of a fine, rather requiring post facto consent, in a similar case discussed below in which it was alleged that a developer had performed underpinning on an adjacent property without the consent of the owner; and

WHEREAS, the appellant further contends that DOB’s inconsistent enforcement of violations of Section 27-140 of the Code by other developers further evidences the arbitrariness of DOB’s choice of a penalty; and

WHEREAS, the appellant represents that a residential condominium building currently under construction at 3585 Greystone in the Bronx allegedly performed underpinning under the adjacent property at 3532 Riverdale without the required consent; and

WHEREAS, the appellant further represents that, subsequent to a complaint by the owner of 3532 Riverdale, DOB confirmed that unauthorized underpinning by the developer of 3585 Greystone had caused a crack in 3532 Riverdale’s retaining wall and issued a violation under Section 27-1031 of the Code, for which it levied a fine in the amount of \$2,500.00 and required repair of the damaged wall; and

WHEREAS, the appellant also states that DOB took no enforcement action against the adjacent owner after learning that it had installed underpinning on the appellant’s property without obtaining its consent; and

WHEREAS, Section 666(6)(a) of the City Charter grants the Board the power to hear and decide appeals from and review DOB decisions; and Section 666(7) gives the Board the power to vary or modify a rule or regulation or the provision of any law when there are practical difficulties or unnecessary hardship caused by carrying out the strict letter of the law; and

WHEREAS, the adjacent owner contends that the Board cannot exercise the power to modify the law in the instant appeal because the hardship or difficulty suffered by the appellant was caused by the appellant’s own failure to act in conformance with the law citing *Parkview Associates v. The City of New York* (71 N.Y.2d 274, cert. den., 488 U.S. 801 (1988)) and *Tharp v. Zng. Bd. of Apps.* (138 A.D.2d 906 (1988)), as authority; and

WHEREAS, the Board finds that *Tharp* is irrelevant to the Board’s determination in the instant case, because its decision is not based on the hardship alleged by the appellant; and

WHEREAS, the Board finds that the imposition of a SWO halting work approved under the NB Permit is not appropriate, given that the NB Permit is separate from the shoring permit, that the work to be performed under the NB Permit is not structurally dependent on the work performed and completed under the shoring permit, and that the work to be performed under the NB permit is located entirely on the owner’s property and its performance does not require the consent of the adjacent owner; and

Therefore it is resolved that the instant appeals are granted to the extent of rescinding the Stop Work Order and the Partial Lift Order as such orders pertain to construction to be performed under the NB Permit.

Adopted by the Board of Standards and Appeals, October 8, 2008.

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229-06-A

APPLICANT – Sheldon Lobel, P.C., for Breezy Point Cooperative, Incorporated, owner; Thomas Carroll, lessee.
SUBJECT – Application September 6, 2006 – Appeal seeking to revoke permits and approvals for the reconstruction and enlargement of an existing one family dwelling which creates new non-compliances, increases the degree of existing non-compliances with the bulk provisions of the Zoning Resolutions and violates provisions of the Building Code, regarding access and fire safety. R4 – Zoning District.

PREMISES AFFECTED – 607 Bayside Drive, Adjacent to service road, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Irving Minkin.

For Opposition: Janine Gaylar, Department of Buildings; Kevin L. Smith, Arthur Lighthall, Joseph Sherry and Simon Rothkrug.

ACTION OF THE BOARD – Laid over to November 18, 2008, at 10:00 A.M., for continued hearing.

140-07-A

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Breezy Point Cooperative, Incorporated, owner; Thomas Carroll, lessee.

SUBJECT – Application May 25, 2007 – Appeal seeking to reverse the Department of Building's decision to revoke permits and approvals for a one family home. R4 zoning district.

PREMISES AFFECTED – 607 Bayside Drive, Adjacent to service road, Block 16350, Lot 300, Borough of Queens.

COMMUNITY BOARD #14Q

APPEARANCES –

For Applicant: Simon H. Rothkrug, Joseph Sherry and Kevin Smith.

For Opposition: Janine Gaylard, Department of Buildings.

ACTION OF THE BOARD – Laid over to November 18, 2008, at 10:00 A.M., for continued hearing.

Jeff Mulligan, Executive Director

Adjourned:4:00 P.M.